

Texas Historical Statutes Project

1968 SUPPLEMENT
TO
VERNON'S TEXAS STATUTES 1948



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**VERNON'S
TEXAS STATUTES
1968 SUPPLEMENT**

**Including General and Permanent Laws
of the
59th Legislature, First Called Session, 1966
and the
60th Legislature, Regular Session, 1967**

TABLES and INDEX

**Supplementing
Vernon's Texas Statutes 1948
and
1950-1966 Supplements**

**KANSAS CITY, MO.
VERNON LAW BOOK COMPANY**

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1968 SUPPLEMENT

This Supplement to Vernon's Texas Statutes includes the laws of a general and permanent nature enacted at the First Called Session of the 59th Legislature and at the Regular Session of the 60th Legislature. The sessions convened and adjourned as follows:

	Convened	Adjourned
First Called Session, 59th Leg. ...	Feb. 14, 1966	Feb. 23, 1966
Regular Session, 60th Leg.	Jan. 10, 1967	May 29, 1967

This volume supplements the 1948 edition of Vernon's Texas Statutes and the 1950, 1952, 1954, 1956, 1958, 1960, 1962, 1964 and 1966 Supplements.

The latest constitutional amendments, approved by the voters on November 11, 1967, are also included.

To assist the user in readily locating any article or section affected by legislation from 1949 through 1967, a special Table has been prepared and is printed on the colored pages herein.

Vernon's Texas Statutes 1948 and Supplements are under the same classification and arrangement as Vernon's Annotated Texas Statutes. This means that users of this popular edition may go from any article therein to the same article in Vernon's Annotated Texas Statutes where the complete constructions of the law by the state and federal courts, as well as complete historical data relative to the origin and development of the law, are conveniently available.

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

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

VERNON LAW BOOK COMPANY

January, 1968

Cite this Book thus:

- Vernon's Texas Civ.St., Art. —.
- Vernon's Texas Bus. & C. Code, § —.
- Vernon's Texas Bus. Corp. Act, Art. —.
- Vernon's Texas C. C. P., Art. —.
- Vernon's Texas Elec. Code, Art. —.
- Vernon's Texas Ins. Code, Art. —.
- Vernon's Texas P. C., Art. —.
- Vernon's Texas Prob. Code, § —.
- Vernon's Texas Tax.Gen., Art. —.

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Civil Statutes

Civ.St. Art.	Effect	Vernon's Texas St.Supp.	Civ.St. Art.	Effect	Vernon's Texas St.Supp.
1a	New	1001	40b	Am.	1052
1b	New	1005	40c-1	Am.	1001
17	Am.	1004	40c-3	Am.	1001
23	Am.	1058	40c-4	Am.	1001
28a	Am.	1004	40c-6	Am.	1001
29	Am.	1001	Subd. 10	Added	1000
29b	New	1058	40c-7	Rep.	1001
20c	New	1058	40c-7 (former-		
20d	New	1004	ly 40c-8)	Am.	1001
20e	New	1008	40c-8	New	1001
41a	Am.	1000	40c-1	Am.	1052
§ 2, 3	Am.	1001	(1)	Am.	1000
§ 4	Am.	1052	(2)	Am.	1000
§ 4(a)	New	1001	40c-3(2)	Am.	1001
§ 5	Am.	1052		Am.	1004
§ 8	Am.	1052	40c-13	Am.	1052
§ 8	Am.	1001	40f-1, § 1, 2	New	1008
§ 9, 10	Am.	1001	52	Rep.	1054
§ 12	Am.	1001	55c, §§ 1-17	New	1008
§ 13	Am.	1001	57	Am.	1054
§ 15	Am.	1052		Am.	1000
§ 15	Am.	1001		Am.	1001
§ 10, 18	Am.	1001	60	Am.	1058
§ 20	Rep.	1001	82a	New	1050
§ 22	Am.	1001		Am.	1058
§ 23	Am.	1001	93b,		
§ 24	Am.	1001	§ 2	Am.	1050
40a,			§ 2(e)	Am.	1058
§ 1	Am.	1008	§ 3	Am.	1054
§ 1a	Am.	1052	§ 3	Am.	1050
§ 1a	Am.	1008	§ 3	Am.	1058
§ 1b, 1c	New	1052	§ 4	Am.	1050
§ 1d, 1e	Added	1008	§ 7	Am.	1054
§ 5	Am.	1052	§ 10	Am.	1054
§ 6	Am.	1052	93c	New	1054
§ 6	Am.	1001	94		
§ 6	Am.	1004	95		
§ 6	Am.	1008	96	Rep.	1001
§ 9	Am.	1052	97	Am.	1050
§ 10	Am.	1000		Rep.	1001

VERNON'S TEXAS STATUTES

Civ.St. Art.	Effect	Vernon's Texas St.Supp.	Civ.St. Art.	Effect	Vernon's Texas St.Supp.
98			185b-1	Am.	1958
to				Am.	1958
108	Rep.	1901		Rep.	1904
108a	New	1961	135b-2	New	1950
117, § 8	Am.	1950		Rep.	1952
117a	Rep.	1954	135b-3	New	1952
118a,				Rep.	1954
§ 8	Am.	1950	135b-4	New	1954
§ 9	Am.	1950		Am.	1958
§ 12	Am.	1954	§ 2(f)	Am.	1908
§ 12	Am.	1950	§ 3(c)	Am.	1908
118b,			§ 5(d)	Am.	1908
§ 1	Am.	1904	§ 17	Am.	1900
§ 3	Am.	1904	§ 17	Am.	1908
§ 4	Am.	1904	§ 17a	Rep.	1908
	Am.	1900	135b-5	New	1904
§ 6	Am.	1904	135c	New	1950
§ 11	Am.	1904	§ 1	Am.	1901
§ 24	Am.	1950	189,		
§ 24A	New	1950	Subsec. 2	Am.	1900
§ 25	Am.	1904	140j	New	1952
§ 27	Rep.	1904	140k	New	1952
118c-1,			105-0	New	1904
§ 2	Am.	1950	165a-4,		
§ 10	Am.	1954	§ 8(5)	Rep.	1900
§ 10	Am.	1950	§ 4, Subsec. B	Rep.	1900
118c-2,			§ 4, Subsec. C	Am.	1900
§ 2	Am.	1950	§ 5(H)	Am.	1900
§ 10	Am.	1954	§ 5, subsec. H	Am.	1908
§ 10	Am.	1950	§ 6	Am.	1900
118c-2	Rep.	1958	§ 6(g)	Am.	1908
118c-3	New	1950	§ 7	Am.	1900
§ 2	Am.	1958	165a-4a	New	1901
§ 5, 6	Rep.	1958	105a-8	New	1950
118d	New	1950	105a-9	New	1952
§ 6	Am.	1952		Rep.	1954
§ 6	Am.	1952	105a-10	New	1954
§ 14-16	Am.	1952	§ 1	Am.	1950
note	New	1954	§ 3	Am.	1908
118e	New	1950	§ 9A	Added	1900
119	Am.	1900	105-8, §§ 1-4	Am.	1908
120	Rep.	1900	§ 7	Am.	1908
121	Am.	1900	§ 7a	Added	1908
122	Am.	1900	105-8a	New	1901
123	Am.	1900	§ 2	Am.	1908
124	Am.	1900	§ 3	Am.	1908
125	Am.	1900	§ 4	Am.	1908
126	Am.	1900	§ 5	Am.	1908
127	Am.	1900	105-4a	Am.	1950
128	Am.	1900	§ 2	Am.	1952
128a	New	1961	§ 2	Am.	1900
129	Am.	1900	105-4b	New	1950
130	Am.	1900	105-6	New	1950
131	Am.	1900	105-7	New	1950
131a	New	1900		Rep.	1954
132	Am.	1900	105-8	New	1958
133	Am.	1900	§ 9	Am.	1900
134	Rep.	1900	§ 9	Am.	1901
135	Am.	1900	§ 15	Am.	1901
	Am.	1904	§ 16	Am.	1901
135a-4, §§ 1-4	New	1968	§ 17	Am.	1901
			§ 17a	New	1901
			§ 18	Am.	1901

ARTICLES AFFECTED FROM 1949 TO 1967

Civ.St. Art.	Effect	Vernon's Texas St.Supp.	Civ.St. Art.	Effect	Vernon's Texas St.Supp.
100	Rep.	1966	100(32)	New	1952
100a	New	1966		New	1961
107			100(33)	Am.	1956
to			100(36)	Am.	1950
173	Rep.	1966	100(37)	Am.	1956
174	Rep.	1961		Am.	1964
	Rep.	1966	100(38)	Am.	1956
175	Rep.	1966	100(42)	New	1961
176	Rep.	1966	100(43),		
176B	New	1950	§ 5	Am.	1960
177	Rep.	1966	100(51)	Am.	1950
179a	New	1958	§ 2	Am.	1954
179b	New	1958	100(58)	Am.	1956
179c	New	1964	100(62)	Am.	1956
190a-2	New	1958	100(63)	Am.	1952
190d-1	New	1960	100(64)	New	1958
190j	New	1960	100(70)	Am.	1950
192b	Am.	1952	100(72)	Am.	1960
§ 1	Am.	1961	100(75)	Am.	1950
193	Am.	1952		Am.	1956
	Am.	1961	100(76)	Am.	1950
	Rep.	1966	100(77)	Am.	1950
193a	New	1966	100(79)	Am.	1950
194a	Rep.	1964	100(83)	Am.	1954
195	Am.	1952	100(84)	Am.	1964
	Rep.	1966	100(85)	Am.	1950
§ 1	Am.	1961		Am.	1966
§ 2	Am.	1961	100(87)	Am.	1950
§ 2	Rep.	1964	100(88)	New	1952
195a	New	1966		Am.	1956
195a	Am.	1968	100(90)	New	1961
197a	New	1958	100(102)	Am.	1954
	Rep.	1966		Am.	1956
197b	New	1966		Am.	1961
	Rep.	1968	100(104)	New	1961
197c, §§ 1-27	New	1968		Am.	1968
198	Am.	1964	100(105)	Am.	1950
	Am.	1968		Am.	1952
199(5)	Am.	1952	100(106)	Am.	1960
	Am.	1954	100(107)	Am.	1950
	Am.	1961	§ 5a	Rep.	1966
199(6)	New	1958	§ 7	Am.	1966
199(7)	Am.	1950	100(109)	Am.	1956
	Am.	1954		Am.	1961
199(9)	Am.	1954	100(112)	Am.	1956
	Am.	1956	100(114)		
§ 9	Am.	1950	Subd. (l)	New	1954
§ 10A	Added	1966	100(115)	New	1950
199(10)	Am.	1960	100(117),		
199(11)	Am.	1950	§ 4	Rep.	1950
	Am.	1952	100(118)	New	1950
	Am.	1956	100(120)	New	1958
	Am.	1958	100(121)	New	1960
	Am.	1960	100(122)	New	1958
	Am.	1964	100(128)	New	1950
100(14)	Am.	1952	100(131)	New	1958
	Am.	1956	100(132)	New	1952
100(19)				Am.	1956
§§ 8-12	New	1950	§ 6	Am.	1960
	Rep.	1952	100(134)	New	1950
199(20)	New	1966	100(135)	New	1952
199(25)		1956		Am.	1954
			§ 1	Am.	1958

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Civ.St.	Effect	Vernon's Texas St.Supp.	Civ.St.	Effect	Vernon's Texas St.Supp.
199 § 3	Am.	1958	306a,		
§ 5	Am.	1958	§ 2	Am.	1900
§§ 7-9	Am.	1958	307A	Am.	1958
199(130)	New	1950	307B	Am.	1901
199(137)	New	1900	310	Am.	1908
199(138)	New	1950	310	Am.	1952
	Am.	1950	320a-1	Am.	1950
199(139)	Am.	1950	§ 2	Am.	1900
199(140)	New	1950	322	Am.	1904
199(142)	New	1950	322	Am.	1908
	Am.	1950	322c	New	1950
199(143)	New	1950	325b	New	1901
199(144)	New	1901	326k-12	Am.	1950
199(145)	New	1950		Am.	1954
199(140)	New	1900	§ 1a	New	1958
199(150)	New	1958	§ 2a	Rep.	1908
§ 10	Rep.	1904	§ 2-a	New	1952
199(153)	New	1950	§ 2b	New	1900
199(154)	New	1958		Am.	1908
199(155)	New	1958	326k-13	New	1950
199(155)	Am.	1908	320k-14	New	1952
§ 5	Am.	1904		Am.	1958
199(150)	New	1958		Am.	1904
199(160)	New	1958	326k-15	New	1952
199(161)	New	1900		Am.	1958
§ 6	Am.	1904	326k-16	New	1952
199(162)	New	1904	326k-17	New	1952
Subsec. (D)	Am.	1900		Rep.	1958
199(163)	New	1904	326k-18	New	1952
199(164)	New	1904	326k-19	New	1952
199(165)	New	1904		Am.	1901
199(166)	New	1904		Am.	1908
199(167)	New	1904	326k-20	New	1952
199(171)	New	1900	326k-21	New	1952
199(174)	Transferred	1908	326k-21	Am.	1900
199(176 to 180)	Transferred	1908	326k-22	New	1954
200a,			§ 4	Am.	1908
§ 1	Am.	1900	§ 5	Am.	1908
§ 2	Am.	1900	326k-22, § 6	Am.	1908
§ 2a	New	1901	326k-23	New	1954
§ 5a	New	1958	§ 4	Am.	1905
§ 10a	Added	1900	326k-24	New	1954
§ 11	Added	1908		Am.	1908
224			326k-25	New	1954
to			§§ 1, 2	Am.	1904
238	New	1900	326k-26	New	1954
238-1			326k-27	New	1950
to				Am.	1902
238-6	New	1900	326k-28	New	1950
240a,			§ 4	Am.	1901
§§ 2-5	Am.	1952		Am.	1904
§§ 9-14	Am.	1950	§ 5	Am.	1901
§§ 7-10	Am.	1952		Am.	1904
§§ 12, 13	Am.	1952	326k-29	New	1950
§ 14	Rep.	1952		Am.	1900
200-1	Am.	1950	326k-30	New	1950
	Am.	1958	326k-30a	New	1900
	Rep.	1900	326k-30a, §§ 2, 3	Am.	1908
201 to 274	Rep.	1908	§ 8	Am.	1908
270	Am.	1908	326k-31		
270a	Am.	1958	to		
300	Am.	1950	326k-33	New	1950

ARTICLES AFFECTED FROM 1949 TO 1967

Civ.St. Art.	Effect	Vernon's Texas St.Supp.	Civ.St. Art.	Effect	Vernon's Texas St.Supp.
326k-34	New	1956	342-115	Am.	1964
	Rep.	1968	342-201	Am.	1952
326k-35	New	1956	342-202	Am.	1952
§ 2	Rep.	1968	342-203	Am.	1952
326k-36	New	1956	342-204	Am.	1952
326k-36a	New	1961		Am.	1964
326k-37	New	1958	342-205	Am.	1952
326k-38	New	1958		Am.	1961
	Rep.	1961	342-208	Am.	1952
326k-38a	New	1961	342-208A	New	1952
	Am.	1966		Rep.	1960
326k-39	New	1958	342-301	Am.	1958
	Rep.	1961		Am.	1961
326k-40	New	1958	342-303	Am.	1960
§ 1	Am.	1961	342-304	Am.	1964
	Am.	1968	342-305	Am.	1964
§ 2	Am.	1961	342-312	Am.	1968
326k-41	New	1960	342-314	New	1956
326k-41a	New	1960	342-315	Added	1968
	Am.	1961	342-401	Am.	1968
326k-42	New	1960	342-402	Am.	1960
326k-43	New	1960	342-404	Am.	1960
326k-43a	New	1964	342-406	Am.	1960
326k-44	New	1961		Am.	1968
326k-45	New	1961	342-408	Am.	1960
326k-46	New	1961	342-501A	New	1958
326k-47	New	1961	342-502	Am.	1960
326k-48	New	1964	342-504	Am.	1960
326k-48	Am.	1968		Am.	1964
326k-48a, §§ 1-3	New	1968	§ 2	Am.	1962
326k-49	New	1964	§ 2(c)	Am.	1968
326k-50	New	1964	342-505	Am.	1968
§ 4	Am.	1966	342-505n	New	1950
326k-51	New	1964	342-507	Am.	1950
326k-52				Am.	1960
to			342-509a	New	1964
326k-56	New	1960	342-606	Am.	1968
326k-56(c)	Am.	1968		Am.	1968
326k-57	New	1968	342-701		
326k-58, §§ 1-8	New	1968	to		
326k-59, §§ 1-8	New	1968	342-703	Rep.	1960
326k-60	New	1968	342-704	Am.	1958
326k-61, §§ 1-4	New	1968		Rep.	1966
326k-62	New	1968	342-705	Rep.	1966
326k-1	New	1966	342-706	Rep.	1966
326k-2, §§ 1-6	New	1968	342-707a	Am.	1950
331d	Am.	1950	342-709	Am.	1964
331e	New	1950	342-711	Rep.	1966
331f	New	1950	342-712	Rep.	1966
331f-1, §§ 1, 2	New	1968	342-002	Am.	1938
331g	New	1952	342-003	Am.	1938
331g-1	New	1956		Am.	1960
§ 2a	New	1960		Am.	1964
331h	New	1954	342-008	Am.	1964
331i	New	1960		Am.	1966
331j	New	1961	342-010a, § 1c	Am.	1968
331k, §§ 1-4	New	1968	480d	New	1964
342-101A	New	1952	548b	New	1956
342-104	Am.	1961	§ 1	Am.	1964
	Am.	1968	§ 1a	Am.	1964
342-109	Am.	1960	§ 8	Am.	1964
342-112	Am.	1952	§ 5	Am.	1964
342-112A	New	1952			

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Civ.St. Art.	Effect	Vernon's Texas St.Supp.	Civ.St. Art.	Effect	Vernon's Texas St.Supp.
548b, §§ 1-10a	Am.	1068	600a	Am.	1050
565a, §§ 1-4	New	1068		Am.	1052
567				Am.	1054
to				Rep.	1056
571	Rep.	1066	601	New	1054
575	Rep.	1066	602	Am.	1054
576	Rep.	1066	603-605	Rep.	1058
577	Rep.	1068	607-620	Rep.	1064
578	Rep.	1068	613	Am.	1056
570-1 to 570-42	New	1056	630	Am.	1062
	Rep.	1058	631-633	Rep.	1058
580-1 to 580-30	New	1056	634	Am.	1050
	Rep.	1057		Am.	1052
581-1				Am.	1056
to				Rep.	1058
581-4	New	1058	634 1/4	Rep.	1058
581-5	New	1058	634a	Rep.	1058
Subs. E	Am.	1064	635	Am.	1068
Subs. G-I	Am.	1064	636-648	Rep.	1058
Subs. O	Am.	1064	649	Am.	1050
Subs. Q	New	1060		Rep.	1058
Subs. R	Added	1064	650-652	Rep.	1058
581-6	New	1058	653	Am.	1056
581-7	New	1058		Rep.	1058
Subs. A	Am.	1064	654	Rep.	1058
Subs. D	Added	1064	655	Am.	1056
581-8	New	1058		Am.	1068
581-9	New	1058	656	Rep.	1056
Subsec. B	Am.	1064	656-664	Rep.	1058
581-10			664-2	New	1058
to			664-3	New	1058
581-12	New	1058	§ 13	Am.	1066
581-18	New	1058	666	Am.	1050
	Am.	1064		Am.	1058
581-14	New	1058	§ 6a	Added	1068
Subsec. (G)	Added	1064	666-1	Am.	1050
581-15				Rep.	1058
to			666-2	New	1050
581-21				Rep.	1058
581-22	New	1058	666a-1	Rep.	1058
Par. A	Am.	1061	666a-2	New	1058
581-23			666b, § 2	Am.	1068
to			670-672	Rep.	1066
581-28	New	1058	677	Rep.	1050
581-20	New	1058	678	Am.	1052
	Am.	1061	678a	Abolished	1060
Subsec. G	Rep.	1064	678d	Am.	1061
581-30				Rep.	1066
to			678d-1	New	1066
581-32	New	1058	678e	New	1064
581-33	New	1058	§ 7a	Am.	1068
	Am.	1064	678f	New	1066
581-34	New	1058	678m	New	1056
581-35	New	1058	§ 1	Am.	1064
G	Am.	1060	§ 15	Am.	1064
M	Am.	1060	§ 16A	New	1064
581-36			678m-1	New	1058
to			678m-2	New	1058
581-39	New	1058	§ 1	Am.	1058
582-1	New	1060	678m-3	New	1058
§ 3a	Am.	1064	678m-4	New	1060
582-1	Rep.	1068	679	Rep.	1066

ARTICLES AFFECTED FROM 1949 TO 1967

Civ.St. Art.	Effect	Vernon's Texas St.Supp.	Civ.St. Art.	Effect	Vernon's Texas St.Supp.
680	Rep.	1966	605c, § 20-A	New	1960
681	Am.	1950	§ 38	Am.	1963
	Rep.	1966	§ 41	Am.	1964
682	Rep.	1966		Am.	1968
683	Rep.	1966	605c note	Am.	1958
684-687	Rep.	1960	605c-1	New	1964
688	Am.	1952	605c-2	New	1966
688a	New	1952	605g	New	1952
689	Am.	1952	§ 1	Am.	1954
689a-2	Am.	1952		Am.	1956
689a-3	Rep.	1958	§ 1(b)	Am.	1964
689a-4	Am.	1952	§§ 2-12	Am.	1954
689a-4a	New	1952	§ 3	Am.	1950
689a-5	Am.	1958	§ 4	Am.	1956
	Am.	1958	§ 7	Am.	1956
689a-6	Am.	1952	§ 13a	New	1954
689a-7	Am.	1958	605h	New	1956
689a-8a	New	1958	§ 1(c)	Am.	1958
689a-9a	New	1954		Am.	1961
689a-17	Rep.	1958	605i	New	1958
689a-17a	New	1958	605j	New	1961
689a-18	Rep.	1958	§ 1(g)	Am.	1966
689a-19a	New	1958	§ 1(j)	Added	1966
691	Am.	1952	§ 3	Am.	1966
692	Am.	1952	605j-1, §§ 1-17	New	1968
694	Am.	1950	§§ 19-23	New	1968
695			605k	New	1966
§ 10A	Added	1964	702	Am.	1954
605c,			703a	New	1956
§ 1	Am.	1964	703b	New	1958
§ 2(1) a	New	1958	703b-1	Am.	1950
§ 2(3)	Am.	1961	709a	New	1954
§ 4(7)	Am.	1952	709b	New	1961
	Am.	1964	709c	New	1961
§ 6-A	Added	1966	715a	New	1966
§ 7A	New	1954	717	Am.	1952
§ 8	New	1950	717f	New	1950
§ 8(a)	Am.	1954	717g	New	1952
§ 8(a), subsec.			717h	New	1952
2(e)	Am.	1966	717i	New	1954
§ 12	Am.	1968	717j	New	1956
§ 14	Am.	1961		Rep.	1961
§ 15	Am.	1952	717j-1	New	1961
§ 16-A	Added	1958	§§ 1-4	Am.	1968
§ 16-B	Added	1958	717k	New	1956
	Am.	1966	717k-1, §§ 1-3	New	1968
	Am.	1968	717l	New	1958
§ 16-C	Added	1958	717m	New	1960
§ 17	Am.	1964	717n	New	1961
	Am.	1968	717o, §§ 1-14	New	1968
§ 17A	New	1964	718	Am.	1964
§ 18	Am.	1964	725b	New	1961
§ 18A	Added	1964	726c	New	1964
§ 18B	Added	1964	752a	Am.	1956
§ 10	Am.	1964	752y-4	New	1958
	Am.	1968	752y-5	New	1960
§ 20	Am.	1968	784a,		
§ 27	Am.	1968	§ 4	Am.	1960
§ 27(1)	Am.	1958	705a	New	1964
	Am.	1960	802g	New	1956
§ 28	Am.	1958	802h	New	1961
§ 20	Am.	1954	§ 1	Am.	1968
			822	Rep.	1954

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835h	New	1050	881a-57	Am.	1050
835i	New	1052		Rep.	1904
835j	New	1050	881a-58		
835k	New	1050	to		
835k-1, §§ 1-4	New	1068	881a-60	Rep.	1064
835l	New	1052	881a-61	Am.	1950
835m	New	1054		Rep.	1004
835n	New	1060	881a-62	Rep.	1964
835o	New	1004	881a-63	Am.	1050
835p, §§ 1, 2	New	1968		Rep.	1064
836	Am.	1050	881a-64		
838	Rep.	1004	to		
840	Am.	1064	881a-60	Rep.	1064
842a	Am.	1961	881b	New	1050
842b-842f	Rep.	1052		Rep.	1904
842g	New	1952	883	Am.	1060
843	New	1004	800-808	Rep.	1906
	Rep.	1968	800	Rep.	1068
§51-C	New	1064	011a,		
	Rep.	1968	§ 15	Am.	1061
852	Rep.	1064	§ 16	Rep.	1061
852a	New	1004	011b,		
§ 5.05	Am.	1966	§ 1a(1)	Am.	1066
§ 6.08	Am.	1966	§ 1a(1) (c)	New	1956
853				Am.	1958
to			§ 1c	Added	1064
861	Rep.	1904	§ 1(g)	Am.	1066
881a-1			§ 1(i)	Am.	1961
to			§ 1j	Added	1064
881a-7	Rep.	1004	§ 1k	New	1004
881a-8	Am.	1052	§ 13a	Added	1066
	Rep.	1064	011c	New	1966
881a-9	Am.	1050	012a-2	Am.	1052
	Am.	1052	012a-3	Am.	1052
	Rep.	1004		Am.	1050
881a-10	Am.	1050		Am.	1064
	Rep.	1004	012a-4	Am.	1052
881a-11	Rep.	1004	012a-5	Am.	1064
881a-12	Am.	1052	012a-15	Am.	1964
	Rep.	1004	012a-24	Am.	1956
881a-13				Am.	1968
to			012a-28		
881a-21	Rep.	1004	to		
881a-23	Am.	1054	012a-30	New	1950
	Am.	1058	012a-31	New	1956
	Rep.	1964		Am.	1964
881a-24	Am.	1050	012a-32	New	1956
	Rep.	1004	012a-33	New	1956
881a-25	Am.	1050	032	Rep.	1056
	Rep.	1064	006b	New	1052
881a-26			006c	New	1054
to			§ 4	Am.	1056
881a-36	Rep.	1064	006d	New	1050
881a-37	Am.	1950	006d-1	New	1064
	Rep.	1964	006e	New	1058
881a-38			006f	New	1960
to			§ 4	Am.	1960
881a-43	Rep.	1004	006g	New	1960
881a-44	Am.	1950	006h	New	1061
	Rep.	1964	009a-1	New	1054
881a-45			009c-1, §§ 1, 2	New	1968
to			009d	New	1054
881a-56	Rep.	1004			

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970a	New	1064	1011f	New	1058
§ 6	Am.	1060	1011m	New	1060
971a	New	1050	1015c-1	New	1056
973	Am.	1954	1015c-2	New	1000
973a	New	1050	1015g,		
973b	New	1060	§ 1	Am.	1056
974a,			§ 5	Am.	1056
§ 1	Am.	1950	§ 13	Am.	1050
§ 3	Am.	1050	§ 13(a)	Added	1050
§ 10	Rep.	1050	§ 13(b)	Added	1056
974a-1	New	1060		Am.	1000
974a-2	New	1060	§ 13(c)	Added	1050
974c-2	New	1050		Am.	1060
974c-3	New	1050	§ 13(d)	Added	1068
974c-4	New	1050	1015g-1	New	1001
974c-5	New	1061	1015g-2	New	1060
974c-6	New	1961	1015h	New	1060
974c-7, §§ 1-3	New	1008	1015i	New	1054
974d-2	New	1050	1015j	New	1056
974d-3	New	1054	1015k	New	1060
974d-4	New	1056	1015l	New	1068
974d-5	New	1050	1016	Am.	1061
974d-6	New	1058	1027c-1	New	1064
974d-7	New	1958	1042b	Am.	1008
974d-8	New	1061	1000a	Am.	1064
974d-9	New	1961	1004	Am.	1008
974d-10	New	1064	1008b,		
974d-11	New	1066	§ 1	Am.	1052
974d-12, §§ 1-4	New	1008		Am.	1060
974e-7	New	1950	§ 1a	New	1064
974e-8	New	1952	§ 1b	Added	1008
974f-1, §§ 1, 2	New	1068	§ 2	Am.	1052
974g	New	1050		Am.	1900
§ 1	Am.	1054	§ 2a	New	1052
974-1	New	1950		Am.	1060
974-2	New	1050		Am.	1064
970a	New	1950	1000c, §§ 1-14	New	1008
970b	New	1050	1085a	Am.	1050
970c	New	1000		Am.	1052
977	Am.	1050	§ 2a	Added	1060
978	Am.	1068	1003	Am.	1064
978a	New	1000	1008	Am.	1064
978b	Am.	1068	1105a, § 2	Am.	1068
980	Am.	1064	1105b,		
980a	New	1060	§ 1	Am.	1052
980b	New	1068	§ 0	Am.	1064
981	Rep.	1064		Am.	1068
982	Rep.	1064	1105b-1, §§ 1, 2	New	1068
984	Rep.	1064	1105c	New	1061
985	Rep.	1064	1109a,		
986	Rep.	1064	§ 2	Am.	1054
989	Am.	1064	§ 6	Am.	1054
	Am.	1960	§ 7	Am.	1054
998	Am.	1068	1109a-3	New	1064
999	Am.	1068	1109c	New	1050
999a	New	1050	1109c-1, §§ 1-4	New	1068
1011	Am.	1050	1109f	New	1060
1011a	Am.	1060	1109f-1	New	1060
1011f	Am.	1050	1109g	New	1050
	Am.	1054	1109h	New	1058
	Am.	1961	§ 4	Am.	1960
1011g	Am.	1060		Am.	1961
	Am.	1961	§ 5(d)	Am.	1960

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1109l	New	1958	1182c-2	New	1958
§ 1	Am.	1960	1182c-3	New	1958
§ 3a	New	1960		Rep.	1960
1109l-1	New	1961	1182c-4	New	1958
1109j	New	1960	1182c-5	New	1960
1109k	New	1960	1182c-6	New	1960
1110b	New	1950	1182d-1	New	1960
1110c	New	1964	1182g, §§ 1-5	New	1968
§ 2(A)	Am.	1968	1187-1	New	1968
§ 10	Am.	1968	1187a-2	New	1956
1110d	New	1966	1187c	New	1950
1111a	New	1950	§ 7	Am.	1958
1111b	New	1950	1187c	Am.	1960
§ 1	Am.	1952	1187f	New	1961
1111c	New	1952	1188	Am.	1958
1112	Am.	1954	1101	Am.	1958
1113a	New	1950	1101a	New	1958
	Am.	1954	1100(a)	New	1950
	Am.	1966	1107a	New	1954
1118n-5	New	1950	1200c	New	1950
§ 1a	New	1956		Am.	1961
1118n-6	New	1956	1200c, § 1	Am.	1968
1118n-7	New	1956	1200d	New	1956
1118n-8	New	1958	1211	Am.	1964
1118n-9	New	1961	1241		
1118n-10	New	1964	to		
1118q	New	1950	1243	Rep.	1968
1118r	New	1952	1241a, §§ 1-5	New	1968
1118s	New	1952	1261	Rep.	1968
1118t	New	1954	1266	Am.	1960
1118u	New	1954		Am.	1961
1118v	New	1958	1268a	New	1960
1118w	New	1958	1268b	New	1964
1143	Am.	1968	1268h-2	New	1960
1144	Am.	1968	1269j-4	New	1952
1152	Am.	1968	1269j-4.1	New	1966
1153a	New	1961	§§ 1-4	Am.	1968
1154	New	1950	§ 8	Am.	1968
1153	Am.	1968	1269j-5	New	1950
1161	Am.	1954	§ 1	Am.	1958
1170	Am.	1961	§ 4(a)	New	1961
1170a	New	1952	1269j-5.1	New	1964
1171	Rep.	1961	§ 1	Am.	1968
1174a-1	New	1952	1269j-5.2, §§ 1, 2	New	1968
1174a-2	New	1954	1269j-6	New	1956
1174a-3	New	1956	1269j-7	New	1958
1174a-4	New	1960	1269j-8, §§ 1-5	New	1968
1174a-5	New	1961	1269l		
1174a-6	New	1961	§ 7-a	New	1952
1174a-7	New	1966	1269l-1	New	1950
1174a-8	New	1966	1269l-2	New	1958
1174c	New	1961	§ 1	Am.	1961
1175,			1269l-3	New	1958
Subd. 2	Am.	1964	§ 4, par. (h)	Am.	1968
Subd. 10	Am.	1968	§ 4, par. (j)	Am.	1968
1176a	Am.	1966	1269m,		
1176b-8	New	1961	§ 2	Am.	1958
1182c-1	Am.	1950	§ 5a	New	1950
	Am.	1958	§ 8	Am.	1950
§ 2a	New	1954	§ 9	Am.	1950
§ 2b	New	1961		Am.	1958
	Am.	1968	§ 12	Am.	1958
§ 4	Am.	1960	§ 18	Am.	1958

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1260m.			1302-6.01	New	1961
§ 14	Am.	1950		Rep.	1966
	Am.	1958	1302-6.02	New	1961
§ 14D	Am.	1956		Am.	1966
	Am.	1964		Rep.	1966
§ 16	Am.	1952	1302-6.03	New	1961
	Am.	1956		Rep.	1966
§ 16a	New	1950	1302-6.04	New	1961
§ 18	Am.	1950		Am.	1964
§ 20	Am.	1950		Am.	1966
§ 21	Am.	1950		Rep.	1966
§ 22	New	1950	1302-6.05		
§ 22a	New	1952	to		
§ 23	Am.	1952	1302-6.24	Rep.	1966
§ 25	Rep.	1958	1302a	Rep.	1952
§ 26	Am.	1950	1302b		
	Am.	1958	to		
§ 26(a)	New	1958	1302d	Rep.	1961
§ 27(a)	Am.	1958	1302d-1	New	1956
§ 27(b)	Am.	1952		Rep.	1961
	Am.	1956	1302c	Rep.	1961
§ 28(a)	New	1952	1302f	Rep.	1961
1273a	Rep.	1952	1302g	New	1950
1273b	New	1952		Rep.	1961
1267a.			1302h	New	1950
§ 3	Am.	1954		Rep.	1961
§ 3a	New	1950	1302i	New	1954
	New	1954		Rep.	1961
§ 3b	New	1950	1303, 1304	Rep.	1961
1267-1	Am.	1950	1304a	Rep.	1961
§§ 1-7	Rep.	1964	1305	Rep.	1961
§ 8	Am.	1958	1306	Rep.	1961
	Rep.	1964	1307	Rep.	1961
§ 9	Rep.	1964	1308-1313	Rep.	1961
§ 10	New	1958	1314	Am.	1952
1267-2	Am.	1964		Rep.	1961
1267-3	New	1964	1314a	New	1960
§ 6	Am.	1966		Rep.	1961
1261a	New	1964	1315-1317	Rep.	1961
1260	Rep.	1964	1318-1320	Rep.	1961
1300	Rep.	1968	1321a	Rep.	1961
1301a	New	1964	1322-1326	Rep.	1961
1302	Am.	1950	1327	Am.	1952
	Am.	1952	1327a	New	1950
	Am.	1954		Rep.	1961
	Rep.	1961	1328-1333	Rep.	1961
1302-1.01			1334a	Rep.	1950
to			1334b	New	1956
1302-2.05	New	1961		Rep.	1961
1302-2.06	New	1961	1335-1347	Rep.	1961
§ A	Am.	1964	1348	Rep.	1964
§ B	Added	1964	1352	Rep.	1961
1302-2.07	New	1961	1357	Rep.	1961
1302-2.08	New	1961	1358	Rep.	1961
1302-2.09	Added	1968	1358a	New	1964
1302-3.01			1358-1, 1359	Rep.	1961
to			1358b	New	1968
1302-3.05	New	1961	1360	Am.	1960
1302-4.01				Rep.	1961
to			1361-1370	Rep.	1961
1302-4.07	New	1961	1380-1382	Rep.	1961
1302-5.01			1383	Rep.	1961
to			1384-1395	Rep.	1961
1302-5.10	New	1961			

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1305a	New	1950
1306-1308	Rep.	1061
1306-1.01	New	1060
1306-1.02	New	1060
1306-2.01	New	1960
Subsec. (A) (1)	Added	1061
1306-2.02		
to		
1306-2.07	New	1960
1306-2.08	New	1960
§ E	Added	1061
1306-2.09		
to		
1306-2.14	New	1060
§ E	Added	1068
1306-2.15	New	1060
1306-2.16	New	1060
1306-2.17	New	1060
	Am.	1068
1306-2.18	New	1060
§ A	Am.	1068
1306-2.19		
to		
1306-2.26	New	1060
1306-3.01	New	1060
1306-3.02	New	1060
§ A	Am.	1068
1306-3.03		
to		
1306-3.05	New	1060
1306-4.01		
to		
1306-4.06	New	1060
1306-5.01		
to		
1306-5.09	New	1060
1306-6.01		
to		
1306-6.06	New	1060
1306-7.01	New	1060
§ A	Am.	1068
§ B	Added	1066
1306-7.02	New	1960
§ A	Am.	1068
1306-7.03		
to		
1306-7.12	New	1060
	Am.	1068
1306-8.01		
to		
1306-8.14	New	1960
1306-8.15	New	1060
§ A	Am.	1068
§ B	Added	1066
1306-8.16		
to		
1306-9.01	New	1960
1306-9.02	New	1060
§ O	Am.	1068
§ E	Am.	1068
§ F	Added	1066
§ G	Added	1066

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1306-9.03	New	1060
	Am.	1061
1306-9.04		
to		
1306-10.03	New	1060
1306-10.04	New	1060
§ G	Added	1961
1306-10.05		
to		
1306-11.01	New	1960
1408	Rep.	1961
1409	Rep.	1961
1410	Rep.	1961
1411	Rep.	1961
1412-1415	Rep.	1961
1433	Am.	1050
1433a	New	1050
1434a,		
§ 3	Am.	1060
	Am.	1061
§ 5	Am.	1061
§ 5	Am.	1068
§ 6	Am.	1061
§ 8	Am.	1961
§ 9	New	1961
1436	Am.	1068
1436a	New	1050
§§ 1, 1a	Am.	1068
1436b	New	1052
1438a	New	1052
	Am.	1066
	Rep.	1068
1440	Am.	1064
1446.1		
to		
1446.3	New	1060
1446.4, §§ 1, 2	New	1068
1478-1494	Rep.	1061
1499a	New	1052
1518a	New	1058
	Am.	1068
1524a,		
§ 2	Am.	1052
§ 4	Am.	1050
§ 7	Am.	1052
§ 14	New	1060
	Rep.	1968
1524a-1	New	1052
	Rep.	1064
1528b,		
§ 3	Am.	1058
§ 12	Am.	1058
1528c	New	1050
§ 2(7)	Am.	1054
§ 4(5)	Am.	1054
1528d	New	1064
1529	Am.	1054
	Rep.	1061
1530	Rep.	1061
1531	Rep.	1061
1532-1533g	Rep.	1961
1538h	Am.	1058

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1538i-1538m	Rep.	1961	1702e	New	1950
1538n	New	1952	1702f	New	1950
	Am.	1954	1702g	New	1950
	Rep.	1961	1702h	New	1952
1577	Am.	1950	1702i	New	1954
	Am.	1954	1728	Am.	1954
	Am.	1968	1735a	Am.	1968
1577a	New	1952	1738	Am.	1964
1577b	New	1961	1817	Am.	1958
1577c	New	1966		Am.	1964
1578a	New	1966		Am.	1968
1580 note	Am.	1950	1817a	New	1958
	Am.	1956		Am.	1968
	Am.	1958	1819	Am.	1958
	Am.	1960	1821	Am.	1954
1581d	New	1950	1827	Am.	1958
1581d-1	New	1964	1903	Am.	1964
1581e	New	1950	1910	Am.	1952
1581f	New	1964		Am.	1956
1581g	New	1966	1920-12a	New	1968
1581g	Am.	1968	1920-14, § B	Am.	1968
1605	Am.	1954	§ F	Am.	1968
1605a			1920-63, § 4	Am.	1968
§ 2	Am.	1964	1934a-10	Am.	1958
1605a-1	New	1958	1934a-12	New	1950
1605a-2	New	1961	1934a-13	New	1950
1605a-3	New	1961	1934a-14	New	1950
1606 note	New	1960	1934a-15	New	1954
1606b	New	1952	1934a-15		
1606c	New	1952	§ 1(b)	Am.	1961
§ 1	Am.	1954	§ 1(c)	Am.	1960
§ 1	Am.	1968		Am.	1958
1630b	New	1954	1934a-16	New	1960
1680c	New	1958	1934a-17	New	1964
1641	Am.	1950	1934a-18	New	1964
1641c	New	1958	1937	Am.	1966
1641d	New	1960	1969a-2	New	1952
1641e	New	1961	§ 1	Am.	1961
1644a-1	New	1959	1969a-3	New	1950
1644c-1	New	1961	1970-31.1	New	1964
1645	Am.	1950	1970-31a	New	1952
	Am.	1956	1970-31b	New	1964
1645a-1	Am.	1950	1970-62a	New	1954
1645a-5	Am.	1950	1970-62b	New	1961
1645a-8	New	1952	§ 13	Am.	1961
	Am.	1954	1970-62c	New	1964
1640b	New	1950	1970-75a	New	1966
1649	Am.	1956	1970-77	Am.	1961
1650	Am.	1964	1970-77 note	New	1961
1650a	Added	1968	1970-95	Am.	1961
1651	Am.	1960	1970-96	Am.	1961
1657a	New	1968	1970-110a	New	1950
1659	Am.	1964	§ 1	Am.	1968
	Am.	1966	§ 9	Am.	1964
1659a	New	1960		Am.	1968
1663a	Added	1968	§ 11	Am.	1964
1665	Am.	1956	1970-110a.1	New	1968
1670	Am.	1960	1970-110a.2, §§ 2-10	New	1968
1689	Am.	1964	1970-110b	New	1952
1686a	New	1956	§ 1	Am.	1961
1702a-1	Am.	1958	§ 2	Am.	1961
§ 1	Am.	1968			
1702b-0	Rep.	1950			

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1970-110c	New	1958	1970-332, § 16	Am.	1968
§ 1	Am.	1961	§ 18A	Added	1968
§ 2A	Rep.	1961	1970-333a	New	1950
1970-110c.1	New	1964	1970-336	New	1950
1970-110d	New	1961	1970-337	New	1950
1970-118	Am.	1964	1970-338	New	1950
1970-114	Am.	1950	1970-338A	New	1960
1970-115	Am.	1950	1970-339	New	1950
1970-122	Am.	1950	§ 2	Am.	1968
	Am.	1952	§ 4	Am.	1968
	Am.	1950	§ 5	Am.	1954
	Am.	1964		Am.	1950
	Am.	1968	§ 6	Am.	1968
1970-120a	New	1960	§ 8	Am.	1950
§ 8	Am.	1968	§ 15	Am.	1950
1970-127a	New	1968	§ 17	Am.	1952
1970-138	Am.	1958		Am.	1950
1970-141.1	New	1950		Am.	1968
1970-141a	New	1952	1970-339A	New	1950
1970-228a, §§ 1-8	New	1968	§ 4	Am.	1968
1970-298b	New	1952	§ 6	Am.	1968
§ 10	Am.	1960	§ 8	Am.	1950
1970-298c	New	1960	§ 10	Am.	1968
1970-300a	New	1950	§ 18	Am.	1950
1970-301a	New	1952		Am.	1968
1970-301b	New	1952	1970-340	New	1950
1970-301c	New	1954	§ 1a	Added	1964
1970-301d	New	1958	1970-340.1	New	1958
1970-301e	New	1961	1970-341	New	1952
1970-301f	New	1964	§ 11	Am.	1960
1970-301h	New	1968	1970-342	New	1954
1970-305,				Am.	1961
§ 7	Am.	1950		Am.	1964
	Am.	1960	§ 9	Am.	1960
1970-305a	New	1952	1970-342a	New	1968
1970-305b	New	1954	1970-343	New	1950
1970-310 note	Am.	1958	1970-344	New	1958
	Am.	1960	1970-345	New	1958
1970-311a	New	1950	§ 8	Am.	1960
1970-314	Rep.	1960	§ 11	Am.	1960
1970-314a	New	1960	§§ 14, 15	Am.	1961
1970-318a	New	1952	§ 14	Am.	1968
1970-324	Am.	1950	§ 15a	New	1960
	Am.	1964	1970-346	New	1960
§ 5	Am.	1960	1970-347	New	1960
§ 6	Am.	1960	1970-348	New	1964
§ 9	Am.	1964	§ 2	Am.	1960
§ 17	Am.	1960	§ 18a	Added	1960
§ 17	Am.	1968	1970-349	New	1960
1970-324a	New	1964	1970-350, §§ 1-6	New	1968
§ 6	Am.	1960	1970-351, §§ 1-7	New	1968
§ 17	Am.	1960	1970a-1	New	1958
	Am.	1968	1983	Am.	1968
1970-324b	New	1960		Rep.	1968
1970-324c	New	1968	1984	Rep.	1960
1970-325	New	1950	1985	Am.	1960
1970-330				Rep.	1968
§ 1	Am.	1964	1994	Am.	1991
§ 2	Am.	1964	1995		
1970-381	Rep.	1960	(0)	Am.	1954
1970-381a	New	1960	(9a)	New	1954
	Rep.	1968	(17a)	New	1950
1970-381b, §§ 1-5	New	1968	1995, subd. 1	Rep.	1968

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2031b	New	1960	2320j-3	New	1960
2039a	Am.	1950	2326j-3a	New	1968
§ 1	Am.	1954	2326j-4	New	1960
	Am.	1960	2326j-4a, §§ 1, 2	New	1968
§ 2	Am.	1954	2326j-5	New	1960
§ 4	Am.	1954		Am.	1968
2039c	Am.	1950	2326j-6	New	1960
2075	Am.	1950		Am.	1960
2093e	New	1950	2326j-7	New	1960
2094	Am.	1950		Am.	1964
	Am.	1958	2326j-8	New	1961
	Am.	1964	2326j-9	New	1961
	Am.	1966	2326j-10	New	1961
2094, subsec. (o)	Am.	1968		Am.	1968
2094, subsec. (k)	Added	1968	2326j-11	New	1961
2094, subsec. (m)	Added	1968	2326j-12	New	1961
2094, subsec. (n)	Added	1968	2326j-13	New	1961
2095	Am.	1950	2326j-13, §§ 1, 2	New	1968
	Am.	1960	2326j-14	New	1961
	Am.	1964	2326j-15	New	1964
2096	Am.	1960	2326j-16	New	1964
2097	Am.	1960	2326j-17	New	1964
2099	Am.	1960	2326j-18	New	1964
2101,			2326j-19	New	1964
§ 4	New	1961		Am.	1968
§ 5	Added	1968	2326j-20		
2102	Am.	1961	§§ 1, 2	New	1964
2103b	New	1964	2326j-21		
§ 1	Am.	1960	§§ 1, 2	New	1964
2122	Am.	1954	2326j-22	New	1964
	Am.	1966	2326j-23	New	1964
2133	Am.	1957	2326j-24	New	1964
2135	Am.	1950	2326j-25	New	1964
	Am.	1966	2326j-26	New	1964
(4)	Am.	1954	2326j-27	New	1964
(17)	New	1968	2326j-28	New	1964
	Am.	1968	2326j-29	New	1964
2137	Am.	1968	2326j-30	New	1964
2168a	Am.	1950	2326j-31	New	1964
2164a	New	1964	2326j-32	New	1964
2220	Am.	1950		Rep.	1968
	Am.	1964	2326j-32a, §§ 1-4	New	1968
2226a	New	1960	2326j-33	New	1964
2268a	New	1950	2326j-34	New	1964
2292a	New	1964	2326j-35	New	1964
2320b	Am.	1960	2326j-36	New	1964
§ 4	Rep.	1952	§§ 1, 2	New	1968
2320c	New	1950	2326j-37	New	1964
2323a	New	1952	2326j-38		
2324	Am.	1950	to		
	Am.	1961	2326j-51	New	1960
2325	Rep.	1950	2326j-51a	New	1968
2326	Am.	1950	2326j-52	New	1960
	Am.	1954	§ 1	Am.	1968
2326a	Am.	1958	2326j-53	New	1960
2326i	New	1950	2326j-54, §§ 1-4	New	1968
2326j	New	1950	2326j-55, §§ 1, 2	New	1968
	Am.	1958	2326j-56, §§ 1-3	New	1968
2326j-1	New	1958	2326j-57, §§ 1, 2	New	1968
	Am.	1968	2326j-58	New	1968
	Am.	1964	2326j-59, §§ 1, 2	New	1968
	Am.	1968	2326j-60, §§ 1, 2	New	1968
2326j-2	New	1958	2326j-61, §§ 1, 2	New	1968

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2326j-02, §§ 1, 2	New	1008	2338-7a	New	1058
2326k	New	1052	2338-8	New	1058
2326k combined with 2326		1054	§ 2	Am.	1058
2326l	New	1058		Am.	1008
2326l-1	New	1000	§ 5	Am.	1008
2326l-2	New	1000	§ 6	Am.	1058
2326m	New	1000	§ 9	Am.	1058
2326n	New	1000	2338-9	New	1058
§ 1	Am.	1004	§ 3	Am.	1008
2327c	New	1050	§ 8	Am.	1008
2327d	New	1052	§ 21	New	1000
	Am.	1050		Am.	1008
§ 1A	Added	1008	§ 22	New	1000
2328a,			2338-9a	New	1000
§ 3	Am.	1054	§ 3a	Added	1008
2328b-1	New	1052	§ 5	Am.	1008
	Am.	1054	2338-9b, §§ 1-17	New	1008
	Rep.	1000	2338-10	New	1000
2328b-2	New	1052	§ 2	Am.	1004
	Rep.	1000		Am.	1008
2328b-3	New	1052	§ 3	Am.	1008
	Am.	1054	§ 6	Am.	1008
	Rep.	1000	§ 8	Am.	1008
2328b-4	New	1000	§ 13	Am.	1008
2329	Rep.	1050	§ 14	Am.	1008
2332a	Added	1000	§ 18	Am.	1008
2335	Am.	1004	2338-11	New	1000
2338-1	Am.	1050	§ 3	Am.	1008
§ 3	Am.	1000	§ 10-A	New	1000
	Am.	1008	2338-11a	New	1004
§ 4	Am.	1052	§ 8	Am.	1008
	Am.	1054	2338-12	New	1000
§ 5	Am.	1000	2338-13	New	1000
	Am.	1008	§ 2	Am.	1008
§ 6	Am.	1000	2338-14	New	1001
	Am.	1008	§ 3	Am.	1008
§ 12	Am.	1000	§ 6	Am.	1004
	Am.	1008	2338-15	New	1004
§ 13	Am.	1000	§ 1a	Added	1000
	Am.	1008	§ 3	Am.	1000
§ 13-B	New	1000	§ 9	Am.	1004
§ 14	Am.	1000	§ 11	Am.	1000
§ 17	Am.	1000	§§ 1-10	Am.	1008
2338-2	New	1050	2338-15, § 3	Am.	1008
§ 1	Am.	1000	2338-15a	New	1000
2338-2a	New	1058	§§ 1-10	Am.	1008
	Rep.	1000	2338-15b, §§ 1-10	New	1008
2338-2b	New	1000	2338-16	New	1004
2338-3	New	1050	§ 2	Am.	1004
§ 2	Am.	1008	§ 3	Am.	1008
§§ 2-4	Am.	1052	§ 4	Am.	1004
§ 4	Am.	1008	§ 7	Am.	1004
§ 6	Am.	1008	2338-17	New	1004
§ 6-D	Am.	1052	§ 2	Am.	1008
§§ 12-14	Am.	1052	2338-18	New	1000
2338-3a	New	1058	§ 7	Am.	1008
§ 1	Am.	1000	2338-19	New	1000
2338-4	New	1052	§ 3	Am.	1008
2338-5	New	1054	2338-20	New	1000
§ 3	Am.	1008	§ 3	Am.	1008
2338-6	New	1054	2343	Am.	1000
2338-7	New	1050			
§ 3	Am.	1008			
§§ 5-7	Am.	1008			

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2350,			2372f-2	New	1004
§ 2a	New	1050	2372f-3	New	1004
§ 2b	New	1052	2372f-4	New	1004
2350(b)	Am.	1950	2372f-5	New	1000
	Am.	1954	2372f-6	New	1000
2350m,			2372h,		
§ 3a	New	1050	§ 6	Am.	1050
§ 3b	New	1050	2372h-1	New	1000
2350n	New	1052	2372h-2	New	1000
	Rep.	1000	2372h-3	New	1000
2350o	New	1000	2372i	New	1050
2351	Am.	1050	2372j	New	1050
2351½	Added	1000	2372k	New	1052
2351a-1	Am.	1001	2372l	New	1054
2351a-4	New	1050	2372m	New	1050
2351a-5	New	1052		Am.	1050
	Am.	1000	2372n	New	1050
2351a-6	New	1058	2372o	New	1000
§ 12	Am.	1000	2372p	New	1001
	Am.	1008	2372q	New	1001
2351d	New	1050	2372r	New	1004
2351e	New	1050	2372r-1, §§ 1, 2	New	1008
2351f	New	1052	2372s	New	1000
2351g	New	1050	§ 3	Am.	1008
	Rep.	1000	§ 6	Am.	1008
2351g-1	New	1000	2372s-1	New	1000
2351h	New	1058	2373	Am.	1008
2352d	Am.	1050	2303a	Added	1008
§ 1	Am.	1052	2300	Am.	1008
2352e	New	1001	2428	Am.	1050
2367a	New	1000	2400a	New	1054
§ 2	Am.	1000	§ 2	Am.	1004
2368a,			§ 5	Am.	1050
§ 2	Am.	1050		Am.	1004
	Am.	1000	§ 5a	New	1050
	Am.	1008		Am.	1004
§ 2a	New	1054	2401	Am.	1050
§ 2b	New	1054	2402	Am.	1050
§§ 5, 6	Am.	1052		Am.	1004
2368a-1	New	1050	§ 7	Am.	1000
2368a-2	New	1054	§ 8	Am.	1000
2368a-3	New	1054	2404	Am.	1050
2368a-4	New	1050	2405	Am.	1050
2368a-5	New	1058		Am.	1052
2368a-6	New	1000		Am.	1054
2368a-7	New	1001		Am.	1000
2368a-8	New	1001		Am.	1001
2368a-9	New	1004		Am.	1004
2368a-10	New	1000	§ 7	Added	1000
2368a-11, §§ 1, 2	New	1008	2400	Am.	1004
2368f	New	1050	2408	Am.	1000
2370a	New	1050	2409	Am.	1050
	Expired	1052		Am.	1004
2370b	New	1058		Am.	1000
2370c	New	1004	2470	Am.	1000
2370d	New	1000		Am.	1001
2371	Am.	1052		Am.	1004
2372a-1	New	1054	2471	Am.	1050
2372d-2	New	1050		Am.	1001
§ 1	Am.	1000	2477	Am.	1050
2372d-3	New	1052		Am.	1054
2372d-4, §§ 1-6	New	1008	§ 2, Subsec. 2	Am.	1000
2372f-1	New	1001	2480	Am.	1004

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2481	Am.	1958	2613a-3	Am.	1954
2482	Am.	1958	§ 1	Am.	1958
	Am.	1961	§ 10	Am.	1968
	Am.	1964	2613a-4		
	Am.	1966	§ 1a	Added	1966
2483	Am.	1954	§ 4	Am.	1966
	Am.	1964	§ 13	Added	1966
2484	Am.	1950	2613a-7	New	1956
	Am.	1954	2613a-8	New	1958
2484a	Am.	1964	2613a-9	New	1966
2484b	New	1950	2613a-10	New	1966
	Am.	1964	2613c	New	1956
2484c	Am.	1964	2614	Am.	1960
2484d	Added	1966	2615b,		
2525	Am.	1964	§ 4A	Rep.	1960
2529	Am.	1956	2615d	New	1950
	Am.	1968		Am.	1958
2529c, §§ 1, 2	New	1968	2615d, § 2	Am.	1968
2530a	New	1954	2615e	New	1950
2543c	Am.	1952	2615f	New	1955
§ 3	Am.	1968	2615f-1	New	1966
2553	Am.	1950	§ 1	Am.	1968
2558a,			§§ 4A, 4B	Added	1968
§ 4a	Am.	1960	2615f-2	New	1966
2570-2583	Rep.	1956	2615g	New	1961
2583a	New	1952	§ 7a	Am.	1964
	Rep.	1956	§ 10	Am.	1964
2584a	New	1968	§ 10a	Added	1964
2585b	New	1966	§ 11	Am.	1964
2585c	New	1968	2616a	New	1950
2585d	New	1968	2618	Am.	1954
2589d	New	1954		Am.	1960
2589e	New	1954	2618a	New	1964
2589f	New	1960	§ 8a	Added	1966
2591a, § 1	Am.	1968	2620	Am.	1950
2592a	New	1950	2620a	New	1950
2594a	New	1968	§ 2	Am.	1966
2597	Am.	1950	2621a	New	1960
2603a,			2623c-1	New	1960
§ 4	Am.	1958	2623c-2	New	1960
§ 5	Am.	1958	2623c-3	New	1960
	Am.	1966	2623c-4	New	1960
§ 8	Am.	1956	2623c-5	New	1960
§ 11	Am.	1968		Am.	1966
2603a-1	New	1960	2623c-6	New	1960
2603b-2	New	1961	2623c-7	New	1960
2603b-3	New	1961	2623c-8	New	1961
2603b-4, §§ 1-3	New	1968	2623c-9	New	1966
2603f-1	New	1960	2624	Am.	1958
2603f-2	New	1964	2624b	New	1958
2603g	New	1954	2624c	New	1958
2603h	New	1958	2628a-1a, §§ 1-5	New	1968
2603i	New	1960	2628a-9, § 10	Am.	1968
2603j	New	1961	2628a-10	New	1964
2605	Rep.	1952	2628a-11	New	1966
2606b	New	1950	2628d	New	1950
2606c	New	1960	2632c	Am.	1964
§ 4	Am.	1968	2632d	New	1954
2606c-1	New	1964	2632e	New	1958
2606d, §§ 1-4	New	1968	§ 1	Am.	1958
2607a			2632f	New	1961
§§ 1-3	New	1964	2632f-1	New	1968
2613	Am.	1952			

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2032g	New	1968	2054f-2	New	1966
2032h, §§ 1-5	New	1968	§ 1	Am.	1968
2033a	New	1950	§ 2	Am.	1968
2037j	New	1952	2054f-3, §§ 1-7	New	1968
2043b-1	New	1952	2054g	New	1966
2043d	New	1950	Art. II, § 7	Am.	1968
§ 1	Am.	1956	Art. II, § 9	Am.	1968
2043d-1	New	1961	2054-1	New	1950
2043e	New	1950	§ 4	Added	1952
2043f	New	1952	§ 4a	Added	1954
2043f-1	New	1956	2054-1a	New	1960
2043g	New	1954	2054-1b	New	1960
	Am.	1956	2054-1c, §§ 1-7	New	1968
2043g-1	New	1961	2054-2	New	1950
2044a	New	1966	2054-3	New	1950
2047	Am.	1950	2054-3a	New	1952
2047c	Am.	1950	§ 1	Am.	1956
2047c-1, §§ 1, 2	New	1968		Am.	1964
2047c-2, §§ 1-7	New	1968	2054-3b	New	1961
2047d	New	1950	2054-3c	New	1964
	Am.	1964	2054-3d	New	1966
2047d-1	New	1964	2054-3e, §§ 1, 2	New	1968
2047d-2	New	1966	2054-4	New	1950
2047e	New	1950	2054-5	New	1950
2047f	New	1950	2054-6	New	1950
2047g	New	1950	2054-7	New	1950
2047h	New	1958	2068b-1, § 2	Am.	1968
	Am.	1968	§ 4	Am.	1968
2047i	New	1961	2068b-2	New	1956
2048a	New	1966	§ 1	Am.	1968
2050	Rep.	1954	2068b-3, §§ 1, 2	New	1968
2051a	New	1950	2068a	New	1961
	Am.	1961	2068b	New	1964
2051b	New	1961	2068c	New	1964
2052	Rep.	1954	2068d	New	1964
2054.1	New	1966	2068e	New	1966
2054.2	New	1964	2669	Am.	1961
2054a	Am.	1966	Par. (a)	Am.	1968
§ 2	Am.	1964	2671	Am.	1956
2054b-1,			2673	Am.	1956
§ 1	Am.	1960		Am.	1961
§ 2	Am.	1966	2673a-2673i	New	1950
§ 3	Am.	1966	2675-1,		
§ 5	New	1954	§ 3	New	1961
§ 6	Added	1968		Am.	1966
2054c	Am.	1958	2675-1 note	New	1950
§ 1	Am.	1961	2675c-1	New	1956
	Am.	1968		Rep.	1966
§ 1(i)	Am.	1954	2675c-2	New	1966
§ 1(h)	Am.	1966	§ 2	Am.	1966
§ 1a	Added	1968	2675k	New	1964
§ 6	Am.	1968	§ 6(b)	Am.	1968
§ 8	Am.	1968	§ 6(d)	Am.	1968
2054d, § 2	Am.	1968	§ 7(i)	Am.	1968
2054d-1	New	1950	2676	Am.	1958
	Am.	1958	2676a	New	1964
2054e	Am.	1964	2676b	New	1966
	Am.	1966	2676c	New	1966
	Am.	1968	2681a	New	1964
2054f	New	1950	2687	Am.	1968
2054f-1	New	1966	2688c	New	1950
				Am.	1952
				Am.	1954

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2688c	Am.	1958	2767h	New	1964
	Am.	1961	2767-1	New	1956
	Rep.	1961	2778	Am.	1954
2688d	New	1961	2774b	New	1952
2688e	New	1961		Am.	1960
2688f,			2774c	New	1954
§§ 1-3	New	1961	2774c-1	New	1966
2688g	New	1964	2774d	New	1958
2688h	New	1964	2775a	New	1954
2688h-1, §§ 1, 2	New	1968	2775a-1	New	1956
2688i	New	1964		Am.	1964
2688i-1	New	1966		Am.	1966
2688i-2, §§ 1-3	New	1968	2775a-2	New	1960
2688j	New	1964	2775a-3	New	1964
Subsec. (a)	Am.	1968	2775a-4	New	1964
2688k	New	1964	2775a-5	New	1966
2688k-1, §§ 1-3	New	1968	2775a-6	New	1966
2688l to 2688n	New	1966	2775a-7	New	1966
2688n-1	New	1968	2775a-8, §§ 1-3	New	1968
2688o	New	1966	2775a-9, §§ 1-5	New	1968
2688p, §§ 1, 2	New	1968	2775b	New	1966
2696	Am.	1954	2775c	New	1966
2698	Am.	1954	2775c-1	New	1966
2700	Am.	1950	2775d	New	1961
2700e	New	1966	2775e	New	1964
2700e-1	New	1968	2775f	New	1966
2700e-2, §§ 1-3	New	1968	§ 2	Am.	1968
2701	Am.	1954	§ 4a	Added	1968
2741a	New	1960	2775f-1, §§ 1-4	New	1968
2742f, § 1	Am.	1968	2776a	New	1966
2742f-2	New	1964	2777-1	New	1968
2742o	New	1950	2777d	Am.	1950
2744a-1	New	1950	§ 4a	New	1966
2744c-4,			2777d-1	New	1966
§ 5	Am.	1952	2777d-2	New	1961
§ 7	Am.	1952	2777d-3	New	1966
2744c-5	New	1950	2777d-4	New	1966
2744c-6	New	1950	2777f	New	1961
2745b	New	1950	2777b	New	1954
	Am.	1960	§ 1	Am.	1956
2745c	New	1958	2781a, §§ 1, 2	New	1968
	Am.	1960	2783c,		
§ 1	Am.	1964	§ 1	Am.	1952
§ 1a	Am.	1961	§ 2	Am.	1952
	Rep.	1964	§§ 4-6	Am.	1952
2746	Am.	1950	§ 8	Am.	1952
2746a	Am.	1958	2783d,		
2746c	New	1960	§ 5	Am.	1954
2750a-2	New	1954	§ 6	Am.	1950
	Am.	1956	§ 6a	New	1961
2752a	New	1964		Am.	1968
2750c	New	1954	2783e	New	1950
§ 2a	New	1958	2783f	New	1954
§ 3	Am.	1964	2783g	New	1961
2756d	New	1964	2784e-1	New	1956
2757	Am.	1960		Am.	1958
	Am.	1961	2784c-2	New	1960
2763	Am.	1952	2784c-3	New	1966
2763a	Am.	1961		Am.	1961
2766a	New	1950	2784c-4	New	1966
2766b	New	1961	2784c-5	New	1964
2766c	New	1964	2784c-6	New	1964
2767	Am.	1950	2784c-7	New	1966

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Civ.St. Art.	Effect	Vernon's Texas St.Supp.	Civ.St. Art.	Effect	Vernon's Texas St.Supp.
2784c-8, §§ 1, 2	New	1968	2815-2	New	1950
2784c-9, §§ 1, 2	New	1968		Rep.	1952
2784c-10, §§ 1, 2	New	1968	2815-3	New	1961
2784f	New	1950	§ 1a	Am.	1961
2784g	New	1954	2815-4	New	1964
§ 4	Rep.	1960	§ 1, Subsec. A	Am.	1966
2784g-1	New	1964	2815a	Rep.	1966
2784h	New	1964	2815a-1	New	1964
2785	Am.	1954	2815b to 2815g	Rep.	1966
2786	Am.	1958	2815g-1a	Am.	1952
	Am.	1964	2815g-1b	New	1958
2786c	New	1952	2815g-1c	New	1964
2786d	New	1954	§ 1	Am.	1966
	Am.	1958	2815g-1d	New	1966
2786e	New	1954	2815g-30		
§ 1	Am.	1964	to		
2786f	New	1954	2815g-43	New	1950
2788a	New	1950	2815g-44		
§ 1	Am.	1958	to		
2780	Am.	1950	2815g-46	New	1952
2789d	New	1952	2815g-47	New	1954
2789e	New	1958	2815g-48	New	1956
2790a-0	New	1950	2815g-49	New	1956
2790d-8	New	1950	2815g-50	New	1956
2790d-0	New	1960	2815g-51	New	1958
2790d-10	New	1960	2815g-52	New	1960
2790d-11, §§ 1-5	New	1968	2815g-53	New	1961
2790d-12, §§ 1-3	New	1968	2815g-54	New	1961
2790c,			2815g-55	New	1961
§ 11	Am.	1956	2815g-56	New	1964
2790l	New	1950	2815g-57	New	1964
2790m	New	1950	2815g-58	New	1966
2790n	New	1960	2815g-59, §§ 1-4	New	1968
2792	Am.	1966	2815h,		
2792-1	New	1968	§ 7a(1)	New	1952
2795	Am.	1966	§ 7b	Am.	1950
2802-1	New	1956	§ 17	Am.	1958
2802c-1	Am.	1950		Am.	1960
	Am.	1952	§ 17(a)	Am.	1950
	Am.	1956		Am.	1958
2802c-5, §§ 1-5	New	1968	§ 18	Am.	1960
2802f-3	New	1954	§ 19	Am.	1960
2802i-28	New	1950	§ 19a	Added	1966
2802i-29	New	1952	§ 21	Am.	1960
§ 1A	New	1968		Am.	1966
2802i-30	New	1958		Am.	1968
2802i-31	New	1960	§ 21a	New	1961
2802i-32	New	1966		Rep.	1966
2802j	New	1952	§ 21b	Added	1966
2802k	New	1966	§ 21c	Added	1966
2803	Am.	1968	2815h-1a	New	1968
2803b	Am.	1968	2815h-3b, § 3a	Added	1968
2803c	New	1950	2815h-6	New	1950
2803d	New	1960	2815h-7	New	1952
2804a	New	1954	2815h-8	New	1958
2805a	New	1950	2815h-9	New	1960
2806	Am.	1966	2815h-10	New	1961
2806d	New	1950	2815h-11	New	1964
2806d-1	New	1960	2815j-2	New	1950
2806e	New	1950	§ 4a	Rep.	1964
	Am.	1956	2815k,		
	Am.	1968	§ 6	Am.	1950
			§ 8(1)	New	1950

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2815k-1	Am.	1052	2827b	New	1060
§ 8a	Added	1068	2827b-1	New	1066
2815k-2	New	1060	2827c	New	1064
	Rep.	1066	2827d	New	1066
2815k-3	New	1061	2827e	New	1066
2815k-4, §§ 1-3	New	1068	2832	Am.	1060
2815m-1	New	1050	2832c, §§ 1-13	New	1068
2815m-2	New	1066	2833	Am.	1056
2815m-3, §§ 1-7	New	1068	2835c	New	1954
2815n	New	1050	2843	Am.	1050
§ 1(a)	New	1061		Am.	1060
§ 2a	New	1058		Am.	1061
§ 2(a)	New	1061	2844	Rep.	1050
§ 3	Am.	1061	2844a	Rep.	1050
§ 5	Am.	1061	2851	Am.	1054
§ 7	Am.	1061	2859	Rep.	1054
2815n-1	New	1066	2874	Am.	1054
2815o	New	1050	2875	Am.	1056
2815o-1	New	1052		Am.	1058
2815o-1a	New	1060	2876c	Am.	1054
2815o-1b	New	1964	2876k	New	1058
2815p	New	1050		Am.	1060
2815p-1	New	1964		Am.	1066
2815q	New	1050	2876l	New	1964
2815q-1	New	1964	2877	Am.	1054
2815q-2	New	1066	2880a	Rep.	1056
2815r	New	1050	2882	Rep.	1056
§ 1	Am.	1064	2883	Rep.	1056
§ 2	Am.	1064	2890	Rep.	1056
	Am.	1066	2891	Rep.	1056
§ 3	Am.	1052	2891b	New	1056
§ 4	Am.	1064	§ 4	Am.	1064
§ 5	Am.	1052	§ 13(b)	Am.	1064
§ 6	Am.	1064		Am.	1068
2815r-1	New	1956	2891c, §§ 1-8	New	1068
§ 1	Am.	1061	2891-2	New	1068
§ 5a	New	1958	2891-50, §§ 1-8	New	1068
§ 6a	New	1058	2892	Am.	1064
2815r-2	New	1066		Am.	1066
2815s	New	1066	2892a	Rep.	1064
2815s-1	New	1056	2892b	Rep.	1064
2815t	New	1052	2893	Am.	1066
§ 1	Am.	1068	2898a	New	1068
§ 1a	Added	1068	2898-1	Rep.	1052
§ 5	Am.	1068	2900a	New	1058
§ 6	Am.	1068	2901a	New	1058
§ 7	Am.	1068	2905b	New	1066
§ 11	Am.	1068	2906	Am.	1058
§ 15a	New	1961	2906-1	New	1058
2815t-1	New	1060	2906-2	New	1058
2815t-2	New	1066	2906-3	New	1058
2815t-3	New	1068	2908h	New	1050
2816	Am.	1054	§§ 2, 3	Am.	1052
2816a	Am.	1054	2900b	New	1056
2817	Am.	1054	2900c	New	1056
2817a	Am.	1054	§§ 1-3	Am.	1068
2819	Am.	1054	§ 8(a)	New	1060
2820	Am.	1054	§ 8b	Added	1966
2821	Am.	1050	2900c-1, §§ 1-9	New	1068
	Am.	1054	2900c-2	New	1068
2822a	Am.	1054	2900d	New	1058
			2911	Am.	1056
			2911b	New	1068

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2010	Am.	1961	2022-1h, §§ 1, 2	New	1968
2010c	New	1950	2022-1i, §§ 1-8	New	1968
2010d	New	1952	2022-2 to 2022-8	Rep.	1952
§ 2	Am.	1960	2022-11	New	1950
§ 5a	New	1950	2022-12	New	1950
2010d-1, §§ 1, 2	New	1968	2022-18	New	1950
2010e	New	1954	§ 1(4)	Am.	1952
	Rep.	1960		Am.	1954
2010e-1	New	1950	§ 1(4) a	Am.	1958
2010e-2	New	1950		Am.	1964
	Am.	1966		Am.	1966
§ 18	New	1960	§ 1(4A)	Added	1966
2010e-3, §§ 1-10	New	1968	2022-13a	New	1960
2010f	New	1950	2022-13b	New	1961
2010g	New	1958	2022-13c	New	1961
2010g-1	New	1964	2022-13d	New	1966
2010h	New	1960	2022-14	New	1950
2010i	New	1966		Am.	1958
§ 3A	New	1968		Am.	1968
2010j, §§ 1-12	New	1968	§ 1	Am.	1961
2022a	New	1950	§ 1, Subsec. 1	Am.	1966
	Am.	1968	§ 1-a	New	1950
2022f	Am.	1950	§ 1-b	New	1950
	Am.	1958	§ 1-c	New	1950
2022i			§ 2	Am.	1961
(3)	New	1950	2022-14a	New	1960
(3.1)	New	1964	2022-14b	New	1964
(4)	New	1950	2022-14c	New	1966
(5)	New	1952	§ 1	Am.	1954
(6)	New	1952		Am.	1961
(6), § 1	Am.	1950		Am.	1966
(7)	New	1950	§ 2	Am.	1952
(8)	New	1950		Am.	1958
	Am.	1958	§ 2(2) (a) (b)	Am.	1961
2022-1	Am.	1950	§ 2A	Added	1966
	Am.	1950	2022-15, § 2(1)	Am.	1968
§ 1(18)	Am.	1961	2022-16,		
§ 1(19)	Am.	1952	§ 1	Am.	1961
§ 3(3)	Am.	1968	§ 2	Am.	1956
§ 4(4)	Am.	1961		Am.	1961
§ 4(5)	Am.	1958		Am.	1966
§ 5	Am.	1952		Am.	1968
§ 5(1)	Am.	1954	§ 3	Am.	1954
§ 5(2)	Am.	1954	§ 4	Am.	1956
§ 5(4)	Am.	1954		Am.	1961
§ 5(7)	Am.	1954		Am.	1966
§ 6(2b)	Am.	1960		Am.	1968
§ 7(4)	Am.	1961	§ 4A	New	1961
§ 7(5)	Added	1968	§ 5	Am.	1956
§ 8	Am.	1954		Am.	1961
§ 10(4)	Am.	1968		Am.	1964
§ 10(5b)	Am.	1960	2022-16a	New	1958
	Am.	1968	2022-16b	New	1961
§ 10(5c)	Am.	1968	2022-16c	New	1961
2022-1a	New	1954	2022-16d	New	1961
2022-1b	New	1960	2022-16e	New	1966
	Am.	1961	§§ 1, 2	Am.	1968
	Am.	1968	2022-21a	New	1961
2022-1c	New	1960	2022-21b	New	1961
2022-1d	New	1964	2022-23	New	1952
2022-1e	New	1964	2022-24	New	1958
2022-1f	New	1964	2022-25	New	1966
2022-1g, §§ 1, 2	New	1968	§ 5(a)	Am.	1968

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2922-26, §§ 1-6	New	1958	3158a	New	1952
2923-2942a	Rep.	1952		Am.	1950
2943	Am.	1952		Rep.	1958
2944-2956	Rep.	1952	3150-3173	Rep.	1952
2950a	New	1950	3174a	New	1950
	Rep.	1952	3174a note	New	1951
2957-2977	Rep.	1952	3174b	New	1950
2977a	Inoperative	1950	§ 8	Am.	1950
2978	Rep.	1952	3174b-1	New	1956
2978a	Am.	1950		Rep.	1958
	Rep.	1952	3174b-2	New	1956
2978b	New	1950	3174b-3	New	1950
	Rep.	1952		Am.	1950
2980	Am.	1950	3174b-4	New	1958
	Rep.	1952	§ 8	Am.	1951
2981-2997c	Rep.	1952		Am.	1954
2997d	New	1950		Am.	1950
	Rep.	1952	3174b-5	New	1951
2998-3007	Rep.	1958	§ 1	Am.	1954
3008	Am.	1950	3174b-6	New	1951
	Rep.	1952	3174b-7	New	1950
3009-3011	Rep.	1952	3174c	New	1950
3012	Am.	1950	3177	Am.	1952
	Rep.	1952	3179a	New	1950
3018-3026	Rep.	1952	3183a	Am.	1950
3026a	Am.	1950	§ 1	Am.	1954
	Am.	1952	§ 11	Am.	1958
3027	Rep.	1952	3183b-1	New	1950
3028	Am.	1950	3183c	New	1952
	Rep.	1952	3183d	New	1954
3029-3040	Rep.	1952		Rep.	1950
3040a	New	1950	3183e	New	1950
	Rep.	1952	3183f	New	1951
3041-3083	Rep.	1952	3183g, §§ 1, 2	New	1958
3084	Am.	1950	3186	Rep.	1958
	Rep.	1952	3186a	Rep.	1958
3085-3105	Rep.	1952	3193	Rep.	1958
3106	Am.	1950	3193-1	New	1956
	Rep.	1952		Rep.	1958
3107, 3108	Rep.	1952	3194-3196	Rep.	1958
3109	Am.	1950	3199b	New	1950
	Rep.	1952	3199c	New	1952
3110-3116f	Rep.	1952	3199c-1	New	1958
3116g	New	1952	3199d	New	1952
3117-3121	Rep.	1952		Rep.	1958
3122	Am.	1950	3201a	New	1954
	Rep.	1952	3201a-1	New	1950
3123	Am.	1950	3201b	New	1954
	Rep.	1952		Rep.	1954
3124	Am.	1950	3201b-1	New	1950
	Rep.	1952		Rep.	1954
3125-3127	Rep.	1952	3201b-2	New	1954
3128	Am.	1950	3202-a	Am.	1954
	Rep.	1952	3202-c	New	1950
3129-3153	Rep.	1952	§ 1	Am.	1956
3153a	New	1950	3205a	New	1950
3153b	Rep.	1952	3206	Rep.	1954
3153c	Rep.	1952	3207a	Am.	1950
3153d	Rep.	1952		Am.	1958
3153e	Rep.	1952	§ 1	Am.	1958
3153f(a)	New	1952	§ 2	Am.	1956
	Rep.	1958	§ 2a	Added	1956
3153g-3158	Rep.	1952		Am.	1950

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3207b	New	1950	3271a, § 1.3	Added	1966
3207c			§ 2	Am.	1966
§ 1(n)	Added	1966	§ 8	Am.	1966
	Am.	1966	§ 8a	Added	1966
3213a	New	1966	§ 12a	New	1961
3220a, §§ 1, 2	New	1968	§ 16	Am.	1966
3220-1	Rep.	1954	§ 18	Am.	1966
3221c	New	1964	§ 20	Am.	1966
	Am.	1966	3272n	New	1961
§§ 2, 3	Am.	1968	§ 3	Am.	1966
3222a	New	1958	§ 4	Am.	1966
3222b	New	1961	§ 6	Am.	1966
§ 1	Am.	1964	§ 7	Am.	1966
§ 1a	New	1964	§ 16	Added	1966
3222b-1	New	1966	3272b	New	1966
3223-3232	Rep.	1950	3273	Am.	1961
3232a	New	1950	3284	Am.	1961
	Rep.	1958	3290-3582	Rep.	1956
3232b	New	1958	3582a	New	1952
3232c	New	1961		Rep.	1956
	Am.	1964	3583-3597	Rep.	1956
3233-3238	Rep.	1956	3597a	New	1956
3238b	New	1952		Rep.	1956
	Rep.	1960	3598-3703	Rep.	1956
3238c	New	1956	3712a, § 1	New	1966
	Rep.	1960	3715a	Added	1966
3239	Rep.	1960	3720a	New	1958
3240	Rep.	1960		Am.	1966
3241	Am.	1954	3731a	New	1952
	Rep.	1960		Am.	1961
3242-3246	Rep.	1960	§ 7	Am.	1954
3248-3251a	Rep.	1960	3731b	New	1958
3252-3254	Rep.	1954	3731c	New	1966
3254a	Rep.	1960	3737d	New	1950
3254a-1	Am.	1950		Rep.	1956
	Rep.	1960	3737d-1	New	1956
3254c	Am.	1950	§ 1	Am.	1966
3254c-1	New	1952	3737e	New	1952
3254c-2	New	1966	3867-3871	Rep.	1956
3254d	Am.	1950	3871a	New	1956
	Rep.	1960	3871b	New	1956
3254d-1	New	1952	§ 9	Am.	1966
	Rep.	1960	§ 14	Am.	1964
3255b	New	1952	§ 21	Am.	1966
3259a	Rep.	1966	3871c	New	1958
3259a-1	New	1966	3871d	New	1961
3263a	Rep.	1954	3871e	New	1964
3263c	New	1950	3871f	New	1966
3263d	New	1961	3872	Am.	1954
3263e	New	1964	3875	Am.	1954
3264,			3881a-3881d	New	1954
subd. 6	Am.	1961	3881e	New	1958
3266(8)	Am.	1956	3881f-1	New	1961
	Am.	1960		Rep.	1966
(6)	Am.	1961	3881f-2, §§ 1, 2	New	1966
	Am.	1966	3881h	New	1956
(7)	Am.	1961	3881i	New	1956
(8)	New	1961		Am.	1958
3266, § 8(a)	Added	1966	§ 1(a)	Am.	1961
3271a,			§ 1A	Added	1966
§ 1	Am.	1966	§ 1½	Added	1966
§ 1.1	Added	1966	§ 4(a)	New	1961
§ 1.2	Added	1966	§ 4(b)	Added	1966

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3883i § 5	Am.	1960	3012e-14		
§ 7a	New	1960	to		
§ 8	Am.	1960	3012e-16	New	1950
§ 8(a)	Am.	1966	3012e-17	New	1961
§ 8(b)	New	1961	3012e-18	New	1961
	Am.	1966	3012e-19	New	1961
	Am.	1968	3012e-20	New	1964
§ 8a	Added	1966	3012e-21	New	1964
§ 18	Added	1966	3012e-22, §§ 1, 2	New	1968
3883i-1	New	1960	3012f-4	New	1950
3886b-1	New	1966	3012f-5	New	1968
3886f	Am.	1950	3012g	New	1950
§ 1	Am.	1956	3012h	New	1950
	Am.	1968	3012i	New	1958
§ 3a	New	1956	§ 0	Am.	1966
3886g	New	1952	§ 0(1)	Am.	1968
§ 1	Am.	1966	§ 15	Added	1968
§ 2	Am.	1966	3012j	New	1964
3886b	New	1954		Am.	1968
	Am.	1958	3013	Am.	1961
	Am.	1960		Am.	1966
	Am.	1964	3014	Am.	1961
3886i	New	1961	3018	Am.	1950
3887b	New	1954		Am.	1961
3888	Am.	1952	3019	Rep.	1961
	Am.	1954	3020	Rep.	1952
3888b	New	1954	3021	Am.	1952
3909b			3021a	New	1952
§ 1a	New	1964	3024	Am.	1950
§ 3	Am.	1954	3027	Am.	1958
	Am.	1964	3027a	New	1958
3909b-1	Added	1966	3027b	New	1966
3902f-1	New	1954		Am.	1968
3902f-2	New	1961	3030	Am.	1958
3902f-3, §§ 1, 2	New	1968		Am.	1968
3902h-2	New	1956	3030a	New	1961
3902i	New	1950		Rep.	1968
3902j	New	1952	3930a note	New	1961
	Am.	1958	3930(b)	Added	1968
3903e	New	1950	3933	Rep.	1968
3903f	New	1966	3933a	New	1966
3912c-1	New	1966		Am.	1968
3912e,			3936e-1	New	1968
§ 1	Am.	1960	3936f-1	New	1961
§ 3	Am.	1960	3936g	New	1950
§ 13	Am.	1950	3936g-1	New	1952
§ 13(b)	Am.	1964	3936h	New	1950
§ 15	Am.	1950		Am.	1952
§ 15(a)	Rep.	1964	3936i	New	1952
§ 17	Am.	1950	3936j	New	1954
§ 10(n)	Am.	1956	3936k	New	1954
3912e-4b	New	1950	3937	Am.	1950
3912e-4c	New	1952		Am.	1952
3912e-4d	New	1954	3939	Am.	1950
	Am.	1956		Am.	1952
3912e-5a	New	1956	3948d	New	1952
	Rep.	1958	3948e	New	1952
3912e-5b	New	1956	3945	Am.	1960
3912e-5c	New	1958	3946a	New	1964
3912e-5d	New	1961	3950	Am.	1950
3912e-5e	New	1966	3950a	New	1950
			3972a	Inoperative	1952
			3975a	New	1958

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3975b	New	1968	4848a	New	1960
3995	Rep.	1968	4853	Am.	1952
3995a	Rep.	1968	4857	Am.	1954
3996	Rep.	1968		Am.	1958
3997	Rep.	1968		Am.	1960
3998	Rep.	1968		Am.	1968
3999	Rep.	1968	4858	Am.	1954
4000	Am.	1950	4859	Am.	1954
	Rep.	1960	4865	Am.	1954
4001	Am.	1961	4870h		
	Rep.	1966	§ 3	Am.	1954
4002	Rep.	1966	4882	Am.	1954
4003	Rep.	1966		Am.	1966
4004	Rep.	1968	4882a	New	1954
4025a	New	1952	4880c	New	1954
4025b	New	1958	§ 1	Am.	1956
4026a	Rep.	1968	4880d	New	1954
4026b	New	1950	4893b	New	1954
4082	Rep.	1952	4405	Am.	1964
4082a	Rep.	1950	4412	Am.	1964
4082b	New	1950	4412a	New	1960
4082b-1	New	1958	4418		
4082c	New	1956	(4a)	New	1958
4050c	New	1950	(9)	Am.	1968
4050c-1	New	1958	(18a)	New	1958
4050d	New	1952	(20a)	New	1950
4050e	New	1966	(20aa)	New	1966
4050f	New	1966	(20b)	New	1958
4053	Am.	1964	(20c), §§ 1-15	New	1968
4075a	New	1950	(31) § 1	Am.	1952
4075b	New	1960		Am.	1968
	Am.	1964	(32)	New	1954
§ 6(h), par. 4	Am.	1968	§ 8	Am.	1966
§ 9	Am.	1968	(82a), §§ 1-4	New	1968
§ 11A	Added	1964	(88)	New	1958
	Am.	1966	4418a	New	1964
4075c	New	1966	4418b-1	New	1950
4101-2				Am.	1964
§ 4	Am.	1966	4418c-1	New	1961
4102-4128a	Rep.	1956	4418d-1	New	1966
4128a-1	Am.	1950	4418d-2, §§ 1-4	New	1968
	Rep.	1956	4418d-3	New	1968
4128a-2 to 4167	Rep.	1956	4417a	Am.	1960
4168	Am.	1950	4418b	Am.	1958
	Rep.	1956	4418b-1	New	1958
4160-4161	Rep.	1956	4410c		
4162	Am.	1952	§ 1	Am.	1961
	Rep.	1956	§ 2	Am.	1966
4162a	Rep.	1950		Am.	1968
4162b	New	1950	§ 8	Am.	1961
	Rep.	1956	§ 4	Am.	1966
4168-4284	Rep.	1956	4486	Am.	1960
4285	Am.	1954		Am.	1966
	Rep.	1956	4486a-1, § 1	Am.	1958
4286-4820	Rep.	1956	4486a-4	New	1980
4881			4487a		
§ 8	Rep.	1952	§ 8	Am.	1952
4885	Am.	1952	§ 6A(e)	Am.	1958
4886	Am.	1952	4487c-1	New	1954
4841a	New	1952	4487d		
4844b	New	1960	§ 5	Am.	1966
4846	Am.	1954	4487e	New	1958
4846a	New	1960	§ 8a	Added	1964

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Clv.St. Art.	Effect	Vernon's Texas St.Supp.	Clv.St. Art.	Effect	Vernon's Texas St.Supp.
4437f	New	1960	4477, rule 30a	Am.	1952
§ 2	Am.	1960		Am.	1958
4440	Rep.	1960	rule 40a	Am.	1952
4442	Rep.	1960	rule 43a	Am.	1952
4442b	Rep.	1954	rule 47a	Am.	1952
4442c	New	1954		Am.	1958
§ 2(a)	Am.	1960	rule 47b	New	1960
	Am.	1966	rule 50b	Added	1960
4444	Rep.	1961	rule 50c	New	1968
4445.			rule 51a	Am.	1952
§ 3	Am.	1950		Am.	1958
§ 4	Am.	1950		Am.	1960
4445a	New	1950	rule 53a	Am.	1952
4447a	New	1950	rule 54a	Am.	1950
	Am.	1960		Am.	1952
4447b	New	1960		Am.	1958
4447c	New	1960		Am.	1961
4447d	New	1964	rules 77-86	Rep.	1952
4447e	New	1966	4477a	New	1952
4447f, §§ 1, 2	New	1968	4477-1,		
4447g, §§ 1-4	New	1968	§ 5(c)	Am.	1952
4469	Am.	1961	§ 15(a)	Am.	1961
4470-4472	Rep.	1961	4477-2	New	1950
4473	Am.	1952	§ 1	Am.	1961
	Rep.	1961	§ 2	Am.	1961
4476-3,			§ 4	Am.	1961
§ 3(a, b, c)	Am.	1958	§ 6A	New	1956
§ 8	Am.	1958	4477-3	New	1966
§ 14a	New	1956	4477-4	New	1966
4476-4	New	1960		Rep.	1968
4476-5	New	1961	4477-5, §§ 1-10	New	1968
§ 22A	New	1964	4477-11	New	1960
§ 28	Added	1964	4477-12	New	1966
4476-6	New	1966	4478a	New	1954
4476a,			4479	Am.	1961
§ 1	Am.	1950	4482	Am.	1954
	Am.	1968	4484c-1	New	1966
§ 2	Am.	1950	4484h	Am.	1950
	Am.	1950	4484i-1	New	1960
	Am.	1960	4484k	New	1950
§ 2(c)	Rep.	1958	4484l	New	1950
§ 3	Am.	1968	§ 4	Am.	1950
§ 4	Am.	1950	4484m	New	1950
§ 4(c)	Am.	1950	4484n	New	1954
§ 5	Am.	1950		Am.	1956
	Am.	1960	§ 2a	Am.	1966
	Am.	1968	§ 2b	Added	1968
§ 6	Am.	1961	§ 5	Am.	1968
	Am.	1968	§ 5a	New	1960
§ 7	Am.	1956	§ 5b	Added	1964
	Am.	1968	4484n-1	New	1960
§ 9	Am.	1950	4484o	New	1958
4477,			4484p	New	1968
rule 8	Am.	1960	4484q	New	1960
rule 4	Am.	1960	§ 1	Am.	1961
rule 14	Am.	1960	§ 2	Am.	1961
rule 20	Am.	1960	4484q-1	New	1960
rule 28	Am.	1960	4484q-2	New	1960
rule 25	Am.	1960	4484q-8	New	1960
rule 34a	Am.	1952	§ 1	Am.	
rule 35a	Am.	1950	§ 2	Am.	1961
rule 36a	Am.	1952	§ 3	Am.	1961
rule 38a	Am.	1952			

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4404q-3, § 4	Am.	1901	4521	Am.	1901
§ 5(d)	Am.	1901	4525	Am.	1908
4404q-4	New	1901	4520	Am.	1950
§ 1	Am.	1904	4527a	Added	1908
4404q-4a	New	1900	4527b	Added	1908
4404q-5	New	1901	4528b	New	1950
§§ 3-0	Am.	1904	4528c	New	1952
4404q-6	New	1901	§ 3a	New	1958
4404q-6a	New	1904	§ 4(c)	Am.	1958
4404q-7	New	1901	§ 4(d)	Am.	1904
§ 1	Am.	1900	§ 4½	Am.	1958
§ 5(a)	Added	1900	§ 5	Am.	1958
4404q-8	New	1904	§ 8	Am.	1958
4404q-9	New	1904	§ 9	Am.	1958
§ 2	Am.	1904		Am.	1958
§ 12	Am.	1904		Am.	1958
§ 13	Am.	1904	§ 10	Am.	1958
4404q-10	New	1904	§ 13	Am.	1958
4404q-11	New	1904	4542a	Am.	1954
4404q-12	New	1904	§ 3	Am.	1900
4404q-13	New	1904	§ 4	Am.	1952
4404q-14	New	1904	§ 7	Am.	1958
4404q-15	New	1904	§ 8	Am.	1952
4404q-16	New	1904		Am.	1900
4404q-17	New	1904	§ 9	Am.	1952
4404q-18	New	1904		Am.	1900
4404q-19	New	1904	§ 11	Am.	1900
4404q-20	New	1904	§ 12	Am.	1958
4404q-21	New	1904		Am.	1900
4404q-22			§ 13	Am.	1958
to			§ 14	Am.	1952
4404q-44	New	1900		Am.	1900
4404r	New	1904		Am.	1908
4404r-1, §§ 1, 2	New	1908	§ 16	Am.	1900
4404s	New	1900	§ 17	Am.	1952
4405	Am.	1908		Am.	1958
4408a	New	1954		Am.	1900
§ 1	Am.	1900	§ 17(d) (4, 5)	Added	1904
4409	Am.	1954	§ 17(f)	Am.	1904
4409a	New	1954	§ 19	Am.	1952
4500	Am.	1954	§ 20	Am.	1958
4501	Am.	1952	4542b	New	1958
	Am.	1954	4544	Am.	1901
4502	Am.	1954	4549	Am.	1952
	Am.	1904	4550a,		
4504	Am.	1950	par. 1	Am.	1901
4506	Am.	1954	pars. 3, 4	Am.	1901
	Am.	1908	4551	Am.	1958
4507	Rep.	1954	4551a	Am.	1952
4508	Rep.	1954		Am.	1954
4509	Am.	1954	(5)	New	1950
4510	Am.	1950	(6)	New	1900
	Am.	1954	(7)	New	1900
4512b	New	1900	4551b	Am.	1952
§§ 4a, 4b	New	1958		Am.	1954
§ 8	Am.	1908		Am.	1958
§§ 8a, 8b	New	1958	(8)	New	1901
§ 11	Am.	1958	4551c	Am.	1954
§ 14	Am.	1958	4551d	New	1952
§ 14a	New	1958	4551e	New	1952
4518	Am.	1900	§ 1	Am.	1958
§§ 5, 6	Added	1908	§ 3	Am.	1958
4518a	Rep.	1900			

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4551e, § 5	Am.	1961	4605	Am.	1960
§ 10(g)	Am.	1958		Am.	1968
§ 10(h)	Am.	1958	4610	Am.	1968
§ 15	Am.	1958	4611	Rep.	1968
4551f	New	1960	4612	Rep.	1968
4551g	New	1960	4612a	New	1960
4501	Am.	1952	4613		
4502	Am.	1952	to		
4505	Am.	1952	4615	Am.	1968
4505-n	Am.	1952	4614	Am.	1958
4505d(1)	Am.	1958		Am.	1904
4505g	Am.	1958	(d)	Am.	1961
4507	Am.	1952	4610	Am.	1958
4507a, §§ 1-3	New	1968		Rep.	1968
4509	Am.	1952	4617	Am.	1958
4570	Am.	1952	4617		
	Am.	1964	to		
4571	Am.	1952	4620	Am.	1968
4572	Rep.	1952	4618	Am.	1964
4575	Am.	1952	4619,		
4575a	New	1968	§ 6	New	1960
4576a-4581	Rep.	1954	4621	Am.	1964
4582a	Rep.	1954		Am.	1968
4582b	New	1954	4622	Am.	1968
	Am.	1964	4623	Am.	1958
4584	Am.	1954		Am.	1964
	Am.	1961		Rep.	1964
4590-1	New	1960	4624	Am.	1964
§ 2	Am.	1961		Am.	1968
4590a	Rep.	1952	4624a	New	1950
4590c	New	1950		Am.	1968
§ 4	Am.	1950	4625	Am.	1968
	Am.	1960	4626	Am.	1964
§ 4a	Added	1968		Am.	1968
§ 5	Am.	1950	4627	Am.	1968
	Am.	1960	4629	Am.	1954
§ 7	Am.	1952		Am.	1968
§ 8	Am.	1950		Am.	1968
4590d	New	1950	4631	Am.	1958
	Rep.	1961	4632	Am.	1950
§ 10	Am.	1954	4639a	Am.	1954
§ 11(1)	Am.	1952	§ 1	Am.	1961
§ 10a	New	1954	4639a-1	New	1961
4590e	New	1952	4639b	New	1950
§ 3(0)	Am.	1964	4639c	New	1960
	Am.	1960	4640b	Am.	1964
4590f	New	1961		Rep.	1968
4590g	New	1964	4668	Rep.	1964
4591	Am.	1952	4670-4682a	Rep.	1952
	Am.	1958	4682b	Rep.	1952
	Am.	1968	§ 1A	Added	1950
4591d,			4682c-4698a	Rep.	1952
§ 1a	New	1950	4698b	New	1950
§ 1b	New	1950	4698b-4704	Rep.	1952
§ 1c	New	1950	4705	Am.	1950
	Am.	1958		Rep.	1952
	Am.	1968	4700-4724	Rep.	1952
4591e	New	1950	4725	Am.	1950
4594	Am.	1950		Rep.	1952
4697-4601	Rep.	1954	4720-4704b	Rep.	1952
4602	Am.	1958	4764c	New	1950
	Am.	1968		Rep.	1952
			4705	Rep.	1952

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4766	Am.	1950	5069		
	Rep.	1952	to		
4767, 4768	Rep.	1952	5073	Rep.	1968
4769	Am.	1950	5071	Am.	1964
	Am.	1952	5078	Am.	1964
4769½	New	1952	5074a	New	1952
4769a	New	1952		Rep.	1968
4770 to 4800a-10	Rep.	1952	5115	Am.	1958
4800a-20	Am.	1950	5115a	New	1961
	Rep.	1952	5115b, §§ 1, 2	New	1968
4861 to 4028	Rep.	1952	5118a	New	1956
4020	Am.	1950		Am.	1964
	Rep.	1952	5138b	New	1961
4020a	New	1950	5138c, §§ 1-5	New	1968
	Rep.	1962	5139	Am.	1950
4930, 4931	Rep.	1952		Am.	1954
4932	Am.	1950	5139A	New	1952
	Rep.	1952		Am.	1958
4933-5012	Rep.	1952	5139B	New	1952
5012a	Am.	1950	5139D	New	1950
	Rep.	1952	5139(D)	New	1950
5013-5008a	Rep.	1952		Am.	1952
5008b	Rep.	1952	5139E-1	New	1961
§ 7	Am.	1950	5139E-2	New	1966
5008c, 5008d	Rep.	1952	5139F	New	1952
5008e	New	1950		Am.	1958
	Rep.	1952	5139G	New	1952
5008-1 to 5008-7	Rep.	1952		Am.	1956
5069	Am.	1964	5139H	New	1952
5069-1.01			5139H-1	New	1956
to			5139H-2	New	1956
5069-1.06	Revised	1968	5139H-3	New	1958
5069-2.01			5139H-4	New	1960
to			5139H-5	New	1961
5069-2.06	Revised	1968	5139I	New	1954
5069-3.01			5139J	New	1956
to			§ 3	Am.	1960
5069-3.21	Revised	1968	§ 3a	New	1960
to				Am.	1968
5069-4.01			§ 3b	New	1960
to			5139K		
5069-4.04	Revised	1968	to		
5069-5.01			5139O	New	1956
to			5139P		
5069-5.05	Revised	1968	to		
5069-6.01			5139R	New	1958
to			5139S	New	1958
5069-6.09	Revised	1968	§ 2	Am.	1966
to			5139T		
5069-7.01			to		
to			5139X	New	1958
5069-7.10	Revised	1968	5139Y	New	1960
5069-8.01			5139Z	New	1960
to			5139AA	New	1960
5069-8.05	Revised	1968	5139BB	New	1960
5069-9.01			5139CO	New	1960
to			§ 1	Am.	1968
5069-9.04	Revised	1968	§ 4	Am.	1968
to			5139DD		
5069-10.05	Revised	1968	to		
5069-50.01			5139FF	New	1960
to			5139GG	New	1961
5069-50.06	New	1968	5139HE	New	1961

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5189II	New	1961	5190½	New	1958
§ 2	Am.	1968		Am.	1960
5189JJ	New	1961	5221a-4	Rep.	1950
5189KK	New	1961	5221a-5	New	1950
5189LL	New	1961	§ 9	Am.	1961
	Rep.	1966	5221a-6	New	1950
5189MM	New	1961	§ 8	Am.	1964
5189NN	New	1961	§ 17	Am.	1961
5189OO			5221b-1	Am.	1950
§§ 1, 2	New	1966	(b)	Am.	1956
§ 2A	New	1964		Am.	1961
5189PP	New	1964		Am.	1968
5189QQ			(c)	Am.	1958
to			(d)	Am.	1956
5189WW	New	1966		Am.	1958
5189XX, §§ 1-7	New	1968		Am.	1961
5142	Am.	1950	(e)	New	1961
5142a,				Am.	1968
§ 1	Am.	1950	5221b-1a	Rep.	1956
§§ 3-5	Am.	1950	5221b-2	Am.	1950
§ 6	Am.	1958		Am.	1950
5142a-1	New	1950	(e)	Am.	1968
5142a-2	New	1958	(f)	New	1961
§ 10	Am.	1966	5221b-3	Am.	1950
§ 10a	Added	1966		Am.	1950
5142b,			(a, b)	Am.	1958
§ 1	Am.	1950	(a-c)	Am.	1961
	Am.	1956	(g)	Added	1964
§ 5	Am.	1950	5221b-4	Am.	1950
§ 7	Am.	1950		Am.	1950
§ 15	Am.	1950	(b)	Am.	1958
	Am.	1956		Am.	1968
§ 17	Am.	1950	(h)	Am.	1958
5142c	New	1950	5221b-5	Am.	1950
§ 5	Am.	1956		Am.	1956
5142c-1	New	1950		Am.	1968
5142c-2	New	1956	(c)	Am.	1958
5142c-3	New	1964	(c) (2A)	Am.	1961
5142c-4	New	1966	(c) (6)	Am.	1961
5142d	New	1950	(c) (7)	Am.	1954
5148c	New	1950	(d)	Am.	1958
§ 4	Am.	1956	5221b-6	Am.	1950
§ 5	Am.	1956	(c)	Am.	1956
5148d	New	1958	(c) (1)	Am.	1958
5148e	New	1966	5221b-7(c)	Am.	1958
5148f, §§ 1-4	New	1968	5221b-8(c)	Am.	1950
5154g	New	1956	5221b-8(f)	Rep.	1958
5155	Am.	1958	5221b-9		
5159c	New	1956	(a)	Am.	1956
5160	Am.	1960	(e)	Am.	1956
5160a, §§ 1-7	New	1968	(f)	Am.	1966
5161-5164	Rep.	1960	(g)	Am.	1958
5165a	New	1954	(h)	Am.	1956
§§ 1, 2	Am.	1964	5221b-9b	Am.	1956
5167a	New	1964	5221b-11	Am.	1950
5172a,			5221b-12		
§ 5	Am.	1954	(a)	Am.	1956
	Am.	1961		Am.	1966
§ 5a	Am.	1961		Am.	1968
5181	Rep.	1964	(b)	Am.	1956
5182a, §§ 1-10	New	1968		Am.	1966
5183	Am.	1960		Am.	1968

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5221b-12			5254a,		
(c)	Am.	1968	§ 1	Am.	1958
	Am.	1968		Am.	1960
(d)	Am.	1950	§ 2	Am.	1958
(e)	Am.	1958	5282a	New	1950
(f)	Am.	1966	§ 0(c)	Am.	1968
	Am.	1968	5320a	New	1952
(j)	Am.	1950	5320	Am.	1952
(l)	Added	1960	5320h	New	1950
(m)	Added	1960	5320i	New	1950
(n)	Added	1968	5320j	New	1952
(o)	Added	1968	5330a,		
5221b-13(a)	Am.	1950	§ 2	Am.	1952
5221b-14			5337-1	New	1958
(a)	Am.	1950	5337-2	New	1960
	Am.	1958	5344c	Am.	1904
	Am.	1961	§ 2	Am.	1960
(e)	Am.	1950	5300	Am.	1950
5221b-15			5308b	Rep.	1950
(c)	Added	1960	5370	Am.	1950
5221b-15a, (b)	Am.	1968	5371	Am.	1958
(d)	Am.	1968	5380	Am.	1908
5221b-17	Am.	1950	5382a	Rep.	1954
	Am.	1950	5382b	New	1950
	Am.	1958	§ 7	Am.	1952
(g) (5)	Am.	1961	5382b-1	New	1954
(g) (5) (J)	Deleted	1960	5382c	New	1952
g(B.F.)	Am.	1961	5382d	New	1952
(k)	Am.	1961	§ 1	Am.	1904
(n)	Am.	1908	§ 9	Am.	1908
5221b-18	Rep.	1958	§ 13a	New	1950
5221b-22a	Am.	1950	5382d-1	New	1950
5221b-22aa	New	1958	5382e	New	1954
5221c,			§ 1(b)	Am.	1968
§ 1	Am.	1960	5388		
§ 2	Am.	1960	to		
§ 3	Am.	1950	5387	Rep.	1908
	Am.	1960	5388		
	Am.	1960	to		
§ 8a	Added	1960	5400a	Rep.	1908
§ 4a	New	1964	5890a-5390f	Rep.	1954
§ 5	Am.	1952	5401		
	Am.	1959	to		
§ 12	Am.	1952	5403	Rep.	1908
	Am.	1958	5414a-1	New	1950
	Am.	1961	5415c	New	1958
§ 17	Am.	1961	5415d	New	1960
§ 18	Rep.	1961	§ 7	Am.	1904
5221d	New	1950	§ 8	Am.	1900
5221e	New	1958	§ 9	Added	1960
	Rep.	1960	§ 10	Added	1960
5246a	New	1968	5415e	New	1961
5244a-3	New	1961	5421b-1	New	1950
5248	Am.	1950	5421c,		
5248c-1	New	1961	§ 8	Am.	1954
5248c-2	New	1961		Am.	1958
5248d-1	New	1961	§ 8-A(5)	Am.	1964
5248g	New	1950	5421c-3	Am.	1964
	Am.	1960	§ 3	Am.	1960
§ 1	Am.	1950	5421c-7	New	1950
5248h, 5248i	New	1950	§ 1	Am.	1958
				Am.	1964

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5421c-7, § 2	Am.	1958	5421m		
	Am.	1964	§ 25	Am.	1956
§ 3	Am.	1958	§ 30	New	1952
§§ 7, 8	New	1958	§ 31	New	1952
5421c-8	New	1958	§ 32	New	1956
5421c-9	New	1961	5421n	New	1954
5421c-10, §§ 1-10	Added	1968	5421o	New	1956
5421h-2	New	1961	5421z	New	1966
5421i	Am.	1952		Am.	1968
5421j-1	New	1958	§ 10A	Added	1968
5421j-2	New	1961	§ 14	Am.	1968
5421k-2	New	1958	5421z-1	New	1968
5421k-3	New	1961	5429	Am.	1961
§ 4	Am.	1966	5429a	Rep.	1961
§ 5	Am.	1966	5429b	New	1950
5421m	New	1950	5429b-1	New	1964
§ 2	Am.	1958	5429b-2, §§ 1, 2	New	1968
§§ 2(A) to 2(C)	New	1958	5429c	New	1950
§ 3	Am.	1952	5429d	New	1952
	Am.	1958	5429e	New	1954
	Am.	1968		Am.	1961
§ 6	Am.	1958	5429f	New	1961
§ 8	Am.	1968	5438a	New	1954
§ 9	Am.	1952	5434	Am.	1954
	Am.	1968		Am.	1968
§ 9(a)	Am.	1958	5435	Am.	1961
§ 9(A)	Added	1968	5436		
§ 10	Am.	1952	(c)	Added	1966
	Am.	1958	(d)	Added	1966
	Am.	1968	5436a	New	1966
§ 10(A)	New	1956	5438d	New	1956
§ 11	Am.	1952	5440	Rep.	1961
	Am.	1956	5441a	Am.	1964
§ 12	Am.	1958	§ 6a	Added	1966
	Am.	1968	5441b	New	1966
§ 13	Am.	1958	5441c	New	1966
§ 14	Am.	1952	5441d	New	1966
	Am.	1954	5442a	New	1964
§ 15	Am.	1950	5452	Am.	1952
§ 16	Am.	1952		Am.	1961
	Am.	1956	5452-1	Added	1966
	Am.	1968	5453	Am.	1961
§ 16(A)	New	1956	5454	Am.	1961
§ 16(B)	Added	1964	5455	Am.	1961
	Am.	1964	5456	Am.	1961
§ 17	Am.	1952	5457	Rep.	1961
	Am.	1956	5460	Am.	1968
	Am.	1958	5461	Rep.	1961
	Am.	1961	5462	Rep.	1961
	Am.	1968	5463	Am.	1961
§ 18	Am.	1952	5465	Rep.	1961
	Am.	1956	5467	Am.	1961
§ 19	Am.	1956	5468	Am.	1961
	Am.	1958	5469	Am.	1961
§ 19(A)	New	1956	5472a	Am.	1966
	Am.	1958	5472d	New	1961
	Am.	1961	5472e, §§ 1-7	New	1968
§ 21	Am.	1950	5478	Am.	1958
	Am.	1958	5470	Am.	1954
	Am.	1961		Am.	1959
	Am.	1968	5470a	New	1954
§ 21(A)	New	1956		Am.	1959
§ 23	Am.	1952	5470b	New	1954
§ 24	Am.	1956		Am.	1958

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Clv.St. Art.	Effect	Vernon's Texas St.Supp.	Clv.St. Art.	Effect	Vernon's Texas St.Supp.
5470c	New	1058	5547-04		
5470d	New	1058	to		
5489			5547-07	New	1058
to				Am.	1008
5499	Rep.	1000	5547-08		
5499a	New	1054	to		
5499a-51	New	1000	5547-82	New	1058
	Rep.	1000	5547-83	New	1058
5500	Am.	1050		Am.	1000
5504	Am.	1000	5547-84	New	1058
5500a	Am.	1054	5547-85	New	1058
5500c	Rep.	1000	5547-86	New	1058
§ 2	Am.	1050	(c)	Added	1000
§ 7	Am.	1050	5547-87		
5517	Am.	1054	to		
5518	Am.	1008	5547-91	New	1058
5519	Am.	1008	5547-92	New	1058
5520b	New	1000		Am.	1001
5535	Am.	1008	5547-93		
5541	Am.	1052	to		
5546	Am.	1004	5547-104	New	1058
5547-1			5547-201		
to			§§ 1.01, 1.02	New	1000
5547-3	New	1058	5547-202		
5547-4	New	1058	§§ 2.01, 2.02	New	1000
	Am.	1001	§ 2.06	Am.	1008
	Am.	1008	§ 2.13	Am.	1008
	Am.	1008	§ 2.17	Am.	1008
5547-5			§ 2.20	Am.	1008
to			5547-203		
5547-12	New	1058	§§ 3.01, 3.02	New	1000
5547-12a	Added	1000	§ 3.02	Am.	1008
5547-18			§ 3.03	Am.	1008
to			§ 3.14	Am.	1008
5547-15	New	1058	5547-204		
	Rep.	1008	§§ 4.01, 4.02	New	1000
5547-16			§ 4.02	Am.	1008
to			5547a-39a to 5547a-		
5547-20	New	1058	39d	New	1004
5547-27	New	1058	5550-5554	Rep.	1058
	Am.	1001	5557-5501	Rep.	1058
5547-28	New	1058	5501a, §§ 1-5	Rep.	1058
	Am.	1001	5501b	New	1050
5547-29	New	1058		Am.	1052
5547-30	New	1058		Rep.	1058
	Am.	1001	5501b-1	New	1050
5547-31				Rep.	1058
to			5501c	New	1054
5547-35	New	1058	§ 4(c)	Am.	1000
5547-36	Am.	1004	§ 9(c)	Am.	1008
5547-37			§ 18	Am.	1058
to				Am.	1000
5547-48	New	1058	5501d	New	1000
5547-49	New	1058	5501e	New	1008
	Am.	1004	5575	Rep.	1000
5547-50			5576	Rep.	1000
to			5577a	New	1054
5547-02	New	1058	5504-5507	Rep.	1000
5547-03	New	1058	5509	Rep.	1000
	Am.	1000	5512-5505	Rep.	1000
			5570-5574	Rep.	1052
			5581	Am.	1008

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Civ.St. Art.	Effect	Vernon's Texas St.Supp.	Civ.St. Art.	Effect	Vernon's Texas St.Supp.
5682	Am.	1904	5800a	Rep.	1954
	Rep.	1908		Rep.	1904
5683	Am.	1908		Rep.	1900
5685	Am.	1908	5800b	Rep.	1904
5687	Am.	1908		Rep.	1900
5692	Am.	1954	§ 1	Am.	1958
	Am.	1908		Am.	1900
5695	Am.	1901	§ 5	New	1950
5697	Am.	1901	5800c	Rep.	1904
5702	Am.	1908		Rep.	1900
5728	Am.	1901	5800d	New	1904
	Am.	1908		Rep.	1900
5736d	Am.	1908	5801	Rep.	1954
5765	Am.	1900	5801a	Rep.	1900
5766	Am.	1958	5801c	Rep.	1900
	Am.	1900	§§ 1-4	Am.	1952
5767	Am.	1900	§ 5(a)	New	1952
	Rep.	1908	§ 5(b)	New	1952
5768	Am.	1900	§ 7	Am.	1952
5769	Rep.	1900	5802	Am.	1954
5769a	Rep.	1900	5803-5900	Rep.	1954
5769b	New	1950	5910	Rep.	1954
	Rep.	1954	5921	Am.	1900
5769b-1	New	1954	5921a	Am.	1950
	Rep.	1900		Rep.	1900
5769c	New	1950	5921b	New	1954
	Rep.	1900	5922a	New	1954
5770-5779	Rep.	1900	5923a	New	1954
5780			5923-1	New	1953
to				Am.	1900
5783	New	1904	5923-101	New	1953
§ 10	Am.	1908	§ 1(e) (1)	Am.	1900
5784	New	1904	§ 1(o)	Added	1900
5785	New	1904	§ 2(a)	Am.	1900
5786	New	1904	§ 3(a)	Am.	1900
§ 7	Rep.	1900	§ 4(f)	Am.	1900
§ 8	Rep.	1900	§ 4(j)	Added	1900
5787	New	1904	5924(a)	New	1901
§ 1(b)	Am.	1908	5931-1		
§ 8(b)	Am.	1900	to:		
§ 8(f), (g)	Am.	1908	5931-13	New	1908
5788	New	1904	5982	Rep.	1900
5789	New	1904	§ 9	Am.	1901
§§ 8-6	Am.	1908	5983 to 5948	Rep.	1900
5790-5798a-1	Rep.	1904	5940	Am.	1900
	Rep.	1900	5900a, §§ 1-16	New	1908
5798a-2	Rep.	1904	0008b	New	1900
	Rep.	1900	0008c, §§ 1, 2	New	1908
§ 1	Am.	1950	0005	Am.	1900
§ 2	Am.	1952	0008,		
	Am.	1900	§ 2(k)	Am.	1950
5798a-3-5844	Rep.	1904	§ 3	Am.	1950
	Rep.	1900	§ 7	Am.	1950
5845	Am.	1950	§ 14	Am.	1904
	Am.	1958	§ 21	Rep.	1950
	Rep.	1904	0008-1,		
	Rep.	1900	§ 5	Am.	1950
5845a	New	1958	0008a,		
	Rep.	1904	§ 3(h)	Am.	1950
	Rep.	1900	§ 3(i)	Am.	1950
5846-5890	Rep.	1904	0008a-1	New	1950
	Rep.	1900	0008b	New	1950
			§ 3	Rep.	1950

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6008c	New	1966	6077h-1	New	1952
6020a	Am.	1956	6077h-2	New	1954
6029a	New	1956	6077h-3	New	1960
6029b, §§ 1-11	New	1968	6077i	Rep.	1950
6032c-2	Rep.	1966	6077j		
6036c	Added	1966	§ 5(a)	Added	1966
6049a				Rep.	1968
§ 8a	Am.	1966	6077j-1	New	1961
§ 8aa	Added	1966	6077m	Rep.	1966
§ 11d	Am.	1966	6077m-1	New	1964
§ 11dd	Added	1966	6077m-2	New	1966
6050			6077n-1	New	1966
§ 4	New	1956	6077o	New	1950
§ 4a	New	1950		Am.	1964
6052a	New	1952	§ 11	Am.	1968
	Rep.	1960	6077p	New	1950
6053			6077q	New	1958
§§ 3-5	Rep.	1960	6077r	New	1958
§ 6	Am.	1950	6077s	New	1961
	Am.	1952	6077t	New	1964
	Rep.	1960	6077u, §§ 1-7	New	1968
§ 7	Am.	1950	6079b	Am.	1950
	Rep.	1960		Am.	1958
§ 8	Am.	1950	6079c	New	1950
	Rep.	1960		Am.	1952
§ 9	Rep.	1960	§ 3	Am.	1958
§ 10	Am.	1950	§ 12a	New	1958
	Am.	1952	6079c-1	New	1956
	Rep.	1960	6079d	New	1964
§ 11	Am.	1950	6079d-1	New	1961
	Am.	1952	6079d-2	New	1964
	Rep.	1960	6079e	New	1958
§ 12	Am.	1952		Am.	1960
	Rep.	1960	6079f	New	1960
§§ 13-17	Rep.	1960	§ 2	Am.	1961
§ 18	Am.	1952	§ 6	Am.	1961
	Rep.	1960	§ 11	Am.	1961
§ 19	Rep.	1960	§ 12	Am.	1961
6065	Am.	1960	§ 13	Am.	1961
6066	Am.	1961	§ 15	Am.	1961
			§ 16	Am.	1961
6066a			§ 17	Am.	1961
§ 1(d)	Am.	1966	6079f-1	New	1961
§ 10(c)	Am.	1966	6081e	Am.	1964
6066b	New	1950	6081f	New	1966
6066c	New	1954	6081g		
6066d	New	1960	§§ 1, 2	Am.	1961
§ 3D	Am.	1961	§ 4	Am.	1961
§ 5	Am.	1961		Am.	1966
§ 6	Am.	1961	§ 4a	New	1961
6067a	New	1950	6081g-1	New	1966
6069b	New	1960	6081g-2	New	1964
6070e	New	1950	6081i	New	1952
6070f	New	1956	6081j	New	1964
6070g	New	1961		Am.	1966
6070h, §§ 1-11	New	1968	6081r	New	1966
6071	Rep.	1966	6081s, §§ 1, 2	New	1968
6071a	New	1964	6081t, §§ 1, 2	New	1968
6071b	New	1966	6110-6182	Rep.	1956
6071c	New	1966	6182a	New	1956
6072, 6078	Rep.	1966	6182b	New	1961
6074-6077a	Rep.	1950	6188A	New	1961

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6142a			6228a	Am.	1954
§ 3	Am.	1966		Am.	1964
6142b	New	1956		Am.	1958
6144	New	1954	§ 1	Am.	1950
6144e	New	1960	§ 1(L), (M)	Rep.	1961
§§ 1, 2	Rep.	1964	§ 1(P.R.)	Am.	1952
6144f	New	1964	§ 3	Am.	1950
6144g	New	1966	§ 3(B4)	Added	1966
§ 1	Am.	1968	§ 3(B), par. 1	Am.	1968
§§ 4, 5	Am.	1968	§ 3(E)	Am.	1952
§ 7	Am.	1968	§ 4(A)	Am.	1952
6145	Rep.	1952	§ 4(E)	Am.	1961
	New	1958	§ 5	Am.	1950
§ 9	Am.	1964	§ 5(A)	Am.	1956
§ 9a	New	1964	§ 5(B)	Am.	1952
§ 9b	Added	1966	§ 5(B4)	Am.	1966
§ 12	Am.	1964	§ 5(C3)	Am.	1964
6145.1	New	1964	§ 5(D1)	Am.	1961
6145-2,			§ 5(D3)	Am.	1964
§ 6	Am.	1952	§ 5(G)	Am.	1966
§ 13	Am.	1959	§ 5(I)	Am.	1952
6145-3	New	1958	§ 5(J)	New	1958
6145-4	New	1966	§ 6	Am.	1950
§ 8	Am.	1964	§ 6(A)	Am.	1964
§ 0(A)	Am.	1964	§ 7(B)	Am.	1964
§ 10	Am.	1964	§ 7(F)	New	1960
§ 11	Am.	1964	§ 8(A)	Am.	1964
§ 13	Am.	1964	§ 9a	New	1952
6145-5	New	1966	6228a-1	New	1954
6146			6228a-2	New	1956
to				Am.	1960
6161	Rep.	1968	6228a-3	New	1958
6165a	Rep.	1964	6228a-4	New	1961
6165b	New	1964	6228a-5	New	1966
	Rep.	1968	6228b	New	1950
6166a-1	New	1958	§ 2	Am.	1964
6166d	Am.	1952		Am.	1968
6166g note	New	1960	§ 4	Am.	1952
6166g-1	New	1966	§ 6	Am.	1968
6166m	Am.	1952	§ 6A	Added	1966
6166q	Rep.	1952	§ 7	Am.	1968
6166x-2	New	1968	§ 8	Am.	1956
6166y	Am.	1956	§ 8a	New	1956
6166z1	Am.	1954	6228c	New	1950
6184f	Am.	1950	6228c-1	New	1952
6196	Rep.	1954	6228d	New	1950
6203a				Am.	1952
§ 1	Am.	1964	6228e	New	1960
§ 11	Am.	1968	§ 2	Am.	1968
6203c			6228f, §§ 1-10	New	1968
§ 9	Am.	1950	6228g, §§ 1-13	New	1968
	Am.	1964	6248a,		
6203c-1	New	1956	§ 1	Am.	1952
6203d	Am.	1956	§ 1A	Added	1968
6203d-1	New	1964	§ 2	Am.	1968
6205	Am.	1952	§ 3	Am.	1968
6221	Am.	1950	§ 6	Am.	1954
	Am.	1954	§ 7	Am.	1954
	Am.	1958	§ 9	Am.	1954
6227a	New	1950	§ 10	Am.	1954
			§ 11	Am.	1954

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0248b			0248c-1	Rep.	1950
§§ 1-3	Am.	1904	0248c-2	New	1904
§§ 6, 7	Am.	1904	0248f		
§§ 13, 14	Am.	1904	§ 1	Am.	1952
§ 18	New	1900		Am.	1960
	Am.	1901		Am.	1964
	Am.	1904	§ 2	Am.	1960
0243e			§ 3	Rep.	1960
§ 3A	New	1958	§ 4	Am.	1900
§ 3B	Added	1968	§ 5	Am.	1904
§ 6	Am.	1950	§ 7	Am.	1900
	Am.	1954		Am.	1952
	Am.	1958		Am.	1958
§ 6A	New	1958		Am.	1960
§ 6B	New	1958	§ 8	Am.	1952
	Am.	1966		Am.	1958
§ 6C	Added	1960		Am.	1960
§ 7	Am.	1954	§ 9	Rep.	1960
	Am.	1958		Added	1968
§ 7A	New	1954	§ 10	Am.	1952
	Am.	1958		Am.	1900
§ 7B	New	1958	§ 11	Am.	1952
	Am.	1966		Am.	1960
§ 7C	New	1958	§ 12	Rep.	1960
	Am.	1966	§ 13	Am.	1960
§ 7D	Added	1966	§ 14	Am.	1960
§§ 7E, 7F	Added	1968	§ 15	Am.	1960
§ 7G	Added	1966	§ 17	Am.	1958
§ 9	Am.	1958		Am.	1960
§ 10	Am.	1958		Am.	1964
§ 10A	Am.	1958	§ 19	Am.	1960
	Am.	1904	§ 23	Am.	1960
§ 10A-1	Added	1968	§ 24	New	1960
§ 10A-2	Added	1968	§ 25	Added	1964
§ 10B	New	1958		Am.	1968
§ 10C	New	1960	0243g	Am.	1958
§ 10D	Added	1904		Am.	1966
	Am.	1966		Am.	1968
§ 10E	Added	1904	§ 8c	Rep.	1960
§ 10E(d)	Am.	1966	§ 8A	Am.	1952
§ 12	Am.	1958	§ 8A(b)	Am.	1954
	Am.	1958	§ 8A(d)	New	1954
§ 12A	New	1958	§ 4(f)	New	1960
	Am.	1966	§ 5(b)	Am.	1960
§ 12B	Added	1966	§ 10	Am.	1960
§ 18A	Added	1968	§ 12	Am.	1952
§ 21	Am.	1956		Am.	1954
	Am.	1958		Am.	1960
§ 23	Am.	1956		Am.	1961
§ 28A	New	1958	§ 13	Am.	1954
	Am.	1904		Am.	1960
	Am.	1968		Am.	1961
§ 28A-1	Added	1964	§ 18A	New	1952
	Am.	1966		Am.	1961
§ 28B	New	1958	§ 14	Am.	1961
	Am.	1964	§ 15	Am.	1961
	Am.	1968	§ 16	Am.	1952
§ 28C	New	1904		Am.	1954
§ 28D	New	1904		Am.	1960
§ 28A	New	1961		Am.	1961
§ 27A	New	1958	§ 21	Am.	1961

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6243g, § 23a	Added	1968	6252-14	New	1064
6243g-1	Am.	1950	6252-15	New	1060
	Am.	1964	6252-16, §§ 1-4	New	1068
	Am.	1966	6252-17, §§ 1-5	New	1008
	Am.	1968	6252-18, §§ 1, 2	New	1068
§ 0	Am.	1961	6258	Am.	1054
§ [9a]	New	1961	6268	Am.	1050
6243h	Am.	1950	6377	Rep.	1006
§ II(12)	Am.	1956	6378	Rep.	1066
§ II(16)	Am.	1960	6478a	New	1060
§ II(25)	Am.	1960	6519b		
§ II(26)	Am.	1960	§§ 1-8	New	1064
§ IV	Am.	1950	6550a	Rep.	1054
§ IV(1)	Am.	1960	6550(a)	New	1054
§ IV(1h)	Rep.	1966	6550b	Rep.	1054
§ IV(1i)	Am.	1966	6560-6573	Rep.	1054
§ IV(2a)	Am.	1960	6573a	Am.	1050
	Am.	1966		Am.	1050
§ V(1a)	Am.	1960	§ 1	Am.	1968
§ V(6)	Am.	1960	§ 2	Am.	1068
§ V(7)	Am.	1960	§ 3.1	New	1968
§ V(7) par. (c)	Am.	1964	§ 10	Am.	1004
§ VI(8)	Am.	1964		Am.	1068
	Am.	1966	§ 16	Am.	1004
§ VII	Am.	1960	§ 19	Am.	1060
§ VIII(6)	Am.	1964		Am.	1064
§ XIII	New	1960	§ 21(a)	Am.	1004
§ XIV	Added	1966	§ 22	Am.	1068
6243h-1	New	1950	§ 23	Am.	1004
6243h-2	New	1952	6602(4)	Am.	1050
6243i	New	1950	6605	Rep.	1068
	Rep.	1952	6608	Rep.	1068
6243j	New	1952	6626	Am.	1952
6244	Rep.	1968	6628a	New	1958
6245	Rep.	1968		Am.	1961
6247			6632	Am.	1968
to			6636	Am.	1950
6250	Rep.	1968	6640	Am.	1960
6252	Rep.	1968	6644	Am.	1054
6252-2	New	1950	6644a	Added	1068
6252-3	New	1950	6647	Am.	1068
6252-3a	New	1968	6648		
6252-4	New	1952	to		
	Rep.	1968	6651	Rep.	1068
6252-4a, §§ 1-6	New	1968	6668a		
6252-5	New	1952	§ 2a	Am.	1060
6252-5a, §§ 1-3	New	1968	6669	Am.	1060
6252-6	New	1952	6673a	Am.	1054
§ 4(c)	Am.	1954	§ 1	Am.	1068
§ 4(d)	Am.	1961	6673c-1	New	1058
§ 5(g)	Am.	1954	6673c-2	New	1058
6252-6a	New	1960	6674c-1	Am.	1066
6252-7	New	1954	6674m	Am.	1060
6252-8	New	1954		Am.	1064
6252-9	New	1958	6674n	Am.	1956
6252-10	New	1960	6674n-1	New	1952
6252-10a	New	1964	6674n-2	New	1960
6252-11	New	1961	6674n-3	New	1964
6252-12	New	1961	6674g-5	Rep.	1952
6252-12a	New	1966	6674s,		
6252-18	New	1961	§ 7	Am.	1960
	Am.	1966	§ 12	Am.	1068
			6674t	New	1952

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0074t-1	New	1058	0687b,		
0074u	New	1054	§ 11	Am.	1008
0074u-1	New	1060	§ 11A	Added	1008
0074v	New	1054	§ 13	Am.	1008
0074w to 0074w-5	New	1058	§ 14	Am.	1008
0075a-1			§ 15	Am.	1052
(q)	Am.	1004		Am.	1050
(t)	New	1004		Am.	1058
0075a-2	Am.	1054		Am.	1000
	Am.	1058		Am.	1001
	Am.	1001		Am.	1008
(c)	Am.	1004	§ 15a	New	1054
(c-1)	Added	1000	§ 18	Am.	1008
(e)	Am.	1000	§ 19	Am.	1052
(e-1)	New	1004		Am.	1050
(h)	New	1004		Am.	1001
0075a-3	Am.	1050		Am.	1008
	Am.	1001	§ 20	Am.	1008
(e)	Added	1000	§ 21	Am.	1000
(f)	Relettered	1000	§ 21(b)	Am.	1008
0075a-3aa	Am.	1050	§ 22	Am.	1000
	Am.	1000	§ 22(a)	Am.	1000
0075a-4	Am.	1008		Am.	1008
0075a-5	Am.	1052	§ 22(b)	Am.	1008
	Am.	1058	§ 22(c)	Am.	1000
	Am.	1008	§ 22(d)	Added	1008
0075a-5a	New	1058	§ 24(b)	Am.	1008
0075a-5b	New	1000	§ 24A	Added	1008
0075a-5c	Added	1000	§ 30A	Added	1008
0075a-5d	New	1000	§ 34	Am.	1008
0075a-6	Am.	1058	§ 44A	Added	1008
0075a-6a	Am.	1058	0087b note	Am.	1000
0075a-6b	New	1000	0090	Am.	1008
0075a-6c	New	1004	0701a,		
0075a-6d	New	1000	§ 1	Am.	1054
0075a-7	Am.	1058	§ 3	Am.	1050
0075a-8	Am.	1058	0701c	Rep.	1050
0075a-8a	Am.	1050	0701c-1	New	1054
	Am.	1058	§ 2	Am.	1050
	Am.	1000		Am.	1004
0075a-8b	Am.	1050	§ 4	Am.	1050
	Rep.	1050	§ 5	Am.	1050
0075a-8c	Am.	1058	§ 9	Am.	1004
0075a-10	Am.	1058	0701c-2	New	1054
0075a-11	Am.	1052	0701c-3, §§ 1-7	New	1008
0075a-12a	Am.	1052	0701d,		
0075a-13	Am.	1052	§ 2	Am.	1054
0075a-13½	Am.	1008	§ 2(d)	Am.	1000
0088	Am.	1001	§ 21	Am.	1008
	Am.	1004	§ 48A	Added	1008
0087b,			§ 44	Am.	1004
§ 1	Am.	1000	§ 68(d)	Added	1000
§ 3(4a)	New	1052	§ 90	Am.	1052
	Am.	1000	§ 80	Am.	1008
§ 4	Am.	1058	§ 93(a)	Am.	1000
	Am.	1008	§ 104	Am.	1054
§ 4a	New	1058	§ 104(a)	Am.	1050
§ 5	Am.	1054	§ 104(d)	New	1058
§ 5(c)	Am.	1008	§ 105	Am.	1054
§ 5a	New	1054		Am.	1004
§ 5B	Added	1008	§ 100	Am.	1050
§ 6(b)	Am.	1008	§ 100(a)	Am.	1050
§ 10	Am.	1008	§ 100(d)	New	1050

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Civ.St. Art.	Effect	Vernon's Texas St.Supp.	Civ.St. Art.	Effect	Vernon's Texas St.Supp.
6701d, § 108(d)	Am.	1968	6701h,		
§ 108A	New	1956	§ 28	Am.	1064
§ 108B	New	1956	§ 29	Am.	1064
§ 108B(c)	Am.	1961	§ 31	Am.	1064
§ 112(b)	Am.	1961		Am.	1066
§ 121	Am.	1960	§ 32(b)	Am.	1064
§ 125	Am.	1960	§ 32(d)	Am.	1066
§ 126	Am.	1956	§ 32(f)	Am.	1064
§ 127	Am.	1956	§ 32(g)	Am.	1064
§ 131	Am.	1954	§ 33	Am.	1066
	Am.	1960	6701i	New	1058
§ 132(3)	Am.	1961	6701j	New	1058
§ 132(3a)	Added	1966		Rep.	1068
§ 136	Am.	1952	§ 4	Am.	1064
§ 139	New	1952	6701j-1, §§ 1-7	New	1068
§ 139a	Am.	1960	§§ 9, 10	New	1068
§ 140	Am.	1952	6701k	New	1064
	Am.	1954	6701½	New	1058
§ 140(a)	Am.	1968	6708a	New	1056
§ 140(b)	Am.	1968	6704	Am.	1054
§ 141	Am.	1952	§ 4	Am.	1066
	Am.	1954	6711	Am.	1054
§ 141(a)	Am.	1968	6716-1,		
§ 141(b)	Am.	1968	§ 5	Am.	1058
§ 141(d)	Am.	1968	§ 6	Am.	1058
§ 141(e)	Am.	1968		Am.	1968
§ 142	Am.	1952	§ 15	Am.	1058
	Am.	1954	6717-6728	Rep.	1066
§ 142(a)	Am.	1968	6731-6735	Rep.	1066
§ 148	Am.	1954	6745	Am.	1052
§§ 158-165	New	1954	6749	Rep.	1066
§ 166	New	1964	6755, 6756	Rep.	1066
§ 166(a) 4	Am.	1966	6758	Rep.	1066
§ 166(a) 5b	Am.	1966	6762	Am.	1958
§ 166(a) 5c	Am.	1966	6765	Rep.	1066
§§ 167-172	New	1964	6767, 6768	Rep.	1066
6701d-1	New	1954	6770a	Rep.	1066
6701d-2	New	1954	6770a-2	Rep.	1066
6701d-3	New	1961	6770a-4	Rep.	1066
6701e	New	1952	6795b,		
	Am.	1968	§ 1	Am.	1066
6701f	New	1952	6795b-1,		
6701g	New	1952	§ 1	Am.	1056
§ 1	Am.	1954	§ 2	Am.	1050
	Am.	1950	§ 5a	New	1050
§ 3	Am.	1954	§ 7	Am.	1050
	Am.	1956	§ 7(a)	New	1050
§ 4	Am.	1954	§ 7(b)	New	1050
	Am.	1950	§ 8(a)	Added	1068
6701h	New	1952	6795c	New	1050
§ 1(10)	Am.	1964	6812b	New	1952
§ 2(b)	Am.	1964	6812c	New	1954
§ 2(d)	Added	1064	6812d	New	1966
§§ 4-7	Am.	1964	6818 note	New	1966
§ 7A	New	1964	6818b	Am.	1961
§ 8(c)	Am.	1964		Am.	1964
§§ 9-11	Am.	1964		Am.	1966
§ 13	Am.	1964	6819a	Rep.	1952
§ 15	Am.	1964	6819a-3	Am.	1952
§ 17	Am.	1964	6819a-4	Rep.	1950
§ 21(a, b)	Am.	1964	6819a-5	New	1950
§ 25	Am.	1964			

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0810a-6	New	1950	0877-1	Am.	1961
	Rep.	1952	0877-2	New	1954
	Rep.	1958	0880b	New	1950
0810a-7	New	1958	0880c	New	1952
0810a-8	New	1958		Rep.	1961
0810a-9	New	1952	0880d	New	1954
	Rep.	1958		Am.	1961
0810a-9(n)	Rep.	1950	0880e	New	1950
0810a-10	New	1950	0880-3	New	1952
	Rep.	1958	0880-3A	New	1950
0810a-11	New	1950	0880-4	New	1952
0810a-12	New	1958	§ 5	Am.	1954
0810a-12a	New	1960	0880-5	New	1952
	Am.	1904	0890d	Superseded	1950
0810a-13	New	1958	0890d-1	New	1950
	Am.	1900	0890d-2	New	1960
0810a-14			0930	Am.	1954
to			0935	Am.	1950
0810a-18	New	1958	0937	Am.	1956
0810a-19	New	1960	0954	Am.	1950
0810a-19a	New	1961		Am.	1954
0810a-19b	New	1961		Am.	1950
0810a-19c	New	1904		Am.	1958
0810a-20				Am.	1900
to			0965	Am.	1954
0810a-23	New	1960		Am.	1961
0810a-23a	New	1904	0967	Am.	1954
0810a-24	New	1960		Am.	1961
0810a-25	New	1900	7005-1	New	1958
0810a-25a	New	1961	7000	Am.	1950
	Am.	1960		Am.	1960
0810a-26	New	1961	7000a	New	1960
0810a-27	New	1961	7044a	New	1960
0810a-28	New	1961	7047		
	Am.	1904	(24)	Am.	1952
0810a-29	New	1961	(40b)	Am.	1952
0810a-30	New	1961	(41a)	New	1950
0810a-31	New	1904		Am.	1952
0810a-32	New	1904	(46)	Am.	1952
0810a-33	New	1904	(46f)	Am.	1950
0810a-34	New	1904	7047a-2	Am.	1952
0810a-35	New	1904	7047a-3	Am.	1950
0810a-36	New	1904		Am.	1952
0810a-37			7047a-4	Am.	1952
to			7047a-5	Rep.	1960
0810a-41	New	1960	7047a-6		
0820	Am.	1950	to		
	Am.	1908	7047a-15	Am.	1952
0822a	New	1960	7047a-15a	New	1952
0823	Am.	1950	7047a-16	Am.	1952
	Am.	1954	7047a-16	Am.	1954
	Rep.	1908	7047a-19	Am.	1958
0823a	New	1960	(1)	Am.	1900
§ 2	Am.	1908	7047a-19a	New	1954
§ 5	Am.	1908		Rep.	1958
§ 0(c)	Am.	1964	7047a-19b	New	1954
	Am.	1908		Rep.	1958
0824 note	New	1950	7047b,		
0880e	New	1950	§ 1	Am.	1952
0880f	New	1952	§ 1(1)	Am.	1950
0880g	New	1958	§ 1(8)	Am.	1954
0851a	New	1952		Am.	1956
			§ 1½	New	1950

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7047b, § 2(12)	Am.	1950	7004a	New	1950
§ 3-a	Rep.	1952		Am.	1952
7047c-1,			7004a-1	New	1950
§ 1(a)	Am.	1960	7005	Rep.	1960
§ 2	Am.	1950	7005b-1	Am.	1952
	Am.	1956	(a)	Am.	1958
§ 2(e)	Am.	1960	(c)	Am.	1958
§ 2a	New	1950	(g)	Am.	1958
§ 2½	New	1950	(n)	Am.	1958
§ 3	Am.	1950	(q)	New	1958
	Am.	1956	7005b-2	Am.	1952
§ 3a	Am.	1960	(a)	Am.	1956
§ 30a	New	1950	(b)	Am.	1954
7047c-2	Rep.	1960		Am.	1958
7047d,			7005b-3	Am.	1952
§ 3	Am.	1954	7005b-4	Rep.	1960
7047f	Rep.	1960	7005b-5	Am.	1958
7047h-7047j	Rep.	1960	(a)	Am.	1956
7047k,			7005b-6	Rep.	1960
§ 1	Am.	1952	7005b-7(a)	Am.	1958
§ 3(c)	Am.	1952	7005b-8	Am.	1956
§ 5a	Am.	1952	7005b-9		
§ 6	Am.	1952	to		
7047k-1	New	1950	7005b-12	Rep.	1960
§ 2	Am.	1952	7005b-13	Am.	1952
7047l,				Am.	1954
§ 1	Am.	1952	7005b-14	Am.	1952
§ 1½	New	1950	(a)	Am.	1956
7047l-1	New	1950	(g)	Am.	1956
7047m,			7005b-14a	New	1950
§ 1	Am.	1952	7005b-14b	New	1950
§ 1½	New	1950	7005b-14c		
7047n	New	1950	to		
7047o	New	1950	7005b-17	Rep.	1960
7048a	New	1950	7005b-18	Am.	1952
§ 10(a) (4)	Am.	1952	7005b-19		
7048b	New	1952	to		
	Am.	1956	7005b-21	Rep.	1960
7057	Rep.	1960	7005b-22	Am.	1952
7057a,			7005b-23	Rep.	1960
§ 2(1)	Am.	1952	7005b-24	Rep.	1960
§ 2A	New	1950	7005b-25	Am.	1952
7057b,				Am.	1960
§ 2a	Am.	1961	7005b-26	Am.	1952
7057c			7005b-27	Am.	1952
§ 2	Am.	1966	7005b-28	Rep.	1960
7057e	New	1950	7005b-29	Rep.	1960
	Rep.	1960	7006	Rep.	1960
7057f	New	1952	7006b(aa)	New	1950
7058	Rep.	1960	7006b	Am.	1952
7059	Rep.	1960	7006b-1	Rep.	1960
7060	Am.	1952	7006c	New	1950
7060½	New	1950	7068	Rep.	1960
7060a	Am.	1952	7069	Rep.	1960
§ 1	Am.	1956	7070	Am.	1952
7060b	New	1950	7070a	New	1950
7061	Rep.	1960	7071	Rep.	1960
7062	Rep.	1960	7072	Rep.	1954
7063	Am.	1954	7076	Rep.	1960
7064	Am.	1952	7078	Rep.	1960
7064½	New	1950	7080	Am.	1952
			7081	Am.	1952
			7082	Am.	1952

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7083a			7090	Am.	1952
§ 2	Am.	1958	7097	Am.	1950
§ 2(1)	Am.	1950		Rep.	1960
	Am.	1960	7098	Am.	1964
	Am.	1962	7105a	New	1956
	Am.	1960	7117-7121	Rep.	1960
§ 2(2)	Am.	1950	7122	Am.	1956
	Am.	1960		Am.	1960
	Am.	1962	7122-a	New	1958
	Am.	1960	7128-7139	Rep.	1960
§ 2(3)	Am.	1960	7141	Rep.	1960
	Am.	1962	7143	Rep.	1960
§ 2(3A)	New	1961	7144	Rep.	1960
§ 2(4)	Am.	1950	7144a	Rep.	1960
	Am.	1960	7150,		
	Am.	1962	1(a)	Added	1968
	Am.	1960	7	Am.	1961
§ 2(4-a)	Am.	1950		Am.	1968
§ 2(4-b)	New	1950	20	New	1955
	Am.	1960	21	New	1960
	Am.	1968	22	Added	1968
§ 2(4-c)	New	1956	7150b	Am.	1961
	Am.	1960	7150f	New	1964
§ 2(5)	Am.	1962	7150g	New	1968
§ 2(6)	Am.	1960	7151	Am.	1952
§ 2(7)	New	1962	7152	Am.	1966
	Am.	1968	7172	Am.	1968
§ 2(8)	Added	1960	7212	Am.	1950
7083a.2	New	1961		Am.	1964
7084	Am.	1950	7228-7241	Rep.	1952
	Am.	1952	7244a	New	1968
	Am.	1950	7258a	Am.	1954
(2)	Am.	1958	7260,		
7084b	New	1960	§ 8	New	1961
7084½	New	1950	7264b	Rep.	1952
	Rep.	1960	7298	Am.	1952
7085	Am.	1950		Am.	1954
	Rep.	1960	7298h	New	1958
7086	Am.	1950	7821h	Am.	1952
(1)	Am.	1950	7831	Am.	1954
7087	Am.	1950	7832	Am.	1952
	Rep.	1960		Am.	1961
7089	Am.	1950		Am.	1960
(1)	Am.	1950	7833	Am.	1952
7089a-7089h	Rep.	1950	7835b	New	1952
7090	Am.	1950	7830f	Am.	1952
	Rep.	1960	§ 1	Am.	1960
7091	Am.	1950	§ 2	Am.	1950
	Am.	1950	7345b	New	1952
7092	Am.	1950	§ 8	Am.	1954
	Am.	1958	7845b-2	New	1950
7092a	New	1950	7845e	New	1950
	Rep.	1960	7850a, §§ 1-5	New	1968
7093	Am.	1950	7401A	Added	1968
	Rep.	1960	7425b-10	Am.	1964
7094	Am.	1950	7425b-12	Am.	1960
	Am.	1952	7425b-14	Am.	1960
	Am.	1956	7425b-25,		
	Am.	1958	par. L	Am.	1961
	Am.	1960	par. M	Added	1960
7095	Am.	1950	par. N	Added	1960
	Rep.	1960	7425b-80	Am.	1960

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7425c	New	1952	7512	Rep.	1954
7425d	New	1950	7515	Am.	1954
7426			7515a	New	1954
to			7519a	New	1954
7447	Rep.	1908		Am.	1958
7428-1	New	1952	7510b	New	1954
7428-2	New	1952		Am.	1958
7430a	New	1958	7531	Am.	1954
7448-7465	Rep.	1954	§§ 1, 2	Am.	1908
7405a	New	1954	7531a	New	1954
§ 5	Am.	1908	7532	Am.	1908
§ 8	Am.	1900	7533	Am.	1908
§ 13	Am.	1900	7534	Rep.	1908
§ 14	Am.	1900	7537a	Am.	1901
	Am.	1908		Am.	1908
§ 16	Am.	1958	7537b	New	1957
§ 10(b)	Am.	1900	7542a, §§ 1-14	New	1908
§ 17	Am.	1900	7545	Rep.	1908
§ 20	Am.	1908	7540	Rep.	1908
7405b, §§ 1, 2	Added	1908	7550a	New	1957
7406f	New	1950	7552	Rep.	1908
§ 2	Am.	1900	7553	Rep.	1908
7406g	New	1950	7504	Rep.	1954
7406h	New	1952	7560	Rep.	1954
7406i	New	1954	7577	Rep.	1901
§ 1 art. VII(c)	Am.	1901	7583	Am.	1950
§ 2	Am.	1901	7584	Rep.	1908
7407	Am.	1908	7580b	New	1958
7407b	New	1950	§ 1	Am.	1900
7407c	New	1954	§ 9	Added	1900
	Am.	1908	§ 10	Added	1900
7470	Am.	1954	§ 11	Added	1900
	Am.	1958	§ 12	Added	1900
7470a	Rep.	1954	§ 13	Added	1900
7470b	New	1954	§ 14	Added	1900
7472d-1	New	1958	§ 15	Added	1900
7472e	New	1950	7590	Am.	1908
7475	Rep.	1908	7612	Am.	1950
7477	Am.	1954	7012a	Am.	1950
	Am.	1900	7612b	New	1950
Subsec. (1)			7021a	New	1954
to				Rep.	1901
(11)	Am.	1904	7021b	New	1901
§ 12(a)	Am.	1908	§ 1(e)	Am.	1900
Subsec. (15),			7021c	New	1901
(16)	Am.	1904		Rep.	1900
7477a	New	1954	7021d	New	1901
7477b	New	1900		Rep.	1908
7478-7487	Rep.	1954	§ 8	Am.	1900
7488	Rep.	1954	§ 10(c)	Am.	1900
7490	Rep.	1954	§ 10(d)	Added	1900
7491	Rep.	1954	7021d-1, §§ 1-25	New	1908
7492	Am.	1954	7021e	New	1900
7492a	New	1954	7021f	New	1900
7493	Am.	1954	7021g, §§ 1-17	New	1908
7495	Am.	1908	7022b-1	New	1958
7490			7041-b	Am.	1901
to			7052a		
7499	Rep.	1908	Subsec. C	Added	1900
7499a	Rep.	1908	7052b	New	1950
7500a	Am.	1954	7050a	New	1900
	Am.	1900	7061	Am.	1950
7509	Am.	1908	7718	Am.	1900

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Clv.St. Art.	Effect	Vernon's Texas St.Supp.	Clv.St. Art.	Effect	Vernon's Texas St.Supp.
7718c	New	1954	7880-147z3	New	1058
	Rep.	1960	7880-147z4	New	1058
7728a	New	1001	7880-147z5	New	1058
7807d			7880-147z6	New	1058
§ 10	Am.	1004	7893a	New	1952
§ 21	Am.	1000	7897	Am.	1001
7807n	New	1057	7922	Am.	1050
7880-1 notes	New	1058	7930-4	Am.	1058
	New	1960	7930-5	Am.	1956
7880-1a	New	1961	7941b	New	1952
7880-3c	New	1050	7941c	New	1052
(A5)	Am.	1050	7987	Am.	1054
(A6e)	New	1050		Am.	1958
(A9)	Am.	1050	7987-1	New	1960
(B3)	Am.	1050	8028	Rep.	1908
(B4)	Am.	1050	8097 notes	New	1960
(B10)	New	1050	8110a	Added	1968
(B11)	New	1001	8120	Am.	1950
(D4a)	Am.	1050		Am.	1058
(D5)	New	1050		Am.	1961
(I)	Added	1960	8120a	New	1050
7880-18	Am.	1058	8152a	New	1052
7880-19	Am.	1058	8161b,		
7880-20a	New	1050	§ 7	Am.	1961
7880-21	Am.	1961	8101d	New	1050
7880-23	Am.	1058	8170b	New	1050
7880-37a	Added	1968	8170b-1	New	1958
7880-38a			§ 1(1)	Am.	1968
§ 1	Am.	1050	8170b-2	New	1960
§ 1A	Added	1960	8170c	New	1058
7880-43	Am.	1958	8170d	New	1960
7880-74a	New	1052	8197g	New	1960
7880-75c	New	1050		Rep.	1068
7880-76	Am.	1058	8217a	New	1054
7880-76c,			8224	Am.	1958
§ 01	New	1001	8225	Am.	1952
§ 1	Am.	1002	8227a	New	1950
	Am.	1001	8235a,		
§ 2	Am.	1052	§ 3	Am.	1950
	Am.	1001		Am.	1958
§ 5	Am.	1961	§ 4	Am.	1950
§ 6	Am.	1001	§ 9	Am.	1950
§ 7	Am.	1052	8244a	New	1050
§ 8	Am.	1052	8247b,		
§ 11	Am.	1052	§ 1(b, c)	Am.	1058
§ 17a	New	1052	§ 7a	New	1052
7880-90a	Am.	1052	§ 18a	New	1052
7880-101	Am.	1961	§ 18b	New	1052
7880-107	Am.	1961	§ 18c	New	1052
7880-111(c)	New	1058	8247b-1	New	1961
7880-117	Am.	1058	§ 1	Am.	1960
7880-123a	Am.	1001	8247c	New	1050
7880-139	Am.	1901		Am.	1058
	Am.	1908	§ 2	Am.	1054
7880-147c1	Am.	1058	§ 3	Am.	1054
7880-147c0a	New	1058	8247f	New	1050
7880-147c8	New	1052	8263a,		
7880-147c9	New	1050	§ 3a	New	1052
7880-147c10	New	1058	§ 5	Am.	1961
7880-147c11	New	1960	8263e,		
7880-147z1	New	1052	§ 18-a	New	1950
	Rep.	1058	§ 41	Am.	1968
7880-147z2	New	1950	§ 66	Am.	1964

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8263e, § 78	Am.	1960
§ 84	Am.	1960
8263f-1	New	1952
8263h, § 3	Am.	1961
§§ 51, 52	New	1950
8263i	Am.	1954
8263j	New	1950
8263k	New	1950
8264	Am.	1964
8270	Am.	1964
8274	Am.	1952
	Am.	1954
	Am.	1950
	Am.	1960
	Am.	1961
	Am.	1964
	Am.	1968
8276	Am.	1960
8280-2	New	1950
8280-3	New	1950
8280-3.5	New	1960
8280-4	New	1950
8280-5	New	1954
8280-6	New	1954
8280-7	New	1950
	Am.	1968
8280-8	New	1958
8280-9	New	1958
§ 2(c)	Am.	1960
§ 2(f)	Am.	1960
§ 2(i)	Added	1960
§ 3	Am.	1960
§ 4	Am.	1960
	Am.	1960
§ 7	Am.	1960
§ 10-B	Am.	1961
§ 10-D	Am.	1960
	Am.	1961
§ 12	Am.	1960
§ 14	Am.	1961
	Am.	1960
§ 15	Am.	1961
	Am.	1968
§ 18	Am.	1960
§ 21	Am.	1960
§ 21(j) to (m)	Added	1968
§ 21-a	New	1964
	Am.	1960
§ 23	Added	1960
§ 24	Added	1960
	Am.	1968
8280-9a	New	1960
8280-10	New	1961
§ 1	Am.	1961
§ 3	Am.	1964
8280-11	New	1961
8280-12, §§ 1-10	New	1968
8280-107		
§ 10	Am.	1960
	Am.	1964
	Am.	1968

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8280-107, § 10	Am.	1968
§ 10a	Added	1968
8280-119,		
§ 1(h)	Am.	1961
§ 2	Am.	1961
§ 2-a	Am.	1961
§ 3	Am.	1961
§ 3(e)	Am.	1958
§ 4	Rep.	1961
§ 4-a	Am.	1961
§ 5	Rep.	1961
§ 7	Rep.	1961
§ 9	Am.	1961
§ 10	New	1961
	Rep.	1961
§§ 11, 12	Am.	1961
§§ 13, 14	Am.	1961
§ 14-a	Am.	1961
§ 15-a	Am.	1961
§ 15-b	Am.	1961
§ 16	Am.	1961
§ 16-a	Rep.	1961
§ 17-a	New	1960
§ 18	Am.	1961
§§ 21-a, 22	Am.	1961
§ 25	Am.	1961
8280-120, § 7	Am.	1968
8280-120a	New	1964
8280-120b	New	1960
8280-121, § 3	Am.	1968
8280-121, § 4	Am.	1968
8280-121, § 7	Am.	1968
8280-121, § 10b	Am.	1968
8280-121, §§ 10d, 10e	Am.	1968
8280-121, § 13	Am.	1968
8280-122	Am.	1960
8280-124	Am.	1960
§ 10(a)	Added	1958
8280-126,		
§ 8(e)	Am.	1958
8280-128	Rep.	1960
8280-131	Am.	1960
§ 11a	Added	1964
8280-135,		
§ 12	Am.	1958
8280-137,		
§ 23	New	1961
8280-138		
§ 1	Am.	1964
§ 3	Am.	1964
§ 9	Am.	1964
§ 14	Am.	1964
8280-146		
§ 1a	Added	1964
8280-147,		
§ 7(a)	New	1960
§ 7-a	New	1960
§ 7-b	New	1960
§ 21(b)	New	1960
8280-147a	New	1961
8280-154	Am.	1958
§ 5(a)	Am.	1961

ARTICLES AFFECTED FROM 1949 TO 1967

Civ.St. Art.	Effect	Vernon's Texas St.Supp.	Civ.St. Art.	Effect	Vernon's Texas St.Supp.
8280-154, § 13(o)	Am.	1961	8280-177,		
§ 13(p)	Am.	1961	§ 2	Am.	1961
§ 15(l)	Am.	1961	§ 3(a)	Am.	1961
8280-155			§ 3(c)	Am.	1961
§ 2	Am.	1966		Am.	1966
§ 3	Am.	1966	§ 3(d)	Am.	1961
§ 5	Am.	1966	8280-187,		
§ 6a	Added	1966	§ 1	Am.	1958
§ 14	Am.	1966		Am.	1960
§ 16	Am.	1966		Am.	1961
§ 20	Am.	1966	8280-188,		
8280-157,			§ 2n-1	New	1958
§ 2	Am.	1960	§ 5(f)	Am.	1960
§ 3	Am.	1958	§ 5	Am.	1968
8280-160,			§ 6	Am.	1968
§ 1	Am.	1966	§ 6A	Added	1969
§ 2	Am.	1966	§ 8(d)	Am.	1960
§ 3	Am.	1960	§ 8-A	New	1958
	Am.	1966	§ 8-B	Added	1960
§ 6(d)	Am.	1958	§ 8-C	Added	1960
§ 6(f)	Am.	1958	§ 10, subsec. (n)	Am.	1968
§ 7	Am.	1961	8280-191		
§ 8	Am.	1966	to		
§ 13	Am.	1958	8280-195	New	1958
§ 15	Am.	1960	8280-196	New	1958
§ 15(a)	Am.	1958	§ 2	Am.	1962
	Am.	1960	8280-197	New	1958
§ 15(e)	Am.	1958	8280-198	New	1958
§ 17	Am.	1966	§ 5(L)	Added	1962
§ 23	Rep.	1966	8280-198a	New	1961
§ 24-A	New	1960	8280-199	New	1958
	Am.	1960	8280-200	New	1958
8280-101,			§ 2	Am.	1961
§ 4	Rep. in part.	1960	§ 3	Am.	1961
§ 4-A	New	1960	§ 4	Am.	1968
8280-102,			§ 5	Am.	1968
§ 1	Am.	1958	§ 6	Am.	1961
§ 5(l)	New	1960	§ 7	Am.	1968
§ 7	Am.	1961	§ 9	Am.	1961
§ 12(g)	Am.	1961	8280-201	New	1958
§ 22	Rep.	1960	8280-202	New	1958
	Am.	1961	§ 1	Am.	1966
§ 23	Am.	1964	§ 2	Am.	1966
8280-103			§ 3	Am.	1966
§ 21	Added	1966	§ 6	Am.	1966
8280-107,			§ 9	Am.	1966
§ 2	Am.	1960	§ 14	Am.	1966
§ 3-A	New	1958	8280-203		
§ 12(a)	New	1958	to		
8280-172,			8280-205	New	1958
§ 4(a)	New	1958	8280-206	New	1958
8280-178,			§ 2	Am.	1960
§ 1	Am.	1961		Am.	1961
§ 2	Am.	1961	§ 3(b)	Am.	1961
§ 6	Am.	1960	§ 5(j)	Am.	1961
	Am.	1961	8280-207	New	1958
§ 8	Am.	1961	§ 2	Am.	1960
8280-174,			8280-207a	New	1961
§ 3	Am.	1960	8280-207b	New	1961
8280-176			8280-208	New	1958
§ 1	Am.	1964	8280-209	New	1958
			8280-210	New	1958

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Civ.St. Art.	Effect	Vernon's Texas St.Supp.	Civ.St. Art.	Effect	Vernon's Texas St.Supp.
8280-211	New	1958	8280-253	Rep.	1962
§ 2	Am.	1961	8280-254	New	1962
§ 3	Am.	1961		Am.	1960
§ 6	Am.	1961	8280-255	New	1962
§ 9	Am.	1961	8280-256	New	1962
8280-212	New	1958	8280-257	New	1962
§ 2	Am.	1963	§ 17	Am.	1960
§ 15(a)	New	1961	8280-258	New	1962
8280-218	New	1958	8280-259	New	1962
§ 15(a)	New	1961		Rep.	1968
8280-214	New	1958	8280-260		
8280-215	New	1958	to		
§ 2	Am.	1960	8280-264	New	1962
8280-216	New	1960	8280-265	New	1962
8280-217	New	1960	§ 18a	Added	1964
§ 6	Am.	1960	§ 24	Am.	1964
8280-218	New	1960	8280-266		
§ 5	Am.	1963	to		
8280-219	New	1960	8280-269	New	1962
8280-220	New	1960	8280-270	New	1964
8280-221	New	1960	8280-271	New	1964
§ 2	Am.	1964	§ 10	Am.	1968
8280-222			8280-272	New	1964
to				Rep.	1968
8280-226	New	1960	8280-273	New	1964
8280-227	New	1960	8280-274	Rep.	1964
§ 6	Rep. in part	1960	8280-275	Rep.	1964
§ 6-A	New	1960	8280-276	New	1964
8280-228	New	1960	8280-277	New	1964
§ 14a	Added	1968	8280-278	New	1964
§ 16a	New	1961	8280-279	New	1964
§ 19	Am.	1961	8280-280	New	1964
8280-229			8280-281	New	1964
to			§ 2	Am.	1960
8280-237	New	1960	§ 5	Am.	1960
8280-238	New	1960	8280-282	New	1964
§ 2	Am.	1961	8280-283	New	1964
§ 3	Am.	1961	8280-284	New	1964
§ 5	Am.	1963	8280-285	New	1964
8280-280			8280-286	New	1964
to			8280-287	New	1964
8280-242	New	1960	8280-288	New	1964
	Rep.	1968	8280-288a, §§ 1-12	New	1968
8280-243	New	1960	8280-289	New	1964
	Rep.	1964	8280-290	New	1964
§ 17	Am.	1961	8280-291	New	1964
§ 23(a)	Am.	1961	8280-292	New	1964
§ 27	Am.	1961	8280-293	New	1964
8280-244	New	1960	§ 2	Am.	1960
8280-245			§ 3	Am.	1960
to			§ 5	Am.	1960
8280-247	New	1962	§ 5	Am.	1960
8280-248	New	1962	§ 17(a)	Added	1966
§ 19	Am.	1964	§ 19	Am.	1966
8280-249	New	1962	8280-294	New	1964
§ 5	Am.	1963	8280-295	New	1964
8280-250	New	1962	8280-296	New	1964
8280-251	New	1962	8280-297	New	1968
§ 2-A	Added	1964	§ 4	Am.	1963
§ 2-B	Added	1964	§ 8(c)	Added	1968
§ 2-C	Added	1964	§ 9(e)	Added	1968
8280-252	New	1962	§ 21	Am.	1968
8280-253	New	1962	§ 30	Am.	1968

ARTICLES AFFECTED FROM 1949 TO 1967

Civ.St. Art.	Effect	Vernon's Texas St.Supp.	Civ.St. Art.	Effect	Vernon's Texas St.Supp.
8280-208			8280-354, §§ 1-17	New	1008
to			8280-355, §§ 1-10	New	1008
8280-304	New	1008	8280-356, §§ 1-23	New	1008
§ 18	Am.	1008	8280-357, §§ 1-23	New	1008
8280-305			8280-358, §§ 1-23	New	1008
to			8280-359, §§ 1-23	New	1008
8280-307	New	1008	8280-360, §§ 1-23	New	1008
§ 4	Am.	1008	8280-361, §§ 1-23	New	1008
8280-308	New	1008	8280-362, §§ 1-23	New	1008
8280-309	New	1008	8280-363, §§ 1-23	New	1008
§ 18	Am.	1008	8280-364, §§ 1-23	New	1008
8280-310			8280-365, §§ 1-10	New	1008
to			8280-366, §§ 1-23	New	1008
8280-314	New	1008	8280-367, §§ 1-23	New	1008
8280-314			8280-368, §§ 1-23	New	1008
§ 3	Am.	1008	8280-369, §§ 1-23	New	1008
§ 5	Am.	1008	8280-370, §§ 1-23	New	1008
8280-315	New	1008	8280-371, §§ 1-23	New	1008
8280-316	New	1008	8280-372, §§ 1-23	New	1008
	Rep.	1008	8280-373, §§ 1-23	New	1008
8280-316a, §§ 1-20	New	1008	8280-374, §§ 1-23	New	1008
8280-317	New	1008	8280-375, §§ 1-23	New	1008
§ 4	Am.	1008	8280-376, §§ 1-23	New	1008
8280-318			8280-377, §§ 1-23	New	1008
to			8280-378, §§ 1-23	New	1008
8280-324	New	1008	8280-379, §§ 1-23	New	1008
§ 18	Am.	1008	8280-380, §§ 1-23	New	1008
8280-325	New	1008	8280-381, §§ 1-23	New	1008
§ 18	Am.	1008	8280-382, §§ 1-23	New	1008
8280-326	New	1008	8280-383, §§ 1-23	New	1008
§ 18	Am.	1008	8280-384, §§ 1-10	New	1008
8280-327			8280-385, §§ 1-23	New	1008
to			8280-386, §§ 1-17	New	1008
8280-330	New	1008	8280-387, §§ 1-10	New	1008
§ 18	Am.	1008	8280-388, §§ 1-23	New	1008
8280-331	New	1008	8280-389, §§ 1-18	New	1008
§ 18	Am.	1008	8280-390, §§ 1-23	New	1008
8280-332	New	1008	8280-391, §§ 1-23	New	1008
§ 18	Am.	1008	8280-392, §§ 1-22	New	1008
8280-333	New	1008	8293	Am.	1050
§ 18	Am.	1008	8300,		
8280-334	New	1008	§ 2	Am.	1004
§ 18	Am.	1008	§ 2a	Added	1004
8280-335			§ 3	Am.	1004
to			§ 6	Am.	1054
8280-338	New	1008	§ 7	Am.	1054
§ 11	Am.	1008		Am.	1058
§ 12	Am.	1008	§ 7a	Am.	1054
8280-339	New	1008	§ 7b	Am.	1054
8280-340	New	1008	§ 7c	Am.	1058
8280-341	New	1008	§ 7d	Am.	1058
8280-342, §§ 1-14	New	1008		Am.	1000
8280-343, §§ 1-23	New	1008	§ 7-c	Am.	1008
8280-344, §§ 1-23	New	1008	§ 8	Am.	1058
8280-345, §§ 1-23	New	1008	§ 9	Am.	1001
8280-346, §§ 1-23	New	1008		Am.	1008
8280-347, §§ 1-11	New	1008	§§ 10-12	Am.	1058
8280-348, §§ 1-17	New	1008	§ 12c-2	Am.	1058
8280-349, §§ 1-18	New	1008	§ 12f	Am.	1054
8280-350, §§ 1-17	New	1008	§ 15	Am.	1000
8280-351, §§ 1-18	New	1008	§ 15a	Am.	1052
8280-352, §§ 1-17	New	1008		Am.	1050
8280-353, §§ 1-17	New	1008	§ 20	Am.	1050

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Civ.St. Art.	Effect	Vernon's Texas St.Supp.	Civ.St. Art.	Effect	Vernon's Texas St.Supp.
8306, § 25	Am.	1900	8309b, § 7	Am.	1950
§ 26(d)	Am.	1958		Am.	1954
§ 28	New	1958		Am.	1900
8306a	Am.	1952	§ 10	Am.	1954
	Am.	1950	§ 13	Am.	1954
8307,			§ 14	Am.	1954
§ 4	Am.	1954		Am.	1958
§ 5	New	1958	§ 15	Am.	1958
8308,			§ 18	Am.	1954
§ 1A	New	1954	8309c	New	1950
§ 10	Am.	1954	§ 3	Am.	1950
§ 18	Rep.	1954		Am.	1958
	Added	1908	§ 6	Am.	1954
§ 18a	Am.	1908	§ 9	Am.	1954
8309,			§ 10	Am.	1950
§ 1	Am.	1900	§ 15	Am.	1954
§ 1a	Am.	1900	§ 17	Am.	1950
	Am.	1908	8309c-1, §§ 1, 2	New	1908
§ 1b	New	1958	8309d	New	1952
§ 2	Am.	1954	§ 7	Am.	1900
8309a	Am.	1954	8309e	New	1954
8309b,			8309e-1	New	1900
§ 2	Am.	1950	§ 1	Am.	1908
	Am.	1958	8309f	New	1958
§ 3	Am.	1958	§ 7	Am.	1904
§ 4	Am.	1950	8310-8324	Rep.	1954

Business and Commerce Code
(Pages 1485 to 1763)

*Business and Commerce Code adopted by Laws 1967, 60th Leg., Vol. 2, p. 2343, ch. 785.
Disposition Tables, see page 1765.*

Business Corporation Act
(Pages 164 to 179)

Bus. Corp.Act Art.	Effect	Vernon's Texas St.Supp.	Bus. Corp.Act Art.	Effect	Vernon's Texas St.Supp.
1.01	New	1950	2.11		
1.02	New	1950	to		
1.02, § A(13)	Am.	1908	2.17	New	1950
2.01	New	1950	§ D	Added	1908
2.02	New	1950	2.18	New	1950
§ C	Am.	1908	§ A	Am.	1958
2.08			2.19	New	1950
to			§ A	Am.	1958
2.07	New	1950	§§ B, F	New	1958
§ C	Am.	1908	2.20	New	1950
2.08			2.21	New	1950
to			2.22	New	1950
2.10	New	1950	§ A	Am.	1958
2.10-1	Added	1908	§ C	Am.	1958
			§ E	Am.	1908

ARTICLES AFFECTED FROM 1949 TO 1967

Bus. Corp. Act Art.	Effect	Vernon's Texas St. Supp.	Bus. Corp. Act Art.	Effect	Vernon's Texas St. Supp.
2.23			6.02	New	1950
to				Am.	1968
2.28	New	1950	6.03	New	1950
2.29	New	1950		Am.	1968
§ A	Am.	1968	6.04	New	1950
(C)	Am.	1961		Am.	1968
D	Am.	1958	6.05	New	1950
D(1)-D(3)	Am.	1961		Am.	1968
2.30	New	1950	6.06	New	1950
(B)	Added	1961		Am.	1968
2.31			6.07	New	1950
to				Am.	1968
2.44	New	1950	6.08		
3.01	New	1950	to		
3.02	New	1950	6.12	New	1950
§ A	Am.	1958	7.01		
3.03	New	1950	to		
3.04	New	1950	7.04	New	1950
3.05	New	1950	7.05	New	1950
§ A	Am.	1958	Subsec. A(1)		
3.06	New	1950	(e)	Am.	1961
4.01	New	1950	7.06	New	1950
4.02	New	1950	§ A	Am.	1968
§ C	Added	1968	7.07		
4.03	New	1950	to		
§ C	Added	1968	7.12	New	1950
4.04	New	1950	8.01	New	1950
§ B	Added	1968	§ B	Am.	1958
4.05	New	1950	8.02	New	1950
4.06	New	1950	8.03	New	1950
4.07	New	1950		Am.	1964
§ B	Am.	1958		Am.	1961
§ C(2)	Am.	1958	8.04	New	1950
4.08				Rep.	1968
to			8.05		
4.13	New	1950	to		
4.14	New	1961	8.09	New	1950
5.01	New	1950	8.09, § D	Added	1968
5.02	New	1950	8.10		
5.03	New	1950	to		
§ B	Am.	1968	8.13	New	1950
5.04	New	1950	8.14	New	1950
5.05	New	1950	§ A	Am.	1958
5.06	New	1950	8.15		
§ A, subsec. (7)	Rep.	1968	to		
5.07	New	1950	8.18	New	1950
§ B, subsec. (1)	Am.	1968	9.01		
5.08	New	1950	to		
5.09	New	1950	9.10	New	1950
	Am.	1958		Am.	1968
5.10	New	1950	9.11	New	1950
	Am.	1958	9.12	New	1950
§ A(3)	Am.	1968	9.13	New	1950
5.11	New	1950	9.14	New	1950
§ A	Am.	1958	§ A	Am.	1960
5.12	New	1950	§ B	Am.	1960
	Am.	1968	§ F	New	1960
5.13	New	1950	9.15	New	1950
	Am.	1968	9.16	New	1950
5.14	Added	1966	10.01	New	1950
5.16	Renumbered from art. 5.14	1968		Am.	1961
6.01	New	1950		Am.	1968
	Am.	1968	§ A(18)	Am.	1958
			11.01	New	1950

VERNON'S TEXAS STATUTES

Code of Criminal Procedure—1965
(Pages 1377 to 1405)

C.C.P. Art.	Effect	Vernon's Texas St. Supp.	C.C.P. Art.	Effect	Vernon's Texas St. Supp.
1.14	Am.	1968	40.00, par. 12	Am.	1968
1.15	Am.	1968	42.03	Am.	1968
2.03, subsec. (b)	Am.	1968	42.12, § 6a	Added	1968
2.07	Am.	1968	§ 10	Am.	1968
2.12	Am.	1968	§ 12	Am.	1968
2.24	Added	1968	§ 15	Am.	1968
11.07	Am.	1968	§ 16	Am.	1968
14.01	Am.	1968	§ 18	Am.	1968
14.08	Am.	1968	§ 27	Am.	1968
14.06	Am.	1968	42.13, § 3	Am.	1968
15.16	Am.	1968	§ 5	Am.	1968
15.17	Am.	1968	44.11	Am.	1968
15.26	Am.	1968	44.23	Am.	1968
17.11	Am.	1968	45.04	Am.	1968
18.80	Am.	1968	46.01, § 2	Am.	1968
10.06	Am.	1968	§ 3	Am.	1968
21.08	Am.	1968	§ 4	Am.	1968
22.01a	Added	1968	§ 5	Am.	1968
26.05—1	Am.	1968	§ 6	Am.	1968
27.02	Am.	1968	§ 7	Am.	1968
27.14	Am.	1968	§ 8	Am.	1968
28.01, § 3	Added	1968	§ 9	Am.	1968
35.13	Am.	1968	46.02, §§ 1, 2	Am.	1968
36.09	Am.	1968	§ 2, subsec. (d)	Am.	1968
37.07	Am.	1968	§ 3	Am.	1968
38.22	Am.	1968	52.01	Am.	1968
38.31, par. (c)	Am.	1968	52.02	Am.	1968
39.02	Am.	1968	52.03	Am.	1968
39.03	Am.	1968	52.04	Am.	1968
39.07	Am.	1968	52.05	Am.	1968
40.09, par. 5	Am.	1968	52.00	Am.	1968
40.09, par. 6(a)	Am.	1968	1064	Am.	1968
40.09, par. 7	Am.	1968			

Election Code
(Pages 367 to 448)

Elec. Code Art.	Effect	Vernon's Texas St. Supp.	Elec. Code Art.	Effect	Vernon's Texas St. Supp.
1.01	New	1952	2.01	New	1952
1.01a	New	1964		Am.	1961
§ (a)	Am.	1968		Am.	1964
1.02	New	1952	2.02	New	1952
1.03	New	1952		Am.	1964
	Am.	1964	(g)	Am.	1968
	Am.	1968	2.03	New	1952
1.04	New	1952		Am.	1966
1.05	New	1952		Am.	1968
	Am.	1964	2.04	New	1952
	Am.	1968		Am.	1964
1.06	New	1952		Am.	1966
	Am.	1968	(b)	Am.	1968
1.07	New	1952	2.05	New	1952
	Am.	1968		Am.	1964
1.08	New	1952	2.06	New	1952
	Rep.	1964			

ARTICLES AFFECTED FROM 1949 TO 1967

Elec. Code Art.	Effect	Vernon's Texas St.Supp.	Elec. Code Art.	Effect	Vernon's Texas St.Supp.
3.01	New	1952	5.05, subd. 2b	Added	1968
	Am.	1964	Subd. 3	Am.	1960
	Am.	1966		Am.	1964
	Am.	1968		Am.	1968
3.02	Am.	1968	Subd. 3a	Am.	1960
	New	1952		Am.	1964
	Am.	1964	Subd. 3b	Am.	1960
3.03	New	1952		Am.	1964
	Am.	1964	Subd. 3c	Added	1966
	Am.	1968	Subd. 4	Am.	1964
3.04	New	1952	Subd. 4a	Added	1966
	Am.	1964	Subd. 4b	Renumbered and	
3.05	New	1952	Am. from Subd. 16		1966
	Am.	1964	Subd. 4c	Added	1968
3.06	New	1952	Subd. 5	Am.	1964
	Am.	1964	Subd. 6	Am.	1958
3.07	New	1952		Am.	1960
	Am.	1964		Am.	1964
	Am.	1968		Am.	1968
3.08	New	1952	Subd. 7	Am.	1960
	Am.	1964		Am.	1964
	Am.	1966	Subd. 8	Am.	1960
	Am.	1968		Am.	1964
3.09	New	1952	Subd. 11	Am.	1968
3.09a	Added	1968	Subd. 14	Am.	1964
4.01				Am.	1968
to			Subd. 15	Added	1960
4.06	New	1952		Am.	1964
4.07	New	1952	Subd. 16	Added	1960
	Rep.	1964		Am.	1964
4.08	New	1952		Renumbered	
	Am.	1968	Subd. 4b		1966
4.09	New	1952	Subd. 17	Added	1960
4.10	New	1952		Am.	1968
	Am.	1961	Subd. 18	New	1964
4.11	New	1961			
	Am.	1968	5.05a		
4.12	Added	1966	to		
	Am.	1969	5.05d	Added	1968
5.01	New	1952	5.06	New	1952
	Am.	1964		Am.	1960
5.02	New	1952	5.07	New	1952
	Am.	1964	5.08	New	1952
	Am.	1966		Am.	1964
	Am.	1968		Am.	1968
5.02a	Added	1964	5.09	New	1952
	Am.	1966		Am.	1960
5.03	New	1952		Am.	1964
	Am.	1957	5.10	New	1952
5.04	New	1952		Am.	1964
	Am.	1968	5.11	New	1952
5.05	New	1952		Am.	1958
	Am.	1960		Am.	1964
Subd. 1	Am.	1964	5.11a-1	Added	1968
	Am.	1964	5.11b-1	Added	1968
Subd. 1a	Am.	1960	5.12	New	1952
	Am.	1964		Am.	1964
	Am.	1966	5.12a	Am.	1968
Subd. 2	Am.	1960	5.13	New	1952
	Am.	1964	5.13b	Added	1968
Subd. 2a	Am.	1960	5.14	New	1952
	Am.	1964		Am.	1960
	Am.	1966		Am.	1964
	Am.	1968	5.14a	Added	1966

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Elec. Code Art.	Effect	Vernon's Texas St.Supp.	Elec. Code Art.	Effect	Vernon's Texas St.Supp.
5.15	New	1052	7.14	New	1952
	Am.	1004	§§ 2, 3	Am.	1004
5.10	New	1052	§ 5	Am.	1004
	Am.	1004	§ 7	Am.	1004
5.10a	Added	1000	§ 7a	New	1058
5.17	New	1052		Am.	1004
	Am.	1001	§ 7b	New	1000
5.18	New	1052	§ 8	Am.	1004
5.18a	New	1052	§ 8a	New	1004
5.18b	Added	1008	§ 10	Am.	1004
5.19			§ 10a	Added	1050
to			§§ 12, 13	Am.	1004
5.21	New	1052	§ 14	Am.	1008
5.22	New	1052	§ 15	Am.	1058
	Am.	1004	§ 16a	New	1000
5.22b	Added	1008	§ 17	Am.	1004
5.23	New	1052	§ 18	Am.	1004
5.23a	Am.	1008		Am.	1008
5.24	New	1052	§ 19	Am.	1004
6.01	New	1052	§ 20	Am.	1001
	Am.	1050		Am.	1004
	Am.	1000	§ 22	Rep.	1004
6.01a	Added	1004	§§ 24, 25	Am.	1004
6.02	New	1052	7.15	New	1952
	Am.	1004		Rep.	1004
(f)	Am.	1008		Added	1008
6.03	New	1052	7.16	New	1052
6.04	New	1052	§ 3	Added	1001
	Am.	1004	7.17	New	1052
6.05	New	1052		Am.	1001
	Am.	1058	8.01	New	1052
	Am.	1000		Am.	1004
	Am.	1008	8.02	New	1052
6.05a	New	1004		Am.	1004
6.05b	New	1004		Am.	1008
6.05c	New	1004	8.08		
	Am.	1008	to		
6.05d	New	1004	8.08	New	1052
6.05e	New	1004	8.09	New	1052
6.06	New	1052		Am.	1004
	Am.	1058	8.10	New	1052
	Am.	1004		Rep.	1004
	Am.	1008	8.11	New	1052
6.06a	Added	1008	8.12	New	1052
6.07	New	1052	8.13	New	1952
	Am.	1050		Am.	1004
	Am.	1008		Am.	1058
6.08	New	1052		Am.	1004
	Rep.	1008	8.13a	New	1004
6.00	New	1052	8.14	New	1052
6.10	New	1052	8.15	New	1952
7.01				Am.	1004
to			8.16	New	1952
7.05	New	1052	8.17	New	1052
7.06	New	1052	8.18	New	1052
	Am.	1004		Am.	1004
7.07	New	1052	8.10	New	1052
	Am.	1008		Am.	1004
7.08	New	1052		Am.	1008
7.09	New	1052	8.20	New	1052
7.10	New	1052	8.21	New	1052
	Am.	1004			

ARTICLES AFFECTED FROM 1949 TO 1967

Elec. Code Art.	Effect	Vernon's Texas St.Supp.	Elec. Code Art.	Effect	Vernon's Texas St.Supp.
8.22	New	1952	10.01		
	Am.	1904	to		
	Am.	1908	10.03	New	1952
8.23	New	1952	11.01	New	1952
	Am.	1904	11.01a	New	1904
	Am.	1908		Am.	1908
8.24	New	1952	11.02	New	1952
8.25	New	1952		Am.	1904
§ 5	Rep.	1904	11.03	New	1952
8.26	New	1952	11.04	New	1952
8.27	New	1952		Am.	1904
	Am.	1908	11.05	New	1952
8.28	New	1952	11.06	New	1952
8.29	New	1952	12.01	New	1952
	Am.	1904	12.02	New	1952
8.20a	New	1904		Am.	1908
8.20b	New	1904	Pars. 3, 4	Am.	1904
8.30	New	1952	12.03	New	1952
	Am.	1904	13.01	New	1952
8.31	New	1952	13.01a	New	1900
	Am.	1904		Am.	1908
8.32	New	1952	Par. (2)	Am.	1904
	Rep.	1904	13.02	New	1952
	Am.	1908	13.03	New	1952
8.33	New	1952		Am.	1900
	Am.	1904	13.04	New	1952
8.34	New	1952		Am.	1908
8.35	New	1952	13.04A	New	1950
8.36	New	1952		Am.	1900
	Am.	1904		Rep.	1908
8.37	New	1952	13.04b	Added	1900
	Am.	1908		Rep.	1908
8.38	New	1952	13.05	New	1952
	Am.	1904		Rep.	1904
8.39	New	1952	13.06	New	1952
8.40	New	1952		Am.	1908
8.41	New	1952	13.07	New	1952
	Am.	1904	13.07a	New	1904
	Am.	1908		Am.	1908
	Rep.	1908	13.08	New	1952
8.42	New	1952		Am.	1950
	Am.	1904		Am.	1900
8.43	New	1952		Am.	1904
	Am.	1908		Am.	1908
8.44	New	1952	18.08a	New	1958
	Rep.	1904		Am.	1904
8.45	New	1952	18.08a-1	Added	1900
8.46	New	1952	18.08b	New	1904
0.01				Am.	1908
to			18.08c	New	1904
0.19	New	1952		Rep.	1908
0.20	New	1952	18.09	New	1952
	Am.	1904		Am.	1958
	Am.	1908		Am.	1904
0.21				Am.	1908
to			18.10	New	1952
0.28	New	1952		Rep.	1904
0.29	New	1952	18.11	New	1952
0.80			18.11a	New	1904
to			18.12	New	1952
0.88	New	1952		Am.	1900
0.88a	Added	1908		Am.	1904

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Elec. Code Art.	Effect	Vernon's Texas St.Supp.	Elec. Code Art.	Effect	Vernon's Texas St.Supp.
18.12			18.30	New	1952
(2)	Am.	1968		Am.	1960
(2a)	Added	1968		Rep.	1961
(3)	Am.	1968	13.37	New	1952
13.12a	New	1964	13.38	New	1952
(1)	Am.	1968		Am.	1964
(2) (III)	Am.	1968	13.30	New	1952
(8)	Added	1968		Am.	1968
18.13	New	1952	13.40	New	1952
	Am.	1964		Rep.	1968
18.14	New	1952	13.41	New	1952
	Am.	1960		Am.	1968
18.15	New	1952	13.42	New	1952
	Am.	1950	13.43	New	1952
	Am.	1964	13.43a	New	1958
(b)	Am.	1961		Am.	1964
13.16	New	1952	13.44	New	1952
13.17	New	1952	13.45	New	1952
	Am.	1960		Am.	1960
	Am.	1968		Am.	1964
13.18	New	1952		Am.	1968
	Am.	1964	13.45a	Added	1968
13.18a	New	1964	13.46	New	1952
	Am.	1968		Am.	1960
13.18b	Added	1966		Am.	1964
	Am.	1968	13.47	New	1952
13.19	New	1952		Am.	1960
13.20	New	1952		Am.	1964
13.21	New	1952		Am.	1968
	Am.	1964	13.47a	New	1961
13.22	New	1952	§ 4	Am.	1968
13.23	New	1952	13.48	New	1952
	Am.	1964		Am.	1964
	Am.	1968	13.49	New	1952
13.24	New	1952	13.50	New	1952
	Am.	1960		Am.	1964
	Am.	1964	13.51	New	1952
	Am.	1968		Am.	1964
13.25	New	1952	13.52	New	1952
	Am.	1964		Am.	1964
13.26	New	1952	13.53	New	1952
13.26a	Added	1964		Am.	1964
	Am.	1968	13.54	New	1952
13.27	New	1952	13.55	New	1952
	Am.	1960	13.56	New	1952
	Am.	1964		Am.	1964
	Am.	1968	(b)	Am.	1968
13.28	New	1952	(c)	Am.	1968
	Rep.	1964	(e)	Am.	1968
13.29	New	1952	13.57	New	1952
13.30	New	1952	13.58	New	1952
(8)	Am.	1968		Am.	1960
13.81	New	1952		Am.	1968
13.82	New	1952	13.59	New	1952
13.83	New	1952	14.01	New	1952
	Am.	1964		Am.	1964
13.84	New	1952	14.02		
	Am.	1958	to		
	Am.	1960	14.06	New	1952
	Am.	1964		Reenacted	1968
	Am.	1968	14.07	New	1952
13.84a	Added	1964		Am.	1964
13.85	New	1952			
	Am.	1960			

ARTICLES AFFECTED FROM 1949 TO 1967

Elec. Code	Effect	Vernon's Texas St.Supp.	Elec. Code	Effect	Vernon's Texas St.Supp.
14.08	New	1952	14.09	New	1952
	Am.	1956	14.10	New	1952
(b)	Am.	1968		Am.	1964
Par. (f)	Am.	1964	(b)	Am.	1968
(g)	Reenacted	1968	14.11	New	1952
(h)	Am.	1968	14.12	New	1952
(k)	Added	1968			

Insurance Code
(Pages 516 to 590)

Ins. Code	Effect	Vernon's Texas St.Supp.	Ins. Code	Effect	Vernon's Texas St.Supp.
1.01	New	1952	1.17	New	1952
1.02	New	1952		Am.	1956
	Am.	1956	1.18	New	1952
	Am.	1958		Am.	1956
1.03	New	1952	1.19	New	1952
	Am.	1956		Am.	1956
	Am.	1958	1.20		
1.04	New	1952	to		
	Am.	1956	1.25	New	1952
	Am.	1958	1.26	New	1964
(e)	Rep.	1961		Am.	1968
1.04 note	Am.	1961	2.01	New	1952
1.05	New	1952		Am.	1956
	Am.	1958	2.02	New	1952
(b)	Am.	1961		Am.	1956
1.06	New	1952	2.03	New	1952
	Am.	1958		Am.	1956
1.07	New	1952	2.03-1	New	1956
	Am.	1958	2.04	New	1952
1.08	New	1952		Am.	1956
	Am.	1956	2.05	New	1952
	Am.	1958		Am.	1956
1.09	New	1952	2.06	New	1952
	Am.	1958	2.07	New	1952
1.09-1	New	1958	§ 1	Am.	1958
1.09-2	New	1958		Am.	1961
1.09-3	New	1958	§ 5	Am.	1961
	Am.	1961	§ 6	Am.	1956
1.10	New	1952	§ 7	Added	1968
(4)	Am.	1960	2.08	New	1952
(5)	Am.	1956		Am.	1956
(17)	New	1960		Am.	1960
§ 17(c), (d), (e)	Added	1968		Am.	1961
1.11			2.09	New	1952
to			2.10	New	1952
1.13	New	1952		Am.	1956
1.14	New	1952		Am.	1961
	Am.	1956	(3)	Am.	1960
§ 1	Am.	1960	2.11	New	1952
1.14-1	Added	1968		Am.	1961
1.14-2	Added	1968		Am.	1966
1.15	New	1952	2.12	New	1952
	Am.	1956	2.13	New	1952
	Am.	1966	2.14	New	1952
1.16	New	1962		Am.	1960
	Am.	1956			

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Ins. Code Art.	Effect	Vernon's Texas St.Supp.
2.15		
to		
2.17	New	1952
2.18	New	1952
	Am.	1956
2.19	New	1952
2.20	New	1952
	New	1956
2.21	New	1952
	New	1956
3.01	New	1952
	Am.	1961
§ 10	Am.	1964
3.02	New	1952
	Am.	1956
3.02a	New	1956
	Am.	1961
3.03	New	1952
	Rep.	1956
3.04	New	1952
	Am.	1956
	Am.	1958
	Am.	1960
§ 1(3)	Am.	1960
3.05	New	1952
	Am.	1968
3.06	New	1952
	Am.	1956
3.07		
to		
3.09	New	1952
3.10	New	1952
	Am.	1961
3.11	New	1952
	Am.	1956
	Am.	1964
3.12	New	1952
	Am.	1958
3.13	New	1952
3.14	New	1952
3.15	New	1952
	Am.	1958
	Am.	1968
3.16	New	1952
	Am.	1958
	Am.	1961
3.17	New	1952
	Am.	1961
3.18	New	1952
	Am.	1961
3.19	New	1952
	Rep.	1961
3.20	New	1952
3.21	New	1952
3.22	New	1952
	Am.	1956
3.23		
to		
3.27	New	1952
3.28	New	1952
	Am.	1960
	Am.	1964
3.29	New	1952

Ins. Code Art.	Effect	Vernon's Texas St.Supp.
3.30	New	1952
	Am.	1956
	Rep.	1964
3.31	New	1952
3.32	New	1952
	Am.	1956
3.33	New	1952
	Rep.	1964
3.34	New	1952
	Am.	1954
	Am.	1960
	Am.	1961
(as amended by		
ch. 168, § 1)	Rep.	1961
3.35	New	1952
	Rep.	1964
3.36	New	1952
3.37	New	1952
	Rep.	1964
3.38	New	1952
3.39	New	1952
	Am.	1961
(1)	Am.	1960
(2)	Am.	1960
(6)	Am.	1960
(9)	Am.	1956
(10)	New	1960
Part I,		
Par. A.4	Am.	1966
Part I,		
Par. A.5	Am.	1966
Part I,		
Par. A.6	Am.	1966
Part I,		
Par. A.7	Am.	1966
Part I,		
Par. A.8	Am.	1966
Part I,		
Par. A.10	Am.	1966
Part I,		
Par. A.11	Am.	1966
Part I,		
Par. A.15	Am.	1966
Par. 15A	Am.	1968
Part I, Par. C. 8	Am.	1964
	Am.	1966
Part II, Par. A. 8	Am.	1964
Part II,		
Par. B.1	Am.	1966
Part III	Added	1966
3.39a	New	1961
3.40	New	1952
	Am.	1956
	Am.	1960
	Am.	1961
(5)	Am.	1961
3.40-1	New	1968
3.41	New	1952
3.42	New	1952
	Am.	1958
3.43	New	1956
	Rep.	1958

ARTICLES AFFECTED FROM 1949 TO 1967

Ins. Code Art.	Effect	Vernon's Texas St.Supp.	Ins. Code Art.	Effect	Vernon's Texas St.Supp.
3.44	New	1965	3.70-3		
§ 3	Am.	1964	to		
§ 7	Am.	1960	3.70-7	New	1956
	Am.	1964	3.70-8	New	1956
§ 8	Am.	1964		Am.	1968
§ 12	Am.	1964	3.70-9	New	1956
3.44a	New	1964	3.70-10	New	1956
3.45	New	1952	3.71	New	1964
3.46	New	1952	§ 1	Am.	1966
	Am.	1964	3.72	Added	1968
3.47			4.01	New	1952
to				Am.	1958
3.49	New	1952	4.02		
3.49-1	New	1954	to		
3.49-2	New	1960	4.06	New	1952
3.49-3	New	1968	4.07	New	1952
3.50	New	1952		Am.	1966
	Am.	1958	4.08	New	1964
§ 1	Am.	1966	4.09	Added	1966
§ 1(1) (d)	Am.	1956	5.01	New	1952
	Am.	1960		Am.	1954
	Am.	1968	5.02	New	1952
§ 1(3)	Am.	1954	5.03	New	1952
	Am.	1956	5.04	New	1952
	Am.	1961		Am.	1954
§ 1(3) (b)	Am.	1968	5.05	New	1952
§ 1(4)	Am.	1956		Am.	1954
	Am.	1960	5.06	New	1952
§ 1(5) (d)	Am.	1968	5.06-1	Added	1968
§ 1(5.6)	New	1961	5.07	New	1952
§ 1(6) (d)	Am.	1968	5.08	New	1952
§ 3	Am.	1964	5.09	New	1952
§§ 4, 5	Rep.	1964		Am.	1954
3.50-1	Added	1966	5.10	New	1952
3.51	New	1952	5.11	New	1952
§ 1	Am.	1961		Am.	1954
§ 1(a)	Am.	1968	5.12	New	1952
§ 1(b)	Am.	1968	5.13	New	1952
3.51-1	New	1964		Am.	1956
§ 2(c)	Am.	1964	5.14		
§ 2(c-g)	Am.	1964	to		
3.51-2	Added	1968	5.25	New	1952
3.51-3	New	1968	5.25-2	Added	1968
3.52	New	1952	5.26	New	1952
3.53	New	1952		Am.	1956
	Am.	1964	5.27		
3.54			to		
to			5.49	New	1952
3.59	New	1952	5.50	New	1952
3.60	New	1952		Am.	1956
	Am.	1956	5.51		
3.61	New	1952	to		
3.62	New	1952	5.53	New	1952
3.62-1	New	1958	5.54	New	1952
	Am.	1961		Am.	1956
3.63			5.55	New	1966
to				Am.	1954
3.68	New	1952	5.56	New	1952
3.69	New	1956	5.57	New	1952
3.70-1	New	1956	5.58	New	1952
3.70-2	New	1956		Am.	1954
(A)	Am.	1966	5.59	New	1952
(B)	Added	1968			

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5.00	New	1952	7.10	New	1952
	Am.	1954		Rep.	1958
5.01 to 5.04	New	1952	7.11	New	1952
5.05	New	1952		Rep.	1958
	Am.	1954	7.12	New	1952
5.06 to 5.75	New	1952		Rep.	1958
5.76	New	1954	7.13	New	1952
	New	1950		Rep.	1958
5.77 to 5.79	New	1954	7.14	New	1952
6.01	New	1952		Rep.	1958
	Am.	1960	7.15	New	1952
6.02	New	1952		Rep.	1958
	Am.	1960	7.16	New	1952
6.03	New	1952		Rep.	1958
6.04	New	1952	7.17	New	1952
	Am.	1950		Rep.	1958
6.05	New	1952	7.18	New	1952
	Am.	1950		Rep.	1958
6.06	New	1952	7.19-1	New	1960
	Am.	1950	8.01 to 8.04	New	1952
6.07	New	1952	8.05	New	1952
	Am.	1950		Am.	1960
6.08	New	1952	8.06	New	1952
	Am.	1950	8.07	New	1952
6.09	New	1952		Am.	1960
	Rep.	1964	8.08	New	1952
6.10	New	1952	8.09	New	1952
	Rep.	1964	8.10	New	1952
6.11	New	1952		Am.	1950
6.12	New	1952	8.11 to 8.13	New	1952
	Am.	1960	8.14	New	1952
§ 6	Am.	1960		Am.	1960
6.18 to 6.19	New	1952	8.15 to 8.17	New	1952
§ 8	Am.	1960	8.18	New	1952
7.01	New	1952		Am.	1950
	Rep.	1958	8.19	New	1952
	Added	1960		Am.	1961
7.02	New	1952	8.20 to 8.24	New	1952
	Rep.	1958	9.01 to 9.07	New	1968
7.03	New	1952	9.01	New	1952
	Rep.	1958		Am.	1950
7.04	New	1952	9.01a	New	1958
	Rep.	1958	9.01-1	New	1961
7.05	New	1952	9.02	New	1952
	Rep.	1958		Am.	1950
7.06	New	1952	9.03	New	1952
	Rep.	1958		Am.	1950
7.07	New	1952	9.04	New	1952
	Rep.	1958	9.05	New	1952
7.08	New	1952	9.06	New	1952
	Rep.	1958		Am.	1950

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Ins. Code Art.	Effect	Vernon's Texas St.Supp.	Ins. Code Art.	Effect	Vernon's Texas St.Supp.
9.07	New	1952	11.18		
	Am.	1956	to		
9.08	New	1952	11.16	New	1952
9.09	New	1952	11.17	New	1952
	Am.	1958		Am.	1954
9.10	New	1952		Am.	1956
9.11	New	1952	11.18	New	1952
	Am.	1956	11.19	New	1952
	Am.	1960		Am.	1956
9.12				Am.	1964
to				Am.	1968
9.24	New	1952	11.20	Added	1968
9.25	New	1952	11.21	Added	1968
	Am.	1956	12.01	New	1952
	Am.	1964	12.02	New	1952
9.26	New	1952	12.03	New	1952
9.27	New	1952		Am.	1968
10.01			12.04		
to			to		
10.04	New	1952	12.18	New	1952
10.05	New	1952	13.01		
	Am.	1960	to		
10.06	New	1952	13.09	New	1952
10.07	New	1952	14.01		
10.08	New	1952	to		
	Am.	1956	14.14	New	1952
10.09			14.14a	New	1964
to			14.15	New	1952
10.17	New	1952		Am.	1966
10.18	New	1952	14.16	New	1952
	Am.	1960	14.17	New	1952
10.19	New	1952		Am.	1960
	Am.	1960	14.18		
10.20			to		
to			14.22	New	1952
10.39	New	1952	14.23	New	1952
10.40	New	1952		Am.	1961
§ 8	Am.	1956		Am.	1966
11.01	New	1952	14.24	New	1952
	Am.	1956	14.25	New	1952
11.02	New	1952		Am.	1966
	Am.	1954	14.26		
	Am.	1956	to		
11.03	New	1952	14.32	New	1952
11.04	New	1952	14.33	New	1952
	Am.	1960		Am.	1966
11.05	New	1952	14.34		
11.06	New	1952	to		
11.07	New	1952	14.01	New	1952
11.08	New	1952	§ 1(c)	Am.	1956
11.09	New	1952	14.02	New	1952
	Am.	1960	14.03	New	1956
	Rep.	1964	15.01		
11.10	New	1952	to		
	Am.	1954	15.03	New	1952
	Am.	1956	15.04	New	1952
11.11	New	1952		Am.	1956
	Am.	1956	15.05	New	1952
11.12	New	1952	15.06	New	1952
	Am.	1954		Am.	1956
	Am.	1956	15.07	New	1952
			15.08	New	1952
				Am.	1956

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Ins. Code Art.	Effect	Vernon's Texas St.Supp.	Ins. Code Art.	Effect	Vernon's Texas St.Supp.
15.09	New	1952	17.25, § 5	Am.	1950
15.10	New	1952	§ 7	Am.	1954
15.11	New	1952		Rep.	1950
	Am.	1950	§ 9	Am.	1954
15.12				Am.	1950
to			§ 20	Am.	1950
15.20	New	1952	§ 22	New	1954
16.01	New	1952		Rep.	1950
§ 2	Am.	1950	18.01		
16.02			to		
to			18.03	New	1952
16.05	New	1952	18.04	New	1952
16.06	New	1952		Am.	1950
	Am.	1954	18.05	New	1952
	Am.	1950		Am.	1950
16.07	New	1952	18.06	New	1952
	Am.	1954	18.07	New	1952
16.08				Am.	1950
to			18.08	New	1952
16.10	New	1952	18.09	New	1952
16.11	New	1952		Am.	1950
	Am.	1954	18.10	New	1952
16.12			18.11	New	1952
to				Am.	1950
16.28	New	1952	18.12		
17.01	New	1952	to		
17.02	New	1952	18.22	New	1952
	Am.	1950	18.23	New	1952
17.03	New	1952		Am.	1950
	Am.	1950	18.24	New	1952
17.04	New	1952	19.01	New	1952
17.05	New	1952	19.02	New	1952
	Am.	1954		Am.	1900
17.06	New	1952	19.03	New	1952
	Am.	1954		Am.	1950
	Am.	1950	19.04	New	1952
17.07	New	1952	19.05	New	1952
17.08	New	1952	19.06	New	1952
17.09	New	1952		Am.	1950
	Am.	1950	19.07		
17.10	New	1952	to		
17.11	New	1952	19.09	New	1952
	Am.	1954	19.10	New	1952
	Am.	1950		Am.	1950
17.12				Am.	1900
to			19.11	New	1952
17.15	New	1952		Am.	1950
17.16	New	1952	19.12	New	1952
	Am.	1954		Am.	1950
	Am.	1950	20.01		
17.17	New	1952	to		
	Am.	1954	20.09	New	1952
17.18			20.10	New	1952
to				Am.	1900
17.21	New	1952	20.11	New	1952
17.22	New	1952	20.12	New	1952
	Am.	1950		Am.	1900
	Am.	1908	20.18		
17.23	New	1952	to		
17.24	New	1952	20.15	New	1952
17.25	New	1952	20.16	New	1952
§ 1	Am.	1950		Am.	1900
§ 4	Am.	1954	20.17	New	1952

ARTICLES AFFECTED FROM 1949 TO 1967

Ins. Code Art.	Effect	Vernon's Texas St.Supp.	Ins. Code Art.	Effect	Vernon's Texas St.Supp.
20.18	New	1952	21.28—A, §§ 1-12	Added	1968
20.19	New	1952	21.28B	Added	1968
	Am.	1960	21.29		
20.20	New	1952	to		
20.21	New	1952	21.31	New	1952
21.01			21.32	New	1952
to				Am.	1960
21.06	New	1952	21.33		
21.07	New	1952	to		
§ 2	Am.	1960	21.37	New	1952
§ 3	Am.	1960	21.38	New	1952
§ 6	Am.	1958		Rep.	1968
§ 7	Am.	1960	§ 2	Am.	1958
21.07—1	New	1952	§§ 5-7	Am.	1958
§ 8	Am.	1960	21.80	New	1952
§ 9	Am.	1960		Am.	1960
§ 9(e)	Am.	1968	21.40		
21.07—2	New	1950	to		
21.07—3, §§ 1-21	New	1968	21.42	New	1952
21.08	New	1952	21.43	New	1952
21.09	New	1952		Am.	1960
	Am.	1964		Am.	1964
21.10	New	1952	21.44	New	1956
21.11	New	1952	21.45	New	1956
	Am.	1958	21.46	New	1958
21.12	New	1952	21.47	New	1958
21.13	New	1952		Am.	1961
21.14	New	1952	21.48	New	1958
§ 3a	New	1964		Rep.	1961
§ 8	Am.	1960		Added	1966
§ 12	Am.	1960	21.48A	Added	1966
21.15			22.01		
to			to		
21.20	New	1952	22.05	New	1961
21.21	New	1952		Am.	1968
	Am.	1958	22.06		
21.21—1	New	1961	to		
21.22			22.14	New	1961
to			22.15	New	1961
21.24	New	1952	§ 9	Am.	1968
21.25	New	1952	22.16	New	1961
	Am.	1961	22.17	New	1961
21.26	New	1952	22.18	New	1961
	Am.	1960		Am.	1968
	Am.	1961	§ 1	Am.	1968
21.27	New	1952	22.10	New	1961
21.28	New	1952	22.20	New	1961
	Am.	1958	22.21	New	1961
§ 8A	New	1964	22.22	Added	1968
§§ 8(e)-8(h)	Am.	1961			
§ 12A	Added	1966			

Texas Non-Profit Corporation Act

Formerly §§ 1.01 to 11.01. Now Civil Statutes 1396—1.01 to 1396—1101.

Penal Code
(Pages 1311 to 1376)

P.C. Art.	Effect	Vernon's Texas St.Supp.	P.C. Art.	Effect	Vernon's Texas St.Supp.
30	Am.	1968	82	Rep.	1968
34	Am.	1969	101a	Rep.	1962

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P.C. Art.	Effect	Vernon's Texas St. Supp.	P.C. Art.	Effect	Vernon's Texas St. Supp.
105	Am.	1950	470	Am.	1960
107a, 107b	Rep.	1900	480	Am.	1952
181c-1,			480a	Am.	1960
§ 26a	New	1950	483	Am.	1952
140	Rep.	1900		Am.	1958
147b-1	New	1904	489	Am.	1901
147b-2	New	1904	489c	New	1950
150, 151	Rep.	1908	§ 1	Am.	1958
157a	New	1950	519	Am.	1960
	Rep.	1908	527	Am.	1950
158	Am.	1958		Am.	1958
159	Am.	1958		Am.	1901
160-a	New	1950	527a	Am.	1950
160-b	New	1950		Rep.	1908
170-183	Rep.	1958	527b	Am.	1950
183-1	New	1958	532, 533	Rep.	1900
183-2	New	1958	534	Am.	1950
200a	New	1904	534a	New	1950
200a-2	Rep.	1904		Am.	1954
211	Rep.	1904	535b	New	1950
212	Am.	1904	§ 2	Am.	1950
213			535c	New	1950
Par. (d)	Am.	1904	§ 2	Am.	1950
214	Rep.	1904	535d	New	1950
217	Am.	1904	§ 3	Am.	1950
224	Rep.	1904	507b	Am.	1952
225	Am.	1904		Am.	1904
240	Am.	1904	§ 1a	New	1958
	Am.	1908	§ 2	Am.	1900
244	Am.	1904	§ 4(a)	Am.	1900
250	Am.	1904	500a	Rep.	1952
251	Rep.	1904	509	Rep.	1904
252	Rep.	1900	600	Rep.	1904
259	Am.	1904	602	Am.	1900
	Am.	1908	602-A	New	1900
262-269	Rep.	1900	614	Am.	1900
270				Am.	1900
to			614-2	Am.	1901
280	Rep.	1908	630	Am.	1900
285	Am.	1904	642a	New	1952
288a	New	1901	642b	New	1952
	Am.	1904	642c	New	1952
§ 4a	Rep.	1908	653	Rep.	1904
290	Am.	1954	660-3a	Am.	1950
297	Am.	1904	(7)	Am.	1900
	Am.	1900	660-8	Am.	1958
301d	Am.	1950	660-11	Am.	1950
302	Am.	1901	660-12	Am.	1950
306	Am.	1901		Am.	1908
353b	New	1950	660-13	Am.	1950
	Am.	1900	660-15	Am.	1950
353c	New	1958		Am.	1952
353d	New	1908	(1)	Am.	1908
405	Added	1900	(1a)	Am.	1901
	Rep.	1908	(7)	Am.	1901
427a	Rep.	1958	(7a)	New	1901
430a	Rep.	1950	(7b)	New	1904
432	Am.	1950	(13)	Am.	1958
	Am.	1952	(17)	Am.	1950
438c	Am.	1952	660-15a1	Am.	1950
438d	New	1952	660-15(e)	New	1901
460a, §§ 1, 2	New	1908			
474	Am.	1950			

ARTICLES AFFECTED FROM 1949 TO 1967

P.C. Art.	Effect	Vernon's Texas St.Supp.	P.C. Art.	Effect	Vernon's Texas St.Supp.
000-17	Am.	1950	007-5	Am.	1950
(1)	Am.	1952		Am.	1954
	Am.	1954	(1)	Am.	1901
(2)	Am.	1952	007-5A	Rep.	1950
(3) (g)	New	1950		New	1901
(14) (a)	Am.	1950	007-5B	New	1901
(14) (b)	Added	1900	007-0	Am.	1958
(14) (c)	Added	1900	007-7	Am.	1954
(15)	Am.	1952	007-9	Am.	1954
(22)	Am.	1954	007-10, (b)	Rep.	1900
000-18	Am.	1908	007-10½	Am.	1958
000-21	Am.	1952	007-17	Am.	1950
	Am.	1960	007-19	Am.	1950
000-21a	Am.	1950		Am.	1954
	Am.	1952	(23)	Rep.	1900
000-21½	New	1950	007-19B	Am.	1950
000-21½	New	1952		Am.	1954
000-21½	New	1950	007-19C	New	1952
000-23a			007-19D	New	1954
(4)	Am.	1958	007-20	Am.	1950
000-25	Am.	1908	007-23	Am.	1950
000-25b	New	1950		Am.	1952
000-27½	New	1952		Am.	1950
000-30	Am.	1950	007-23½	New	1900
000-32	Am.	1954	007-23¾	New	1950
	Am.	1950		Am.	1954
	Am.	1904	007-23½	Am.	1954
	Am.	1908	007-23a	New	1950
000-32½	Added	1908	007-24a	Am.	1950
000-33	Am.	1954	007-24½	New	1952
	Am.	1908	007-25	Am.	1954
000-35	Am.	1908	007-28	New	1950
000-30	Am.	1954		Am.	1901
000-30½	New	1950	007-20		
	Rep.	1908	to		
000-37	Am.	1954	007-31	New	1950
	Am.	1904	007-32	New	1954
	Am.	1908	007-38	Added	1900
000-39	Am.	1954	000a		
000-40	Am.	1954	§ 1(a, b)	Am.	1958
000-41a	Am.	1950	§ 2	Am.	1904
000-42	Am.	1950	000b	Rep.	1901
000-44	Rep.	1950	700b		
000-45			§ 2	Am.	1952
(d)	Am.	1900	701b	Rep.	1954
000-49a	New	1950	705b-1	Am.	1952
000-50	New	1950	705c	Rep.	1950
000-51a	New	1950	§ 8a	Added	1952
000-52	New	1950	705d	New	1950
	Am.	1954	700-708	Rep.	1901
000-53			709	Am.	1952
to				Rep.	1901
000-50	New	1950	712	Am.	1950
000-57	New	1901	717	Rep.	1901
	Am.	1908	719a, § 4(b)	Am.	1909
007-2a	New	1958	719a	New	1950
007-3	Am.	1950	725b	Am.	1950
(a)	Am.	1900		Am.	1904
(a-1)	Am.	1901	§ 1	Am.	1954
(b)	Am.	1900	§ 4	Rep.	1954
(c)	Am.	1900	§ 5	Am.	1954
(k)	New	1901	§ 9	Am.	1954
			§ 18a	New	1954

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P.C. Art.	Effect	Vernon's Texas St.Supp.	P.C. Art.	Effect	Vernon's Texas St.Supp.
725b, § 23	Am.	1954	754	Am.	1954
§ 23(1)	Am.	1961	754a	Am.	1952
§ 23(2)	Am.	1958	(2)	Am.	1954
§ 24a	Rep.	1954	(5)	New	1958
725c	New	1954	(6)	New	1960
§ 1	Am.	1961	(7)	New	1960
§§ 3, 4	Am.	1950	754b	New	1950
725d	New	1950		Am.	1952
726	Rep.	1958	754c	New	1960
726-1	New	1958	759-762a	Rep.	1954
726-2	New	1958	776	Rep.	1968
726b	New	1950	777	Rep.	1968
	Rep.	1960	778	Am.	1952
§ 2	Am.	1950	778a	Am.	1952
726c	New	1952	779	Am.	1952
	Rep.	1960	782b	New	1960
§ 2(g)	Am.	1950	782c	New	1964
§ 3(2) (b)	Am.	1950	782d	New	1964
§ 3(2) (d)	Rep.	1950	799a	New	1960
§ 6	Am.	1950	802	Am.	1954
§ 13	Am.	1950	802a-1	New	1956
726d	New	1960	802b	Am.	1952
§ 2(a)	Am.	1966	802d	New	1952
	Am.	1968	802e	New	1958
§ 3(d)	Am.	1968	§ 1a	Added	1968
§ 15	Am.	1968	821a	New	1960
728	Am.	1968	827a,		
734a,			§ 2	Am.	1950
§§ 3-5	Am.	1968	§ 3(a)	Am.	1954
§ 9	Am.	1961		Am.	1950
§ 14	Am.	1968	§ 3(c)	Am.	1950
§ 20	Am.	1952		Am.	1954
	Am.	1961		Am.	1950
§ 20a	New	1952		Am.	1968
§ 21	Am.	1968	§ 5	Am.	1952
§ 22	Am.	1968		Am.	1960
§ 22-A	Am.	1958	§ 5c	New	1958
	Rep.	1968	§ 5½	New	1952
§ 24	Am.	1968		Am.	1960
§ 26	Am.	1952	§ 6	Am.	1952
§ 27	Am.	1961		Am.	1954
§ 27a	Added	1968	§ 7(a)	Rep.	1966
734b	Am.	1954	§ 8	Am.	1952
§ 4(a)	Am.	1966		Am.	1956
§ 13(f)	Added	1966		Am.	1961
§ 19	Am.	1964		Rep.	1964
735	Am.	1952	827a-1	New	1952
740	Am.	1950		Rep.	1960
741	Am.	1950	827a-2	New	1954
	Am.	1954		Am.	1950
742-a to 742-c	New	1950	827a-3	New	1956
743	Am.	1954		Am.	1960
744-a	New	1950	§ 1	Am.	1968
744-b	New	1950	§ 3	Added	1968
747	Am.	1954	827a-4	New	1960
751a	New	1961	827a-5	New	1964
752c,			827a-6		
§ 4	Am.	1950	§§ 1-7	New	1964
	Am.	1952	827b,		
753	Am.	1952	§ 2A	New	1950
	Am.	1954		Am.	1954
	Am.	1958		Am.	1958
(8)	New	1961	§ 3	Am.	1958

ARTICLES AFFECTED FROM 1949 TO 1967

P.C. Art.	Effect	Vernon's Texas St.Supp.	P.C. Art.	Effect	Vernon's Texas St.Supp.
827c-1	New	1964	024a	New	1956
827c-1	New	1958		Am.	1968
827g	New	1964	031a, §§ 1-3	New	1968
828			033a	Rep.	1964
to			034a,		
830	Rep.	1966	§ 3(1)	Am.	1964
834	Rep.	1960		Am.	1968
835, 835a	Rep.	1968	§ 3(2), (2a)	Am.	1968
861b	New	1958	§ 3, subs. 5		
872	Am.	1961	(a, b)	Rep.	1960
872f	New	1950	034b-1	Rep.	1950
875	Am.	1968	034b-2	New	1950
870f-6	New	1952	§ 2	Am.	1964
870g-2a	Am.	1950		Am.	1968
	Am.	1960	§ 3	Am.	1964
870g-4	New	1960	034b-3	New	1964
870h-1	New	1960	034b-4, §§ 1-3	New	1968
870h-1 note	Am.	1961	034b-5, §§ 1-3	New	1968
870h-2			034c	New	1952
to			§ 5	Am.	1960
870h-5	New	1960	037b	New	1960
870h-6	New	1960	041b	New	1950
880	Am.	1950		Am.	1961
	Am.	1954	041-2	New	1960
	Am.	1958	§ 1	Am.	1960
§ 1	Am.	1961	052aa-4	New	1960
880a	New	1958	§ 5	Rep.	1960
	Am.	1961	§ 8	Rep.	1960
880b	New	1958	052aa-5	New	1960
880c	New	1960	052aa-6	New	1960
881b,			052-7	Am.	1950
§ 1	Am.	1961	052-11,		
882a	New	1954	§ 1(3)	Rep.	1960
888	Am.	1958	§ 1(5)	Rep.	1960
	Am.	1968	§ 1c	New	1950
802	Am.	1964		Am.	1958
	Am.	1960	052-12	New	1964
	Am.	1968	§§ 1, 2	Am.	1968
803	Am.	1954	054	Am.	1961
	Rep.	1968	055a-2, §§ 1, 2	New	1968
805a	New	1950	055a-3, §§ 1, 2	New	1968
805b	New	1952	065	Rep.	1960
§ 2	Am.	1954	072	Rep.	1960
805c	New	1958	078d-1	New	1964
§ 6	Am.	1961	078e-1	New	1964
§ 8	Am.	1960	078f-3	New	1952
805d	New	1968	078f-3a	New	1964
806	Am.	1964	078f-3b	New	1964
901	Am.	1961	078f-3c	New	1968
008	Am.	1954	078f-3d, §§ 1-4	New	1968
	Am.	1956	078f-4	New	1954
	Am.	1960	078f-5	New	1956
(g)	Am.	1964	078f-5a	New	1968
012	Am.	1952	078f-6	New	1960
023b	Rep.	1958	078f-7	New	1960
023f-1	New	1961	078f-8, §§ 1, 2	New	1968
023-1	Am.	1950	078h, § 2	Am.	1956
023m	Am.	1958	078i	Rep.	1968
§ 1	Am.	1964	078j-1, §§ 1-18	New	1968
§ 4	Am.	1960	078k		
	Am.	1960	§ 9	Am.	1964
023x	New	1961	§ 11a	New	1958
			078k-1	New	1958

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P.C. Art.	Effect	Vernon's Texas St.Supp.	P.C. Art.	Effect	Vernon's Texas St.Supp.
0781-2,			1111m	New	1950
§ 4	Am.	1964	1112a	Rep.	1954
	Am.	1968	1113		
	Rep.	1968	to		
§ 6	Rep.	1968	1115	Rep.	1968
§ 0	Rep.	1968	1120	Rep.	1968
§ 11	Rep.	1968	1120a	Rep.	1964
§§ 16, 17	Rep.	1960	1130	Rep.	1968
	Rep.	1968	1134-1136	Rep.	1964
§ 19	Am.	1960	1136a-1 to		
	Rep.	1968	1136a-0	Rep.	1964
0781-2			1137b-1	New	1964
to			1137c-1	New	1961
0781-4	Rep.	1968	1137l		
0781-5	New	1950	to		
§ 4	Am.	1952	1137l-0	Rep.	1968
0781-6	New	1950	1137l-10, §§ 1-6	New	1968
0781-7	New	1961	1137m	New	1950
	Rep.	1968		Rep.	1960
0781-8	New	1964	1137n	New	1960
§ 1	Am.	1968	1137o	New	1964
0781-1	New	1950	1137p	New	1968
§ 1	Am.	1960		Rep.	1968
	Am.	1961	1137q, §§ 1-5	New	1968
	Rep.	1968	1145	Am.	1968
§ 7	Am.	1960	1146a	New	1950
	Rep.	1968	1147	Am.	1950
§ 15	Am.	1968		Am.	1950
0781-1	Rep.	1968	1148	Am.	1950
0780	New	1954	1160,		
1018			§ 1	Am.	1961
to			1167a	New	1960
1025	Rep.	1968	1176a	New	1968
1034	Am.	1968	1200a	New	1950
1037, § E	Am.	1968	1318	Am.	1964
1037, § J	Added	1968	1321a	New	1952
1037, § K	Added	1968	1321b	New	1952
1042b				Am.	1968
§ 3	Am.	1954	1325	Am.	1960
§ 4	Am.	1968	1333A	New	1950
1054	Am.	1964	1334	Am.	1961
1057b	Am.	1968	1334a	New	1961
1058	Am.	1964	1341	Am.	1960
1058			1344-1346	Rep.	1952
to			1350	Am.	1952
1060	Rep.	1968	subd. 1	Am.	1958
1063			1350a	New	1968
to			1351n,		
1065	Rep.	1968	§ 1-b	New	1964
1066a	Rep.	1968	1370	Am.	1950
1083a	Am.	1952	1370a	Am.	1960
	Rep.*	1950	1377	Am.	1950
1106				Rep.	1960
(b)	Am.	1958	1377b	New	1960
(c)	New	1952	§ 4	Am.	1964
1106a	Am.	1961	1378a,		
1111a	Rep.	1960	§§ 11-13	Am.	1952
1111d	Rep.	1960	1379	Am.	1954
§ 2	Am.	1952		Am.	1961
§ 4	Am.	1952	1380	Am.	1968
§ 5	Am.	1952	1388	Am.	1952
§ 5½	New	1950	1402a	New	1958
§ 7a	New	1954	1402b	New	1964

* Art. 1083a was transferred to Civil Statutes art. 600, § 30, in 1954.

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P.C. Art.	Effect	Vernon's Texas St.Supp.	P.C. Art.	Effect	Vernon's Texas St.Supp.
1404b	New	1952	1525c, § 21	Am.	1968
	Am.	1958	1525g	New	1961
1407a, §§ 1-3	New	1968	§ 4	Am.	1968
1420	Am.	1964	1526-1532	Rep.	1954
1435a	New	1958	1538	Am.	1960
1436-1,			1545	Am.	1960
§ 1	Am.	1960	1540a		
§ 2b	New	1960	§ 2	Added	1966
§ 2c	New	1960	1550	Am.	1966
§§ 7-9	Am.	1952	1551	Am.	1964
§ 24	Am.	1960		Am.	1966
§ 30(a)	New	1956	1553a	Added	1968
§ 30	Am.	1968	1554	Rep.	1969
§ 35	Am.	1966	1554a	New	1960
§ 40(e)	Am.	1960		Rep.	1968
§ 52	Rep.	1968	1555b	New	1960
§ 57	Am.	1952	§§ 1-4	Am.	1964
	Am.	1956	§ 5	New	1964
§ 57a	New	1956	1557	Rep.	1968
1436-2	New	1961	1558	Rep.	1968
1436b			1577	Am.	1964
§ 3	Am.	1964	1578a	Am.	1964
	Am.	1968	1578b	New	1964
§ 3(a)	Am.	1964	1588	Rep.	1960
	Am.	1968	(0)	Rep.	1950
§ 3(b)	Am.	1964	1588-1,		
1436c	New	1952	§ 3a	New	1952
1436d	New	1954	§ 6	Am.	1956
1436e	New	1960		Am.	1960
	Am.	1966	§ 6A	New	1960
1436f	New	1961	§ 6B	New	1960
1436g, §§ 1-4	New	1968	§ 7	Am.	1952
1442c	New	1961	1588-2	Am.	1950
1450a	New	1956	§ 1	Am.	1952
§ 1	Am.	1961		Am.	1954
§ [5]	New	1961	§ 1-a	Rep.	1952
1477	Am.	1952	1593a	Rep.	1950
1480	Am.	1954	1621b,		
1492	Am.	1954	§ 1	Am.	1968
1493	Am.	1954	§ 2	Am.	1968
1505a	New	1960	1682		
1505b	New	1964	to		
1514	Rep.	1968	1644	Rep.	1969
1522	Am.	1964	1648a	New	1958
1525a,			§ 1	Am.	1961
§ 22	Am.	1968	§§ 3, 4	Am.	1961
§ 23	Am.	1968	§§ 5, 6	Am.	1961
1525b,			§ 8	Am.	1961
§ 1(a)	New	1964	1660	Rep.	1968
§ 9	Am.	1961	1660	Rep.	1968
§ 10	Am.	1961	1661.1	Rep.	1968
§ 11	Am.	1961	1674		
§ 13	Am.	1961	to		
§ 22	Am.	1960	1683	Rep.	1968
§ 22a	New	1954	1690b,		
	Am.	1960	(d)	Am.	1956
	Am.	1966	(j)	Am.	1956
§ 22b	New	1954	(k)	Am.	1956
§ 28A	New	1960	1690e	New	1961
1525b-1	New	1960	1690f	New	1968
1525b-2	New	1960	1698	Am.	1954
1525b-3	New	1961	1700	New	1954
			1700a-3	Am.	1964

VERNON'S TEXAS STATUTES

P.C. Art.	Effect	Vernon's Texas St.Supp.	P.C. Art.	Effect	Vernon's Texas St.Supp.
1709			1722	New	1052
to			1722a	New	1060
1711	Rep.	1061		Am.	1068
1712	Am.	1050	§§ 1-3	Am.	1060
	Rep.	1061	§ 4(f)	Am.	1064
1713			§ 15	Am.	1061
to			§ 15(a)	Am.	1068
1715	Rep.	1061	§ 28	Am.	1052
1716	Rep.	1061	1723	New	1064
(1)	Am.	1052	1723a	New	1058
1717			1724	New	1068
to				Am.	1058
1720	Rep.	1961	1725	New	1064
1721	New	1050	§ 5, par. D	Am.	1064
1721A	New	1056			

Probate Code

(Pages 810 to 812)

Prob. Code Sec.	Effect	Vernon's Texas St.Supp.	Prob. Code Sec.	Effect	Vernon's Texas St.Supp.
1	New	1056	70		
2	New	1056	to		
3	New	1056	88	New	1050
(d)	Am.	1061	89	New	1056
(na)	Am.	1058		Am.	1061
4			90		
to			to		
32	New	1056	105	New	1056
33	New	1056	105a	Added	1061
	Am.	1058	106		
34			to		
to			108	New	1056
45	New	1950	109	New	1956
46	New	1056	(a)	Am.	1060
	Am.	1061	110		
47	New	1056	to		
(b)	Am.	1066	123	New	1056
(e)	Am.	1068	124	New	1056
48				Am.	1058
to			125		
56	New	1056	to		
57	New	1056	136	New	1056
	Am.	1068	137	New	1956
58	New	1956	(d)	Am.	1058
58a	New	1061	138		
59	New	1056	to		
	Am.	1061	143	New	1056
60			144	New	1056
to			(d)	Added	1058
71	New	1056	145	New	1056
72	New	1056		Am.	1058
	Am.	1060	146	New	1056
73				Am.	1058
to			147		
77	New	1056	to		
78	New	1056	156	New	1056
(c)	Am.	1058	157	New	1056
				Am.	1058

ARTICLES AFFECTED FROM 1949 TO 1967

Prob. Code Sec.	Effect	Vernon's Texas St.Supp.	Prob. Code Sec.	Effect	Vernon's Texas St.Supp.
158			255	New	1956
to			256	New	1956
164	New	1956		Am.	1968
165	New	1956	257		
	Am.	1968	to		
166			320	New	1956
to			320A	Added	1968
181	New	1956	321		
	Am.	1968	to		
182			347	New	1956
to			348	New	1956
192	New	1956	(a)	Am.	1960
193	New	1956	349		
	Am.	1958	to		
194	New	1956	366	New	1956
	Am.	1958	367	New	1956
195			(c) 7	Am.	1958
to				Am.	1961
200	New	1956	(c) (7a)	New	1961
201	New	1956	(c) (8)	New	1961
	Am.	1958	368	New	1956
202	New	1956	(b)	Am.	1958
	Am.	1958	369	New	1956
203			(a) (2)	Am.	1961
to			370	New	1956
218	New	1956		Am.	1958
219	New	1956	371		
	Rep.	1958	to		
220			388	New	1956
to			389	New	1956
227	New	1956	(g)	Added	1961
228	New	1956	390	New	1956
	Am.	1958		Am.	1960
229			(b)	Am.	1966
to			(c)	Am.	1966
285	New	1956	391		
286	New	1956	to		
	Am.	1964	398	New	1956
287			399	New	1956
to				Am.	1958
240	New	1956	400	New	1956
241	New	1956		Am.	1958
	Am.	1958	401	New	1956
242				Am.	1958
to			402		
248	New	1956	to		
	Am.	1968	404	New	1956
249	New	1956	404A	New	1964
	Am.	1968	405	New	1956
250	New	1956	406	New	1956
	Am.	1968	407	New	1956
251	New	1956		Am.	1960
252	New	1956	408		
253	New	1956	to		
	Am.	1958	435	New	1956
254	New	1956			
	Rep.	1968			

VERNON'S TEXAS STATUTES

Taxation—General
(Pages 861 to 882)

Taxation— General Art.	Effect	Vernon's Texas St.Supp.	Taxation— General Art.	Effect	Vernon's Texas St.Supp.
1.01			6.01	New	1960
to				Am.	1964
1.03	New	1960	6.02	New	1960
1.031	Added	1968		Am.	1964
1.032	Added	1968	6.03	New	1960
1.04	New	1960		Am.	1964
(3)	Rep.	1968	6.04	New	1960
1.045	Added	1968		Am.	1964
1.05	New	1960	6.05	New	1960
1.06	New	1960		Am.	1964
1.07	New	1960	6.06	New	1960
	Am.	1961		Am.	1964
1.07A	New	1961	6.07	New	1960
1.07B	New	1961		Am.	1964
1.08			6.08	New	1960
to				Am.	1964
1.10	New	1960	6.09	New	1960
1.11	New	1960		Rep.	1964
	Am.	1968		Added	1968
1.11A	Added	1968	6.10	New	1960
1.12	New	1961		Rep.	1964
1.13	New	1961	6.11	New	1960
	Am.	1968		Rep.	1964
1.14	Added	1968	6.12	New	1960
2.01	New	1960		Rep.	1964
	Am.	1964	7.01	New	1960
3.01	New	1960	(18)	Am.	1968
3.02	New	1960	(15)	Am.	1968
3.03	New	1960	7.02	New	1960
(1)	Am.	1961	(3)	Added	1961
(8)	Am.	1961	7.03		
(4)	Am.	1961	to		
3.04			7.05	New	1960
to			7.06	New	1960
3.07	New	1960		Am.	1968
3.08	New	1960	7.07	New	1960
	Am.	1961	7.08	New	1968
3.09	New	1960	7.09	New	1960
3.10	New	1960		Am.	1968
3.11	New	1961	7.10	New	1960
4.01	New	1960	7.11	Am.	1968
	Am.	1964	to		
4.02	New	1960	7.14	New	1960
	Am.	1964	7.15	New	1960
4.03	New	1960		Am.	1961
(7)	Am.	1961	7.16		
(10)	Am.	1961	to		
4.04	New	1960	7.20	New	1960
4.05	New	1960	7.21	New	1960
4.06	New	1960		Am.	1968
	Am.	1961	7.22	New	1960
4.07			7.23	New	1960
to			(1)	Am.	1968
4.14	New	1960	(2)	Rep.	1968
5.01	New	1960	§ 1	Am.	1968
	Am.	1964	7.24		
5.02	New	1960	to		
5.03	New	1960	7.41	New	1960
	Am.	1961			

ARTICLES AFFECTED FROM 1949 TO 1967

Taxation— General			Vernon's Texas St.Supp.	Taxation— General			Vernon's Texas St.Supp.
Art.	Effect			Art.	Effect		
8.01	New	1960		10.07	New	1960	
(q)	Added	1968			Am.	1968	
8.02	New	1960		10.08	New	1960	
(c)	Am.	1968			Am.	1968	
8.03	New	1960		10.09	New	1960	
	Am.	1961			Am.	1968	
8.04				10.10	New	1960	
to				10.11	New	1960	
8.31	New	1960		(1)	Am.	1968	
9.01	New	1960		10.12	New	1960	
(1)	Am.	1968		(2)	Am.	1968	
(2)	Am.	1968		10.13	New	1960	
9.02	New	1960		(5a)	Added	1960	
(2)	Am.	1964		10.14	New	1960	
(6)	Added	1968		(1)	Am.	1968	
(7)	Added	1968		10.15	New	1960	
9.03	New	1960		10.16	New	1960	
(3)	Am.	1961		10.17	New	1960	
(4)	Am.	1968		10.18	New	1960	
(5)	Added	1961		(1)	Am.	1968	
(6)	Added	1968		10.19	New	1960	
9.04	New	1960		10.20	New	1960	
9.05	New	1960		10.21	New	1960	
9.06	New	1960			Am.	1968	
(3)	Added	1968		10.22			
(4)	Added	1968		to			
(5)	Added	1968		10.25	New	1960	
9.07				11.01			
to				to			
9.12	New	1960		11.10	New	1960	
9.18	New	1960		11.11	New	1960	
(5)	Am.	1961			Am.	1961	
(6)	Am.	1961		12.01	New	1960	
(6a)	Added	1961			Am.	1961	
	Am.	1968		(1)	Am.	1968	
(6A)	Added	1968		12.02	New	1960	
(8)	Am.	1968			Am.	1961	
(13)	Am.	1961		12.03	New	1960	
	Am.	1960			Am.	1961	
(14)	Am.	1961			Am.	1968	
	Am.	1960			Am.	1968	
9.14				12.04			
to				to			
9.23	New	1968		12.07	New	1960	
	Am.	1968		12.08	New	1960	
9.24	New	1960			Am.	1961	
9.25	New	1960		12.09	New	1960	
	Am.	1961			Am.	1961	
9.26	New	1960		12.10	New	1960	
9.27	New	1960			Am.	1961	
10.01	New	1960		12.11			
10.02	New	1960		to			
	Am.	1968		12.13	New	1960	
10.03	New	1960		12.14	New	1960	
(3)	Am.	1968			Am.	1961	
(6)	Am.	1968		12.15	New	1960	
	Am.	1968			Am.	1961	
10.04	New	1960		12.16	New	1960	
10.05	New	1960		12.17	New	1960	
(2)	Am.	1968			Am.	1968	
10.06	New	1960		12.18	New	1960	
	Am.	1968					

VERNON'S TEXAS STATUTES

Taxation— General Art.	Effect	Vernor's Texas St.Supp.	Taxation— General Art.	Effect	Vernor's Texas St.Supp.
12.19	New	1960	14.25	New	1960
(3)	Am.	1961			1966
12.20	New	1960	14.26	New	1960
12.21	New	1960		Rep.	1966
	Am.	1961	14.27	New	1960
	Am.	1964		Rep.	1966
12.22	New	1960	14.28	New	1964
13.01	New	1960		Rep.	1966
13.02	New	1960	15.01	New	1960
	Am.	1961		Rep.	1966
13.03	New	1960	15.02	New	1960
	Am.	1961		Rep.	1966
13.04			15.03	New	1960
to				Rep.	1966
13.07	New	1960	15.04	New	1960
13.08	New	1960		Rep.	1966
	Am.	1961	15.05	New	1960
14.00A	Added	1966		Rep.	1966
14.01	New	1960	15.06	New	1960
14.015	Added	1966		Rep.	1966
	Am.	1968	15.07	New	1960
14.02				Rep.	1966
to			15.08	New	1960
14.05	New	1960		Rep.	1966
14.06	New	1960	15.09	New	1960
	Am.	1964		Rep.	1966
	Am.	1966	15.10	New	1960
14.07	New	1960		Rep.	1966
	Am.	1966	15.11	New	1960
14.08				Rep.	1966
to			15.12	New	1960
14.10	New	1960		Rep.	1966
14.11	New	1960	15.13	New	1960
	Am.	1966		Rep.	1966
14.12	New	1960	15.14	New	1960
	Am.	1966		Rep.	1966
14.13	New	1960	15.15	New	1960
	Am.	1966		Rep.	1966
14.14	New	1960	15.16	New	1960
	Am.	1966		Rep.	1966
A	Am.	1968	16.01	New	1960
14.15	New	1960		Am.	1964
	Am.	1966	16.02		
14.16	New	1960	to		
	Am.	1966	16.09	New	1960
14.17	New	1960	16.10	Added	1966
	Am.	1966	16.01		
14.18	New	1960	to		
	Am.	1966	16.10	Rep.	1968
	Am.	1968	17.01		
14.19	New	1960	to		
	Am.	1966	17.08	New	1960
	Am.	1968	17.04	New	1960
14.20	New	1960		Am.	1961
	Am.	1966	17.05	New	1960
14.21	New	1960	(a)	Am.	1961
	Am.	1966	(c)	Am.	1961
14.22	New	1960		Am.	1964
	Am.	1966	17.06		
14.23	New	1960	to		
	Rep.	1966	17.10	New	1960
14.24	New	1960	17.11	New	1964
	Rep.	1966	18.01	New	1960
			18.02	New	1960

ARTICLES AFFECTED FROM 1949 TO 1967

Taxation— General Art.	Effect	Vernon's Texas St.Supp.	Taxation— General Art.	Effect	Vernon's Texas St.Supp.
18.03	New	1900	20.09	New	1900
	Am.	1961		Am.	1961
18.04	New	1960		Am.	1964
19.01	New	1900	20.10	New	1900
Subd. (2)	Am.	1962		Am.	1961
(4)	Rep.	1968		Am.	1964
Subds. (5), (6)	Rep.	1964	20.11	New	1900
(7) (b)	Am.	1968		Am.	1961
(8)	Rep.	1968		Am.	1964
Subd. (10)	New	1964	20.12	New	1960
	Am.	1968		Am.	1961
19.02	New	1900		Am.	1964
(3)	Am.	1901	20.13	New	1960
(5)	Am.	1901		Am.	1961
19.03	New	1900		Am.	1964
19.04	New	1900	20.14	New	1960
20.01	New	1900		Am.	1961
	Am.	1961		Am.	1964
	Am.	1964	20.15	New	1960
20.02	New	1900		Am.	1961
	Am.	1961		Am.	1964
	Am.	1964	20.16	New	1900
20.03	New	1900		Am.	1961
	Am.	1961		Am.	1964
	Am.	1964	20.17	New	1900
20.04	New	1900		Am.	1961
	Am.	1961		Am.	1964
	Am.	1964	20.18		
(o) (3)	Am.	1968	to		
(W)	Added	1968	20.20	New	1900
(X)	Added	1968	21.01		
20.05	New	1900	to		
	Am.	1961	21.03	New	1960
	Am.	1964	21.04	New	1960
(C)	Am.	1968	(1)	Am.	1961
20.06	New	1960	22.01		
	Am.	1961	to		
	Am.	1964	22.09	New	1900
20.07	New	1900	28.01		
	Am.	1961	to		
	Am.	1964	28.03	New	1960
20.08	New	1960	28.07	New	1961
	Am.	1961			
	Am.	1964			

Uniform Commercial Code

The Uniform Commercial Code, §§ 1—101 to 10—105, enacted by Laws 1965, 59th Leg., Vol. 2, p. 1, ch. 721, was repealed by Laws 1967, 60th Leg., Vol. 2, p. 2343, ch. 735 which enacted the Business and Commerce Code. The Uniform Commercial Code now appears as Title 1, §§ 1.101 to 9.507, of the Business and Commerce Code.

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W. A. MORRISON, JUDGE JOHN F. ONION, Jr., JUDGE
ERNEST BELCHER, JUDGE
WESLEY DICE, JUDGE
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Berry, V. E. (Red) ----- 856 Gembler Road -- San Antonio -----	19
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Christie, Joe ----- 403 Myrtle ----- El Paso -----	29
Cole, Criss ----- 1320 Melrose Bldg. -- Houston -----	6
Connally, Wayne ----- Route 3, Box 120 ---- Floresville -----	21
Creighton, Tom ----- P. O. Box 546 ----- Mineral Wells -----	22
Grover, Henry C. ----- 1507 Kipling ----- Houston -----	15
Hall, Ralph ----- Cain-Hall Bank Bldg. Rockwall -----	9
Hardeman, Dorsey B. ---- P. O. Drawer 1588 --- San Angelo -----	25
Harrington, D. Roy ----- 4720 Twin City High- way ----- Port Arthur -----	4
Hazlewood, Grady ----- Route 2, Box 224 ---- Canyon -----	31
Herring, Charles ----- 906 Perry Brooks Bldg. ----- Austin -----	14
Hightower, Jack ----- P. O. Box 1720 ----- Vernon -----	30
Jordan, Barbara ----- 5303 Lyons Avenue -- Houston -----	11
Kennard, Don ----- 2000 Continental Bank Bldg. ----- Fort Worth -----	10
Mauzy, Oscar ----- 1726 Matagorda ---- Dallas -----	23
Moore, Wm. T. (Bill) ---- P. O. Box 3697 ----- Bryan -----	5
Parkhouse, George ----- 6338 Norway ----- Dallas -----	8
Patman, Wm. N. (Bill) --- P. O. Drawer A ---- Ganado -----	18

SENATE

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Reagan, Bruce A.	318 Wilson Bldg. ----- Corpus Christi	20
Schwartz, A. R.	Cotton Exchange Bldg. ----- Galveston	17
Strong, Jack	P. O. Box 1389 ----- Longview	2
Wade, Jim	Republic Bank Tower Dallas	16
Watson, Murray, Jr.	1202 Amicable Bldg. ----- Waco	13
Wilson, Charles	1000 Crooked Creek ----- Lufkin	3
Word, J. P.	P. O. Box 466 ----- Meridian	12

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 SERGEANT AT ARMS ----- Walter Schaeffer
 CHAPLAIN ----- Rev. Clinton Kersey

<i>Name</i>	<i>Dist.</i>
Abraham, Malouf ----- 907 Conklin Avenue - Canadian -----	84
Allen, Joe ----- P. O. Drawer 3980 -- Baytown -----	23-3
Allen, John ----- 1003 East Birdsong - Longview -----	13
Allred, Dave ----- 1608 Hayes ----- Wichita Falls -----	85-2
Archer, W. R. (Bill) ----- 3127 Avalon ----- Houston -----	22-5
Armstrong, Bob ----- 402 Vaughn Build- ing ----- Austin -----	40F
Atwell, Ben ----- 1002 Dallas Federal Savings Bldg. ----- Dallas -----	33-2
Atwood, A. C. (Bud) ----- Route 2, Box 384 ----- Edinburg -----	49-3
Barnes, Ben ----- Capitol Station ----- Austin -----	64
Barton, Bill W. ----- 630 North Deahl ----- Borger -----	83
Bass, Bill ----- Route 2 ----- Ben Wheeler -----	12
Bass, Bob ----- Route 1 ----- DeKalb -----	1
Bass, Tom ----- 3437 North Parkwood Houston -----	24-1
Beckham, Vernon ----- 112 South Rusk Avenue ----- Denison -----	31
Birkner, Otha ----- 2215 Tenth Street --- Bay City -----	30
Blaine, John E. (Ned) ----- 4855 Vista del Monte El Paso -----	67-2
Blanton, Jack ----- 1501 Francis Street - Carrollton -----	33-13
Braecklein, William (Bill) ----- First National Bank Building ----- Dallas -----	33-1
Braun, Rex ----- 303 Kings Court Drive ----- Houston -----	23-4
Bridges, Ronald ----- 506 Petroleum Tower Corpus Christi -----	45-3
Burgess, Steve ----- Route 1, Box 98 ----- Nacogdoches -----	4

HOUSE OF REPRESENTATIVES

<i>Name</i>	<i>Dist.</i>
Cahoon, Frank -----620 Commercial Bank Tower -----Midland -----	70
Cain, Pat -----318 Western Republic Bldg. -----Austin -----	39-2
Caldwell, Neil -----Angleton Savings An- nex -----Angleton -----	19
Calhoun, Frank -----P. O. Box 1834 -----Abilene -----	62F
Carrillo, Oscar, Sr. -----P. O. Box 356 -----Benavides -----	50
Cavness, Don -----P. O. Box 4807 -----Austin -----	39-3
Clark, James, Jr. -----3933 Villanova -----Dallas -----	33-12
Clark, Jim -----7502 Almeda-Genoa Road -----Houston -----	24-4
Clayton, Bill -----P. O. Box 38 -----Springlake -----	78
Cole, James D. -----P. O. Box 1096 -----Greenville -----	25
Cory, R. H. (Dick) -----2601 Bon Aire -----Victoria -----	43
Crews, David -----310 South First StreetConroe -----	6
Cruz, Lauro -----7124 Schley -----Houston -----	23-5
Cummings, Russell -----1810 Portsmouth -----Houston -----	22-6
Davis, Cletus A. -----806 Central National Bank Bldg. -----Houston -----	22-3
Dickson, Temple -----P. O. Box 638 -----Sweetwater -----	72
Doren, Hilary B. -----111 East Broadway --Del Rio -----	65
Dramberger, A. L. (Tony) 216 Lorita Drive --San Antonio -----	57-5
Duggan, Lee, Jr. -----1314 Fannin Bank Building -----Houston -----	24-2
Field, John -----1007 Great American Life Bldg. -----Dallas -----	33-4
Finck, Bill -----414 Vera Cruz -----San Antonio -----	57-3
Finnell, Charles A. -----P. O. Box 468 -----Holliday -----	86
Finney, Dave -----2800 N. W. 30th Street -----Fort Worth -----	52-7
Floyd, Guy -----P. O. Box 566 -----San Antonio -----	57-9
Floyd, Paul -----539 Capital National Bank Bldg. -----Houston -----	22-1
Fondren, Gene -----P. O. Box 192 -----Taylor -----	38F
Foreman, Wilson -----2114 Buell -----Austin -----	39-1
Garwood, Roy H., Jr. -----Petroleum Center --San Antonio -----	57-7
George, Jesse T. -----South Plains College-Levelland -----	75
Gladden, Don -----Burkeburnett Build- ing -----Fort Worth -----	52-6
Graves, Curtis M. -----4222 Lyons Avenue --Houston -----	23-6
Haines, David G. -----406 Woodson Drive --Bryan -----	18
Hairgrove, Sue B.* -----116 Persimmon -----Lake Jackson -----	20F
Hale, L. DeWitt -----Wilson Building ----Corpus Christi -----	46F

* Elected at the Special Election of May 25, 1967 to fill the unexpired term of Jim Hairgrove, deceased.

HOUSE OF REPRESENTATIVES

<i>Name</i>	<i>Dist.</i>
Hand, Don -----Majestic Building ---San Antonio -----	57-8
Hannah, John H. -----202 Scarborough ----Lufkin -----	5
Harding, Forrest A. -----808 First Savings Building -----San Angelo -----	71
Harris, Ed J. -----703 U. S. National Bank Bldg. -----Galveston -----	21-1
Hawkins, Jack R. -----P. O. Box 309 -----Groesbeck -----	26
Haynes, Clyde, Jr. -----P. O. Box 1235 -----Vidor -----	8
Head, Fred -----Tyler Bank & Trust Building -----Tyler -----	15F
Heatly, W. S. (Bill) -----P. O. Drawer 1 -----Paducah -----	82
Hendricks, Bob -----109 South Tennessee.McKinney -----	32F
Hendryx, Gene -----P. O. Box 779 -----Alpine -----	66
Hinson, George T. -----P. O. Box 387 -----Mineola -----	11
Holland, Lamoine -----1135 Majestic Build- ing -----San Antonio -----	57-6
Holmes, Tom -----607 Crestview ----Granbury -----	53
Howard, D. C. (Dave) -----132 West Leona ----Uvalde -----	60
Hull, Cordell -----2308 Market Street --Fort Worth -----	52-8
Jamison, Alonzo -----616 West Oak Street.Denton -----	51
Johnson, Glenn A. -----601 West Zenith ----Temple -----	37
Johnson, Jake -----Route 7, Box 219 ----San Antonio -----	57-1
Johnson, J. E. (Jake) -----Houston First Sav- ings Bldg. -----Houston -----	24-6
Jones, Delwin L. -----2129 54th Street ----Lubbock -----	77F
Jones, Grant -----P. O. Box 2777 -----Abilene -----	61
Jungmichel, Charles -----712 Rosenberg Street.La Grange -----	28
Kilpatrick, Rufus -----P. O. Box 968 -----Beaumont -----	9-1
Knapp, Walter -----419 West 10th Street.Amarillo -----	80-1
Kohler, Dr. Ira -----5102 Tangle Lane ---Houston -----	22-7
Ligarde, Honore -----P. O. Box 497 -----Laredo -----	59
Lockridge, Joseph E. -----4510 South Oakland .Dallas -----	33-5
Lombardino, Frank J. -----516 Texas Theatre Building -----San Antonio -----	57-10
Longoria, Raul -----212½ North 12th Street -----Edinburg -----	49-1
Lovell, James L. -----133 West Grace ----Crockett -----	17
McDonald, Felix -----P. O. Box 330 -----Edinburg -----	49-2
McKissack, Dick -----3307 Darbyshire Drive -----Dallas -----	33-8
McLaughlin, Jack -----4817 Green Oaks Drive -----Fort Worth -----	52-1
Miller, J. E., Jr. -----P. O. Box 85 -----Burkeville -----	7
Moore, Aubrey -----401 Craig -----Hillsboro -----	34
Moore, Griffith -----4317 Overhill Drive ..Dallas -----	33-7
Moore, Tom, Jr. -----233 N. 6th -----Waco -----	35-2

HOUSE OF REPRESENTATIVES

<i>Name</i>	<i>Dist.</i>
Moreno, Paul C. Southwest National Bank Bldg. El Paso	67-3
Moyer, Hudson 412 Petroleum Build- ing Amarillo	80-2
Muniz, Raul 7871 Lilac El Paso	67-4
Murphy, Sam Route 2 Rockwall	33-10
Murray, Menton J. 320 East Van Buren .. Harlingen	47-1
Musgrove, Burke 307 South Oakwood .. Breckenridge	63
Mutscher, G. F. (Gus) ... 307 North Ross Brenham	29
Neugent, Dean P. O. Drawer 2789 ... Texas City	21-2
Newman, J. T. (Terry) ... P. O. Box 391 Cuero	42
Nowlin, James R. Milam Building San Antonio	57-4
Nugent, James E. 703½ Water Street .. Kerrville	55
Ogg, Jack 5918 Dellfern Houston	22-4
Orr, Fred 309 Woodhaven Drive De Soto	33-14
Parker, Carl A. 49 Stadium Road Port Arthur	9-3
Peeler, Travis A. 210 Vaughn Plaza ... Corpus Christi	45-2
Pendleton, R. G. (Randy) P. O. Box 1721 Andrews	73
Pickens, Ace 804 First National Bank Bldg. Odessa	68
Pickett, W. S. 511 East Mayfield .. Karnes City	58
Pipkin, Maurice 401 First National Bank Brownsville	47-2
Price, Rayford P. O. Box 377 Palestine	16
Quilliam, W. Reed 5703 Geneva Lubbock	76-1
Rapp, Bill P. O. Box 1322 Raymondville	48F
Ratcliff, Joe 2729 Kings Road, No. 214 Dallas	33-6
Ray, C. L., Jr. P. O. Box 299 Marshall	3
Richardson, George H. (Skeet) Route 1, Box 236-A .. Keller	52-4
Rosson, Renal B. West Texas State Bank Bldg. Snyder	74
Salter, Bob P. O. Box 46 Gatesville	36F
Santiesteban, Tati 119 North Stanton St., B El Paso	67-1
Schiller, Milton J. P. O. Box 108 Cameron	27
Schulle, Gerhardt, Jr. ... P. O. Box 522 San Marcos	56
Scoggins, Charles R. 6065 Orms Corpus Christi	45-1
Scoggins, Ralph 1208 Southwest Cen- ter El Paso	67-5
Semos, Chris Victor 3620 West Davis Street Dallas	39-11
Shannon, Joe, Jr. 6412 Klamath Street .. Fort Worth	52-2
Shannon, Tommy P. O. Box 3098 Fort Worth	52-5
Sherman, W. C. 5004 Stadium Drive .. Fort Worth	52-8

HOUSE OF REPRESENTATIVES

<i>Name</i>	<i>Dist.</i>
Simpson, J. M. 3209 Parker Street -- Amarillo	81
Slack, Richard C. P. O. Box 808 ----- Pecos	69F
Slider, James L. P. O. Box 187 ----- Naples	2
Smith, Will L. 336 Bowie Street ---- Beaumont	9-4
Solomon, Neal P. O. Box 517 ----- Mt. Vernon	10
Stewart, Vernon J. 1634 Victory Street -- Wichita Falls	85-1
Stroud, J. W. 5507 McCommas Boulevard ----- Dallas	33-9
Swanson, Bill T. 10823 Chimney Rock - Houston	24-5
Tarbox, Elmer L. 4613 11th Street ---- Lubbock	76-2
Thomas, Bob L. 530 New Road ----- Waco	35-1
Traeger, John A. 503 South Austin Street ----- Seguin	41
Vale, R. L. (Bob) 800 Tower Life Build- ing ----- San Antonio	57-2
Vance, Arthur 1814 Harding ----- Pasadena	24-3
Vickery, Glenn 7203 Ilex ----- Houston	23-1
Ward, J. E. P. O. Box 548 ----- Glen Rose	54
Wayne, Ralph 2000 West 5th Street - Plainview	79
Weldon, J. D. (Jimmie) -- 3412 8th Street ---- Port Arthur	9-2
Whatley, Willis 2002 Brooktree ---- Houston	22-2
Wieting, Leroy J. P. O. Box 546 ----- Portland	44
Williams, Lindon 1526 Wolf ----- Galena Park	23-2
Williamson, Billy H. 1520 Crescent Drive - Tyler	14
Wright, John P. O. Box 781 ----- Grand Prairie	33-3

CONSTITUTION OF THE STATE OF TEXAS

ADOPTED AMENDMENTS

ARTICLE III

LEGISLATIVE DEPARTMENT

49-e. Texas Park Development Fund
[New].

51-d. Payment of assistance to survivors
of law enforcement officers
[New].

63. Consolidation of governmental func-
tions of political subdivisions in
counties of 1,200,000 or more
[New].

52e. Payment of medical expenses of law
enforcement officials [New].

§ 3. Election and term of office of Senators

Sec. 3. The Senators shall be chosen by the qualified electors for the term of four years; but a new Senate shall be chosen after every apportionment, and the Senators elected after each apportionment shall be divided by lot into two classes. The seats of the Senators of the first class shall be vacated at the expiration of the first two years, and those of the second class at the expiration of four years, so that one half of the Senators shall be chosen biennially thereafter. Senators shall take office following their election, on the day set by law for the convening of the Regular Session of the Legislature, and shall serve thereafter for the full term of years to which elected and until their successors shall have been elected and qualified. As amended Nov. 8, 1966.

Amendment adopted in 1966 was proposed by H.J.R. No. 1, Acts 1965, 59th Leg., p. 2210, § 1.

§ 4. Election and term of members of House of Representatives

Sec. 4. The Members of the House of Representatives shall be chosen by the qualified electors for the term of two years. Representatives shall take office following their election, on the day set by law for the convening of the Regular Session of the Legislature, and shall serve thereafter for the full term of years to which elected and until their successors shall have been elected and qualified. As amended Nov. 8, 1966.

Amendment adopted in 1966 was proposed by H.J.R. No. 1, Acts 1965, 59th Leg., p. 2210, § 2.

§ 18. Ineligibility for certain other offices; interest in contracts

Proposed amendment of this section by H.J.R. No. 22, see page CXXI.

CONSTITUTION—ADOPTED AMENDMENTS

§ 24. Compensation and expenses of members of Legislature

Proposed amendment of this section by H.J.R. No. 61, see page CXXI.

§ 48a. Fund for retirement, disability and death benefits for employees of public schools, colleges and universities

Proposed amendment of this section by S.J.R. No. 4, see page CXXI.

§ 49—b. Veterans' land program

Sec. 49—b. By virtue of prior Amendments to this Constitution, there has been created a governmental agency of the State of Texas performing governmental duties which has been designated the Veterans' Land Board. Said Board shall continue to function for the purposes specified in all of the prior Constitutional Amendments except as modified herein. Said Board shall be composed of the Commissioner of the General Land Office and two (2) citizens of the State of Texas, one (1) of whom shall be well versed in veterans' affairs and one (1) of whom shall be well versed in finances. One (1) such citizen member shall, with the advice and consent of the Senate, be appointed biennially by the Governor to serve for a term of four (4) years; but the members serving on said Board on the date of adoption hereof shall complete the terms to which they were appointed. In the event of the resignation or death of any such citizen member, the Governor shall appoint a replacement to serve for the unexpired portion of the term to which the deceased or resigning member had been appointed. The compensation for said citizen members shall be as is now or may hereafter be fixed by the Legislature; and each shall make bond in such amount as is now or may hereafter be prescribed by the Legislature.

The Commissioner of the General Land Office shall act as Chairman of said Board and shall be the administrator of the Veterans' Land Program under such terms and restrictions as are now or may hereafter be provided by law. In the absence or illness of said Commissioner, the Chief Clerk of the General Land Office shall be the Acting Chairman of said Board with the same duties and powers that said Commissioner would have if present.

The Veterans' Land Board may provide for, issue and sell not to exceed Four Hundred Million Dollars (\$400,000,000) in bonds or obligations of the State of Texas for the purpose of creating a fund to be known as the Veterans' Land Fund, Two Hundred Million Dollars (\$200,000,000) of which have heretofore been issued and sold. Such bonds or obligations shall be sold for not less than par value and accrued interest; shall be issued in such forms, denominations, and upon such terms as are now or may hereafter be provided by law; shall be issued and sold at such times, at such places, and in such installments as may be determined by said Board; and shall bear a rate or rates of interest as may be fixed by said Board but the weighted average annual interest rate, as that phrase is commonly and ordinarily used and understood in the municipal bond market, of all the bonds issued and sold in any installment of any bonds may not exceed four and one-half percent (4½%). All bonds or obligations issued and sold hereunder shall, after execution by the Board, approval by the Attorney General of Texas, registration by the Comptroller of Public Accounts of the State of Texas, and delivery to the purchaser or purchasers, be incontestable and shall constitute general obligations of the State of Texas under the Constitution of Texas; and all bonds heretofore issued and sold by said Board are hereby in all respects validated

CONSTITUTION—ADOPTED AMENDMENTS

and declared to be general obligations of the State of Texas. In order to prevent default in the payment of principal or interest on any such bonds, the Legislature shall appropriate a sufficient amount to pay the same.

In the sale of any such bonds or obligations, a preferential right of purchase shall be given to the administrators of the various Teacher Retirement Funds, the Permanent University Funds, and the Permanent School Funds.

Said Veterans' Land Fund shall consist of any lands heretofore or hereafter purchased by said Board, until the sale price therefor, together with any interest and penalties due, have been received by said Board (although nothing herein shall be construed to prevent said Board from accepting full payment for a portion of any tract), and of the moneys attributable to any bonds heretofore or hereafter issued and sold by said Board which moneys so attributable shall include but shall not be limited to the proceeds from the issuance and sale of such bonds; the moneys received from the sale or resale of any lands, or rights therein, purchased with such proceeds; the moneys received from the sale or resale of any lands, or rights therein, purchased with other moneys attributable to such bonds; the interest and penalties received from the sale or resale of such lands, or rights therein; the bonuses, income, rents, royalties, and any other pecuniary benefit received by said Board from any such lands; sums received by way of indemnity or forfeiture for the failure of any bidder for the purchase of any such bonds to comply with his bid and accept and pay for such bonds or for the failure of any bidder for the purchase of any lands comprising a part of said Fund to comply with his bid and accept and pay for any such lands; and interest received from investments of any such moneys. The principal and interest on the bonds heretofore and hereafter issued by said Board shall be paid out of the moneys of said Fund in conformance with the Constitutional provisions authorizing such bonds; but the moneys of said Fund which are not immediately committed to the payment of principal and interest on such bonds, the purchase of lands as herein provided, or the payment of expenses as herein provided may be invested in bonds or obligations of the United States until such funds are needed for such purposes.

All moneys comprising a part of said Fund and not expended for the purposes herein provided shall be a part of said Fund until there are sufficient moneys therein to retire fully all of the bonds heretofore or hereafter issued and sold by said Board, at which time all such moneys remaining in said Fund, except such portion thereof as may be necessary to retire all such bonds which portion shall be set aside and retained in said Fund for the purpose of retiring all such bonds, shall be deposited to the credit of the General Revenue Fund to be appropriated to such purposes as may be prescribed by law. All moneys becoming a part of said Fund thereafter shall likewise be deposited to the credit of the General Revenue Fund.

When a Division of said Fund (each Division consisting of the moneys attributable to the bonds issued and sold pursuant to a single Constitutional authorization and the lands purchased therewith) contains sufficient moneys to retire all of the bonds secured by such Division, the moneys thereof, except such portion as may be needed to retire all of the bonds secured by such Division which portion shall be set aside and remain a part of such Division for the purpose of retiring all such bonds, may be used for the purpose of paying the principal and the interest thereon, together with the expenses herein authorized, of any other bonds heretofore or hereafter issued and sold by said Board. Such use shall be a matter for the discretion and direction of said Board; but there may be no such use of any such moneys contrary to the rights of any holder of any of the bonds issued and sold by said Board or violative of any contract to which said Board is a party.

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The Veterans' Land Fund shall be used by said Board for the purpose of purchasing lands situated in the State of Texas owned by the United States or any governmental agency thereof, owned by the Texas Prison System or any other governmental agency of the State of Texas, or owned by any person, firm, or corporation. All lands thus purchased shall be acquired at the lowest price obtainable, to be paid for in cash, and shall be a part of said Fund. Such lands heretofore or hereafter purchased and comprising a part of said Fund are hereby declared to be held for a governmental purpose, although the individual purchasers thereof shall be subject to taxation to the same extent and in the same manner as are purchasers of lands dedicated to the Permanent Free Public School Fund.

The lands of the Veterans' Land Fund shall be sold by said Board in such quantities, on such terms, at such prices, at such rates of interest and under such rules and regulations as are now or may hereafter be provided by law to veterans who served not less than ninety (90) continuous days, unless sooner discharged by reason of a service-connected disability, on active duty in the Army, Navy, Air Force, Coast Guard or Marine Corps of the United States between September 16, 1940, and the date of formal withdrawal of United States troops from the present armed conflict in Viet Nam, and who, upon the date of filing his or her application to purchase any such land is a citizen of the United States, is a bona fide resident of the State of Texas, and has not been dishonorably discharged from any branch of the Armed Forces above-named and who at the time of his or her enlistment, induction, commissioning, or drafting was a bona fide resident of the State of Texas, or who has resided in Texas at least five (5) years prior to the date of filing his or her application. The foregoing notwithstanding, any lands in the Veterans' Land Fund which have been first offered for sale to veterans and which have not been sold may be sold or resold to such purchasers, in such quantities, and on such terms, and at such prices and rates of interest, and under such rules and regulations as are now or may hereafter be provided by law.

Said Veterans' Land Fund, to the extent of the moneys attributable to any bonds hereafter issued and sold by said Board may be used by said Board, as is now or may hereafter be provided by law, for the purpose of paying the expenses of surveying, monumenting, road construction, legal fees, recordation fees, advertising and other like costs necessary or incidental to the purchase and sale, or resale, of any lands purchased with any of the moneys attributable to such additional bonds, such expenses to be added to the price of such lands when sold, or resold, by said Board; for the purpose of paying the expenses of issuing, selling, and delivering any such additional bonds; and for the purpose of meeting the expenses of paying the interest or principal due or to become due on any such additional bonds.

All of the moneys attributable to any series of bonds hereafter issued and sold by said Board (a 'series of bonds' being all of the bonds issued and sold in a single transaction as a single installment of bonds) may be used for the purchase of lands as herein provided, to be sold as herein provided, for a period ending eight (8) years after the date of sale of such series of bonds; provided, however, that so much of such moneys as may be necessary to pay interest on bonds hereafter issued and sold shall be set aside for that purpose in accordance with the resolution adopted by said Board authorizing the issuance and sale of such series of bonds. After such eight (8) year period, all of such moneys shall be set aside for the retirement of any bonds hereafter issued and sold and to pay interest thereon, together with any expenses as provided herein, in accordance with the resolution or resolutions authorizing the issuance and sale of such ad-

CONSTITUTION—ADOPTED AMENDMENTS

ditional bonds, until there are sufficient moneys to retire all of the bonds hereafter issued and sold, at which time all such moneys then remaining a part of said Veterans' Land Fund and thereafter becoming a part of said Fund shall be governed as elsewhere provided herein.

This Amendment being intended only to establish a basic framework and not to be a comprehensive treatment of the Veterans' Land Program, there is hereby reposed in the Legislature full power to implement and effectuate the design and objects of this Amendment, including the power to delegate such duties, responsibilities, functions, and authority to the Veterans' Land Board as it believes necessary.

Should the Legislature enact any enabling laws in anticipation of this Amendment, no such law shall be void by reason of its anticipatory nature.

This Amendment shall become effective upon its adoption.

As amended Nov. 11, 1967.

Amendment adopted in 1967 was proposed by H.J.R. No. 17, Acts 1967, 60th Leg., p. 2983.

§ 49-d. Acquisition and development of water storage facilities; filtration, treatment and transportation of water; enlargement of reservoirs

Sec. 49-d. It is hereby declared to be the policy of the State of Texas to encourage the optimum development of the limited number of feasible sites available for the construction or enlargement of dams and reservoirs for conservation of the public waters of the state, which waters are held in trust for the use and benefit of the public. The proceeds from the sale of the additional bonds authorized hereunder deposited in the Texas Water Development Fund and the proceeds of bonds previously authorized by Article III, Section 49-c of this Constitution, may be used by the Texas Water Development Board, under such provisions as the Legislature may prescribe by General Law, including the requirement of a permit for storage or beneficial use, for the additional purposes of acquiring and developing storage facilities, and any system or works necessary for the filtration, treatment and transportation of water from storage to points of treatment, filtration and/or distribution, including facilities for transporting water therefrom to wholesale purchasers, or for any one or more of such purposes or methods; provided, however, the Texas Water Development Fund or any other state fund provided for water development, transmission, transfer or filtration shall not be used to finance any project which contemplates or results in the removal from the basin of origin of any surface water necessary to supply the reasonably foreseeable future water requirements for the next ensuing fifty-year period within the river basin of origin, except on a temporary, interim basis.

Under such provisions as the Legislature may prescribe by General Law the Texas Water Development Fund may be used for the conservation and development of water for useful purposes by construction or reconstruction or enlargement of reservoirs constructed or to be constructed or enlarged within the State of Texas or on any stream constituting a boundary of the State of Texas, together with any system or works necessary for the filtration, treatment and/or transportation of water, by any one or more of the following governmental agencies: by the United States of America or any agency, department or instrumentality thereof; by the State of Texas or any agency, department or instrumentality thereof; by political subdivisions or bodies politic and corporate of the state; by interstate compact commissions to which the State of Texas is a party; and by municipal corporations. The Legislature shall provide terms and conditions under which the Texas Water Development Board may sell,

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transfer or lease, in whole or in part, any reservoir and associated system or works which the Texas Water Development Board has financed in whole or in part.

Under such provisions as the Legislature may prescribe by General Law, the Texas Water Development Board may also execute long-term contracts with the United States or any of its agencies for the acquisition and development of storage facilities in reservoirs constructed or to be constructed by the Federal Government. Such contracts when executed shall constitute general obligations of the State of Texas in the same manner and with the same effect as state bonds issued under the authority of the preceding Section 49-c of this Constitution, and the provisions in said Section 49-c with respect to payment of principal and interest on state bonds issued shall likewise apply with respect to payment of principal and interest required to be paid by such contracts. If storage facilities are acquired for a term of years, such contracts shall contain provisions for renewal that will protect the state's investment.

The aggregate of the bonds authorized hereunder shall not exceed \$200,000,000 and shall be in addition to the aggregate of the bonds previously authorized by said Section 49-c of Article III of this Constitution. The Legislature upon two-thirds ($\frac{2}{3}$) vote of the elected members of each House, may authorize the Board to issue all or any portion of such \$200,000,000 in additional bonds herein authorized.

The Legislature shall provide terms and conditions for the Texas Water Development Board to sell, transfer or lease, in whole or in part, any acquired storage facilities or the right to use such storage facilities together with any associated system or works necessary for the filtration, treatment or transportation of water at a price not less than the direct cost of the Board in acquiring same; and the Legislature may provide terms and conditions for the Board to sell any unappropriated public waters of the state that might be stored in such facilities. As a prerequisite to the purchase of such storage or water, the applicant therefor shall have secured a valid permit from the Texas Water Commission or its successor authorizing the acquisition of such storage facilities or the water impounded therein. The money received from any sale, transfer or lease of storage facilities or associated system or works shall be used to pay principal and interest on state bonds issued or contractual obligations incurred by the Texas Water Development Board, provided that when moneys are sufficient to pay the full amount of indebtedness then outstanding and the full amount of interest to accrue thereon, any further sums received from the sale, transfer or lease of such storage facilities or associated system or works may be used for the acquisition of additional storage facilities or associated system or works or for providing financial assistance as authorized by said Section 49-c. Money received from the sale of water, which shall include standby service, may be used for the operation and maintenance of acquired facilities, and for the payment of principal and interest on debt incurred.

Should the Legislature enact enabling laws in anticipation of the adoption of this Amendment, such Acts shall not be void by reason of their anticipatory character. Adopted Nov. 6, 1962; As amended Nov. 8, 1966.

Amendment adopted in 1966 was proposed
by S.J.R. No. 19, Acts 1965, 59th Leg., p.
2195.

§ 49-e. Texas Park Development Fund

Sec. 49-e. The Parks and Wildlife Department, or its successor vested with the powers, duties, and authority which deals with the operation, maintenance, and improvement of State Parks, shall have the au-

CONSTITUTION—ADOPTED AMENDMENTS

thority to provide for, issue and sell general obligation bonds of the State of Texas in an amount not to exceed Seventy-Five Million Dollars (\$75,000,000). The bonds authorized herein shall be called "Texas Park Development Bonds," shall be executed in such form, denominations, and upon such terms as may be prescribed by law, provided, however, that the bonds shall bear a rate or rates of interest as may be fixed by the Parks and Wildlife Department or its successor, but the weighted average annual interest rate, as that phrase is commonly and ordinarily used and understood in the municipal bond market, of all the bonds issued and sold in any installment of any bonds, shall not exceed four and one-half percent (4½%) interest per annum; they may be issued in such installments as said Parks and Wildlife Department, or its said successor, finds feasible and practical in accomplishing the purpose set forth herein.

All moneys received from the sale of said bonds shall be deposited in a fund hereby created with the State Treasurer to be known as the Texas Park Development Fund to be administered (without further appropriation) by the said Parks and Wildlife Department, or its said successor, in such manner as prescribed by law.

Such fund shall be used by said Parks and Wildlife Department, or its said successor, under such provisions as the Legislature may prescribe by general law, for the purposes of acquiring lands from the United States, or any governmental agency thereof, from any governmental agency of the State of Texas, or from any person, firm, or corporation, for State Park Sites and for developing said sites as State Parks.

While any of the bonds authorized by this provision, or any interest on any such bonds, is outstanding and unpaid, there is hereby appropriated out of the first moneys coming into the Treasury in each fiscal year, not otherwise appropriated by this Constitution, an amount which is sufficient to pay the principal and interest on such bonds that mature or become due during such fiscal year, less the amount in the interest and sinking fund at the close of the prior fiscal year, which includes any receipts derived during the prior fiscal year by said Parks and Wildlife Department, or its said successor, from admission charges to State Parks, as the Legislature may prescribe by general law.

The Legislature may provide for the investment of moneys available in the Texas Park Development Fund and the interest and sinking fund established for the payment of bonds issued by said Parks and Wildlife Department, or its said successor. Income from such investment shall be used for the purposes prescribed by the Legislature.

From the moneys received by said Parks and Wildlife Department, or its said successor, from the sale of the bonds issued hereunder, there shall be deposited in the interest and sinking fund for the bonds authorized by this section sufficient moneys to pay the interest to become due during the State fiscal year in which the bonds were issued. After all bonds have been fully paid with interest, or after there are on deposit in the interest and sinking fund sufficient moneys to pay all future maturities of principal and interest, additional moneys received from admission charges to State Parks shall be deposited to the State Parks Fund, or any successor fund which may be established by the Legislature as a depository for Park revenue earned by said Parks and Wildlife Department, or its said successor.

All bonds issued hereunder shall after approval by the Attorney General, registration by the Comptroller of Public Accounts of the State of Texas, and delivery to the purchasers, be incontestable and shall constitute general obligations of the State of Texas under the Constitution of Texas.

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Should the Legislature enact enabling laws in anticipation of the adoption of this amendment, such Acts shall not be void by reason of their anticipatory nature.

Adopted Nov. 11, 1967.

Amendment adopted in 1967 was proposed by H.J.R. No. 12, Acts 1967, 60th Leg., p. 2980.

§ 51. Grants of public money prohibited; exceptions; tax for Confederate pensions

Proposed amendment of this section by S.J.R. No. 32, see page CXXII.

§ 51-a. Assistance and medical care for needy aged, needy disabled, and needy blind persons and children

Proposed amendment of this section by S.J.R. No. 41, see page CXXII.

§ 51-d. Payment of assistance to survivors of law enforcement officers

Sec. 51-d. The Legislature shall have the power, by general law, to provide for the payment of assistance by the State of Texas to the surviving spouse and minor children of law enforcement officers, custodial personnel of the Texas Department of Corrections or of full-paid firemen who suffer violent death in the course of the performance of their duties as law enforcement officers, custodial personnel of the Texas Department of Corrections or as full-paid firemen. Adopted Nov. 8, 1966.

Amendment adopted in 1966 was proposed by H.J.R. No. 37, Acts 1965, 59th Leg., p. 2223.

§ 52a. Counties, cities or towns; revenue bonds for industrial development

Proposed addition of this section by S.J.R. No. 14, see page CXXIV.

§ 52e. Payment of medical expenses of law enforcement officials

Sec. 52e. Each county in the State of Texas is hereby authorized to pay all medical expenses, all doctor bills and all hospital bills for Sheriffs, Deputy Sheriffs, Constables, Deputy Constables and other county and precinct law enforcement officials who are injured in the course of their official duties; providing that while said Sheriff, Deputy Sheriff, Constable, Deputy Constable or other county or precinct law enforcement official is hospitalized or incapacitated that the county shall continue to pay his maximum salary; providing, however, that said payment of salary shall cease on the expiration of the term of office to which such official was elected or appointed. Provided, however, that no provision contained herein shall be construed to amend, modify, repeal or nullify Article 16, Section 31, of the Constitution of the State of Texas.

Adopted Nov. 11, 1967.

Amendment adopted in 1967 was proposed by S.J.R. No. 6, Acts 1967, 60th Leg., p. 2969.

Section 52e, Dallas County bond issues for roads and turnpikes, proposed by S.J.R. No. 37, see page CXXIV.

§ 63. Consolidation of governmental functions of political subdivisions in counties of 1,200,000 or more

Sec. 63. (1) The Legislature may by statute provide for the consolidation of some functions of government of any one or more political subdivisions

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visions comprising or located within any county in this State having one million, two hundred thousand (1,200,000) or more inhabitants. Any such statute shall require an election to be held within the political subdivisions affected thereby with approval by a majority of the voters in each of these political subdivisions, under such terms and conditions as the Legislature may require.

(2) The county government, or any political subdivision(s) comprising or located therein, may contract one with another for the performance of governmental functions required or authorized by this Constitution or the Laws of this State, under such terms and conditions as the Legislature may prescribe. The term "governmental functions," as it relates to counties, includes all duties, activities and operations of state-wide importance in which the county acts for the State, as well as of local importance, whether required or authorized by this Constitution or the Laws of this State. Adopted Nov. 8, 1966.

Amendment adopted in 1966 was proposed by H.J.R. No. 69, Acts 1965, 59th Leg., p. 2231.

§ 64. Consolidation of governmental offices and functions in El Paso and Tarrant Counties

Proposed addition of this section by H.J.R. No. 60, see page CXXIV.

ARTICLE V

JUDICIAL DEPARTMENT

§ 4. Court of Criminal Appeals; judges

Sec. 4. The Court of Criminal Appeals shall consist of five Judges, one of whom shall be Presiding Judge, a majority of whom shall constitute a quorum, and the concurrence of three Judges shall be necessary to a decision of said court. Said Judges shall have the same qualifications and receive the same salaries as the Associate Justices of the Supreme Court. They shall be elected by the qualified voters of the state at a general election and shall hold their offices for a term of six years. In case of a vacancy in the office of a Judge of the Court of Criminal Appeals, the Governor shall, with the advice and consent of the Senate, fill said vacancy by appointment until the next succeeding general election.

The Judges of the Court of Criminal Appeals who may be in office at the time when this Amendment takes effect shall become Judges of the Court of Criminal Appeals and continue in office until the expiration of the term of office for which each has been elected or appointed under the present Constitution and laws of this state, and until his successor shall have been elected and qualified.

The two members of the Commission of Appeals in aid of the Court of Criminal Appeals who may be in office at the time when this Amendment takes effect shall become Judges of the Court of Criminal Appeals and shall hold their offices, one for a term of two years and the other for a term of four years, beginning the first day of January following the adoption of this Amendment and until their successors are elected and qualified. Said Judges shall by agreement or otherwise designate the incumbent for each of the terms mentioned.

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The Governor shall designate one of the five Judges as Presiding Judge and at the expiration of his term and each six years thereafter a Presiding Judge shall be elected. As amended Nov. 8, 1966.

Amendment adopted in 1966 was proposed by S.J.R. No. 26, Acts 1965, 59th Leg., p. 2200, § 1.

§ 5. Jurisdiction of Court of Criminal Appeals; terms of court; clerk

Sec. 5. The Court of Criminal Appeals shall have appellate jurisdiction coextensive with the limits of the state in all criminal cases of whatever grade, with such exceptions and under such regulations as may be prescribed by law.

The Court of Criminal Appeals and the Judges thereof shall have the power to issue the writ of habeas corpus, and under such regulations as may be prescribed by law, issue such writs as may be necessary to enforce its own jurisdiction. The Court of Criminal Appeals shall have power upon affidavit or otherwise to ascertain such matters of fact as may be necessary to the exercise of its jurisdiction.

The Court of Criminal Appeals may sit for the transaction of business at any time from the first Monday in October to the last Saturday in September in each year, at the State Capitol. The Court of Criminal Appeals shall appoint a clerk of the court who shall give bond in such manner as is now or may hereafter be required by law, and who shall hold his office for a term of four years unless sooner removed by the court for good cause entered of record on the minutes of said court.

The Clerk of the Court of Criminal Appeals who may be in office at the time when this Amendment takes effect shall continue in office for the term of his appointment. As amended Nov. 8, 1966.

Amendment adopted in 1966 was proposed by S.J.R. No. 26, Acts 1965, 59th Leg., p. 2200, § 2.

ARTICLE VI

SUFFRAGE

§ 2. Persons qualified to vote; poll tax; absentee voting

Sec. 2. Every person subject to none of the foregoing disqualifications who shall have attained the age of twenty-one (21) years and who shall be a citizen of the United States and who shall have resided in this State one (1) year next preceding an election and the last six (6) months within the district or county in which such person offers to vote, shall be deemed a qualified elector; and provided further, that any voter who is subject to pay a poll tax under the laws of the State of Texas shall have paid said tax before offering to vote at any election in this State and hold a receipt showing that said poll tax was paid before the first lost or misplaced said tax receipt, he or she, as the case may be, shall be day of February next preceding such election. Or if said voter shall have entitled to vote upon making affidavit before any officer authorized to administer oaths that such tax receipt has been lost. Such affidavit shall be made in writing and left with the judge of the election. The husband may pay the poll tax of his wife and receive the receipt therefor. In like manner, the wife may pay the poll tax of her husband and receive the receipt therefor. The Legislature may authorize absentee voting. And this provision of the Constitution shall be self-enacting without the necessity of further legislation. As amended Nov. 8, 1966.

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1966 Amendments

The text of this section as set out herein is the text of an amendment proposed by H.J.R. No. 38, Acts 1965, 59th Leg., p. 2224 and adopted by vote of the people on Nov. 8, 1966. Another amendment of this section was proposed by H.J.R. No. 13, Acts 1965, 59th Leg., p. 2218, and was voted on Nov. 8, 1966, but the official canvass had not been completed at the time of publishing this pocket part because of pending litigation. The amended text proposed by H.J.R. No. 13 reads as follows:

"Section 2. Every person subject to none of the foregoing disqualifications who shall have attained the age of twenty-one (21) years and who shall be a citizen of the United States and who shall have resided in this State one (1) year next preceding an election and the last six (6) months within the district or county in which such person offers to vote, shall be deemed a qualified elector; provided, however, that before offering to vote at an election a voter shall have registered annually, but such requirement for registration shall not be considered a qualification of an elector within the meaning of the term 'qualified elector' as used in any other Article of this Constitution in respect to any matter except qualification and eligibility to vote at an election. Any legislation enacted in anticipation of the adoption of this Amendment shall not be invalid because of its anticipatory nature. The Legislature may authorize absentee voting. And this provision of the Constitution shall be self-enacting without the necessity of further legislation. Any member of the Armed Forces of the United States or component branches thereof, or in the military service of the United States, may vote only in the county in which he or she resided at the time of entering such service so long as he or she is a member of the Armed Forces."

Amendment adopted in 1966 was pro-

posed by H.J.R. No. 38, Acts 1965, 59th Leg., p. 2224.

House Joint Resolution No. 38, Acts 1965, 59th Leg., p. 2224, amending this section by omitting the requirement that members of the armed services vote only in the county in which they resided at the time of entering the service, provided in section 2 thereof: "The only purpose of the amendment proposed in this Resolution is to make the aforesaid deletion. The adoption of this amendment shall not be deemed to have the effect of readopting the remainder of the Section, and if any other amendment to this Section, being for a different purpose, is adopted at an earlier election or at the same election, the adoption of this amendment shall not be construed as nullifying the change made by such other amendment."

House Joint Resolution No. 13, Acts 1965, 59th Leg., p. 2218, proposing to amend this section and section 4 of Article 6 so as to repeal the provision making payment of the poll tax a requirement for voting and so as to authorize the Legislature to provide for the registration of all voters provided in section 3: "If any other Amendment to Sections 2 or 4 of Article VI of the Constitution of the State of Texas, being for a different purpose, is adopted at an earlier election or at the same election, the adoption of this Amendment shall not be construed as nullifying any change made by such other Amendment."

§ 2a. Voting for Presidential and Vice Presidential electors and statewide offices; qualified persons except for residence requirements

Sec. 2a. (a) Notwithstanding any other provision of this Constitution, the Legislature may enact laws and provide a method of registration, including the time of such registration, permitting any person who is qualified to vote in this State except for the residence requirements within a county or district, as set forth in Section 2 of this Article, to vote for (1) electors for President and Vice President of the United States and (2) all offices, questions or propositions to be voted on by all electors throughout this State.

(b) Notwithstanding any other provision of this Constitution, the Legislature may enact laws and provide for a method of registration, including the time for such registration, permitting any person (1) who is qualified to vote in this State except for the residence requirements of Section 2 of this Article, and (2) who shall have resided anywhere within this State at least thirty (30) days next preceding a General Election in a presidential election year, and (3) who shall have been a qualified elector in another state immediately prior to his removal to this State or would have been eligible to vote in such other state had he remained there until

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such election, to vote for electors for President and Vice President of the United States in that election.

(c) Notwithstanding any other provision of this Constitution, the Legislature may enact laws and provide for a method of registration, including the time for such registration, permitting absentee voting for electors for President and Vice President of the United States in this State by former residents of this State (1) who have removed to another state, and (2) who meet all qualifications, except residence requirements, for voting for electors for President and Vice President in this State at the time of the election, but the privileges of suffrage so granted shall be only for such period of time as would permit a former resident of this State to meet the residence requirements for voting in his new state of residence, and in no case for more than twenty-four (24) months. Adopted Nov. 8, 1966.

Amendment adopted in 1966 was proposed by H.J.R. No. 24, Acts 1965, 59th Leg., p. 2221.

§ 4. Elections by ballot; numbering, fraud and purity of elections; registration of voters

1966 Amendment

An amendment of this section proposed by H.J.R. No. 13, Acts 1965, 59th Leg., p. 2218, § 2, was voted on Nov. 8, 1966, but the official canvass had not been completed at the time of publishing this pocket part because of pending litigation. The amended text proposed by H.J.R. No. 13 reads as follows:

"Sec. 4. In all elections by the people, the vote shall be by ballot, and the Legislature shall provide for the numbering of tickets and make such other regulations as may be necessary to detect and punish fraud and preserve the purity of the ballot box; and the Legislature shall provide by law for the registration of all voters."

House Joint Resolution No. 13, Acts 1965, 59th Leg., p. 2218, proposing to amend section 2 and this section of Article 6 so as to repeal the provision making payment

of the poll tax a requirement for voting and so as to authorize the Legislature to provide for the registration of all voters, provided in section 3: "If any other Amendment to Sections 2 or 4 of Article VI of the Constitution of the State of Texas, being for a different purpose, is adopted at an earlier election or at the same election, the adoption of this Amendment shall not be construed as nullifying any change made by such other Amendment."

ARTICLE VII

THE PUBLIC FREE SCHOOLS

§ 3-b. Independent school districts and junior college districts; taxes and bonds; changes in boundaries

Sec. 3-b. No tax for the maintenance of public free schools voted in any independent school district and no tax for the maintenance of a junior college voted by a junior college district, nor any bonds voted in any such district, but unissued, shall be abrogated, cancelled or invalidated by change of any kind in the boundaries thereof. After any change in boundaries, the governing body of any such district, without the necessity of an additional election, shall have the power to assess, levy and collect ad valorem taxes on all taxable property within the boundaries of the district as changed, for the purposes of the maintenance of public free schools or the maintenance of a junior college, as the case may be, and the payment of principal of and interest on all bonded indebtedness outstanding against, or attributable, adjusted or allocated to, such district or any territory therein, in the amount, at the rate, or not to exceed the rate, and in the manner authorized in the dis-

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trict prior to the change in its boundaries, and further in accordance with the laws under which all such bonds, respectively, were voted; and such governing body also shall have the power, without the necessity of an additional election, to sell and deliver any unissued bonds voted in the district prior to any such change in boundaries, and to assess, levy and collect ad valorem taxes on all taxable property in the district as changed, for the payment of principal of and interest on such bonds in the manner permitted by the laws under which such bonds were voted. In those instances where the boundaries of any such independent school district are changed by the annexation of, or consolidation with, one or more whole school districts, the taxes to be levied for the purposes hereinabove authorized may be in the amount or at not to exceed the rate theretofore voted in the district having at the time of such change the greatest scholastic population according to the latest scholastic census and only the unissued bonds of such district voted prior to such change, may be subsequently sold and delivered and any voted, but unissued, bonds of other school districts involved in such annexation or consolidation shall not thereafter be issued. Adopted Nov. 6, 1962; As amended Nov. 8, 1966.

Amendment adopted in 1966 was proposed by H.J.R. No. 65, Acts 1966, 59th Leg., p. 2230.

UNIVERSITY

§ 11a. Investment of Permanent University Fund

Proposed amendment of this section by H.J.R. No. 20, see page CXXIV.

§ 18. Texas A & M University System; University of Texas System; bonds or notes payable from income of Permanent University Fund

Sec. 18. For the purpose of constructing, equipping, or acquiring buildings or other permanent improvements for the Texas A & M University System, including Texas A & M University, Prairie View Agricultural and Mechanical College of Texas at Prairie View, Tarleton State College at Stephenville, Texas Agricultural Experiment Stations, Texas Agricultural Extension Service, Texas Engineering Experiment Station at College Station, Texas Engineering Extension Service at College Station, and the Texas Forest Service, the Board of Directors is hereby authorized to issue negotiable bonds or notes not to exceed a total amount of one-third ($\frac{1}{3}$) of twenty per cent (20%) of the value of the Permanent University Fund exclusive of real estate at the time of any issuance thereof; provided, however, no building or other permanent improvement shall be acquired or constructed hereunder for use by any part of the Texas A & M University System, except at and for the use of the general academic institutions of said System, namely, Texas A & M University, Tarleton State College, and Prairie View A & M College, without the prior approval of the Legislature or of such agency as may be authorized by the Legislature to grant such approval; and for the purpose of constructing, equipping, or acquiring buildings or other permanent improvements for The University of Texas System, including The Main University of Texas at Austin¹ The University of Texas Medical Branch at Galveston, The University of Texas Southwestern Medical School at Dallas, The University of Texas Dental Branch at Houston, Texas Western College of The University of Texas at El Paso, The University of Texas M. D. Anderson Hospital and Tumor Institute at Houston, The University of Texas Postgraduate School of Medicine, The University of Texas School of Public Health² McDonald Observatory at Mount Locke,³ and the Marine

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Science Institute at Port Aransas,⁴ the Board of Regents of The University of Texas is hereby authorized to issue negotiable bonds and notes not to exceed a total amount of two-thirds ($\frac{2}{3}$) of twenty per cent (20%) of the value of the Permanent University Fund exclusive of real estate at the time of any issuance thereof; provided, however, no building or other permanent improvement shall be acquired or constructed hereunder for use by any institution of The University of Texas System, except at and for the use of the general academic institutions of said System, namely, The Main University and Texas Western College,⁵ without the prior approval of the Legislature or of such agency as may be authorized by the Legislature to grant such approval. Any bonds or notes issued hereunder shall be payable solely out of the income from the Permanent University Fund. Bonds or notes so issued shall mature serially or otherwise not more than thirty (30) years from their respective dates.

The Texas A & M University System and all of the institutions constituting such System as hereinabove enumerated, and The University of Texas System, and all of the institutions constituting such System as hereinabove enumerated, shall not receive any General Revenue funds for the acquiring or constructing of buildings or other permanent improvements, except in case of fire, flood, storm, or earthquake occurring at any such institution, in which case an appropriation in an amount sufficient to replace the uninsured loss so incurred may be made by the Legislature out of General Revenue funds.

Said Boards are severally authorized to pledge the whole or any part of the respective interests of Texas A & M University and of The University of Texas in the income from the Permanent University Fund, as such interests are now apportioned by Chapter 42 of the Acts of the Regular Session of the 42nd Legislature of the State of Texas, for the purpose of securing the payment of the principal and interest of such bonds or notes. The Permanent University Fund may be invested in such bonds or notes.

All bonds or notes issued pursuant hereto shall be approved by the Attorney General of Texas and when so approved shall be incontestable. This Amendment shall be self-enacting; provided, however, that nothing herein shall be construed as impairing any obligation heretofore created by the issuance of any outstanding notes or bonds under this Section by the respective Boards prior to the adoption of this Amendment but any such outstanding notes or bonds shall be paid in full, both principal and interest, in accordance with the terms of such contracts. As amended Nov. 6, 1956; Nov. 8, 1966.

¹ Name changed to "The University of Texas at Austin." See Vernon's Ann.Civ.St. art. 2585c.

² Name changed to "The University of Texas School of Public Health at Houston." See Vernon's Ann.Civ.St. art. 2585c.

³ Name changed to "The University of Texas McDonald Observatory at Mount Locke." See Vernon's Ann.Civ.St. art. 2585c.

⁴ Name changed to "The University of Texas Marine Science Institutes at Port Aransas." See Vernon's Ann.Civ.St. art. 2585c.

⁵ Name changed to "The University of Texas at El Paso." See Vernon's Ann.Civ.St. art. 2585c.

Amendment adopted in 1966 was proposed by S.J.R. No. 39, Acts 1965, 59th Leg., p. 2205.

ARTICLE VIII

TAXATION AND REVENUE

§ 1-d. Assessment of lands designated for agricultural use

Sec. 1-d. (a) All land owned by natural persons which is designated for agricultural use in accordance with the provisions of this

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Section shall be assessed for all tax purposes on the consideration of only those factors relative to such agricultural use. "Agricultural use" means the raising of livestock or growing of crops, fruit, flowers, and other products of the soil under natural conditions as a business venture for profit, which business is the primary occupation and source of income of the owner.

(b) For each assessment year the owner wishes to qualify his land under provisions of this Section as designated for agricultural use he shall file with the local tax assessor a sworn statement in writing describing the use to which the land is devoted.

(c) Upon receipt of the sworn statement in writing the local tax assessor shall determine whether or not such land qualifies for the designation as to agricultural use as defined herein and in the event it so qualifies he shall designate such land as being for agricultural use and assess the land accordingly.

(d) Such local tax assessor may inspect the land and require such evidence of use and source of income as may be necessary or useful in determining whether or not the agricultural use provision of this article applies.

(e) No land may qualify for the designation provided for in this Act unless for at least three (3) successive years immediately preceding the assessment date the land has been devoted exclusively for agricultural use, or unless the land has been continuously developed for agriculture during such time.

(f) Each year during which the land is designated for agricultural use, the local tax assessor shall note on his records the valuation which would have been made had the land not qualified for such designation under this Section. If designated land is subsequently diverted to a purpose other than that of agricultural use, or is sold, the land shall be subject to an additional tax. The additional tax shall equal the difference between taxes paid or payable, hereunder, and the amount of tax payable for the preceding three years had the land been otherwise assessed. Until paid, there shall be a lien for additional taxes and interest on land assessed under the provisions of this Section.

(g) The valuation and assessment of any minerals or subsurface rights to minerals shall not come within the provisions of this Section. Adopted Nov. 8, 1966.

Amendment adopted in 1966 was proposed by H.J.R. No. 79, Acts 1965, 59th Leg., p. 2232.

§ 1-e. Abolition of ad valorem property taxes

Proposed addition of this section by S.J.R. No. 32, see page CXXVI.

§ 1-f. Exemption from ad valorem taxes of property in temporary custody of warehousemen

Proposed addition of this section by H.J.R. No. 16, see page CXXVI.

§ 1-j. Refund of tax on cigars and tobacco products sold in Texarkana

Proposed addition of this section by H.J.R. No. 50, see page CXXVI.

§ 2-a. System for exempting property from ad valorem taxation

Proposed addition of this section by S.J.R. No. 24, see page CXXVI.

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§ 9. Maximum state tax; county, city and town levies; county funds; local road laws

Sec. 9. The State tax on property, exclusive of the tax necessary to pay the public debt, and of the taxes provided for the benefit of the public free schools, shall never exceed Thirty-five Cents (35¢) on the One Hundred Dollars (\$100) valuation; and no county, city or town shall levy a tax rate in excess of Eighty Cents (80¢) on the One Hundred Dollars (\$100) valuation in any one (1) year for general fund, permanent improvement fund, road and bridge fund and jury fund purposes; provided further that at the time the Commissioners Court meets to levy the annual tax rate for each county it shall levy whatever tax rate may be needed for the four (4) constitutional purposes; namely, general fund, permanent improvement fund, road and bridge fund and jury fund so long as the Court does not impair any outstanding bonds or other obligations and so long as the total of the foregoing tax levies does not exceed Eighty Cents (80¢) on the One Hundred Dollars (\$100) valuation in any one (1) year. Once the Court has levied the annual tax rate, the same shall remain in force and effect during that taxable year; and the Legislature may also authorize an additional annual ad valorem tax to be levied and collected for the further maintenance of the public roads; provided, that a majority of the qualified property taxpaying voters of the county voting at an election to be held for that purpose shall vote such tax, not to exceed Fifteen Cents (15¢) on the One Hundred Dollars (\$100) valuation of the property subject to taxation in such county. Any county may put all tax money collected by the county into one general fund, without regard to the purpose or source of each tax. And the Legislature may pass local laws for the maintenance of the public roads and highways, without the local notice required for special or local laws. This Section shall not be construed as a limitation of powers delegated to counties, cities or towns by any other Section or Sections of this Constitution.

As amended Nov. 11, 1967.

Amendment adopted in 1967 was proposed by Acts 1967, 60th Leg., p. 2979.

ARTICLE IX

HOSPITAL DISTRICTS

§ 9. Hospital districts; creation, operation, powers, duties and dissolution

Sec. 9. The Legislature may by law provide for the creation, establishment, maintenance and operation of hospital districts composed of one or more counties or all or any part of one or more counties with power to issue bonds for the purchase, construction, acquisition, repair or renovation of buildings and improvements and equipping same, for hospital purposes; providing for the transfer to the hospital district of the title to any land, buildings, improvements and equipment located wholly within the district which may be jointly or separately owned by any city, town or county, providing that any district so created shall assume full responsibility for providing medical and hospital care for its needy inhabitants and assume the outstanding indebtedness incurred by cities, towns and counties for hospital purposes prior to the creation of the district, if same are located wholly within its boundaries, and a pro rata portion of such indebtedness based upon the then last approved tax assessment rolls of the included cities, towns and counties if less than all the territory thereof is included within the district boundaries; providing that after its creation no other municipality or political subdivision shall have the power to levy taxes or issue bonds or other obligations for hospital purposes or for providing medical care within the bound-

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aries of the district; providing for the levy of annual taxes at a rate not to exceed seventy-five cents (75¢) on the One Hundred Dollar valuation of all taxable property within such district for the purpose of meeting the requirements of the district's bonds, the indebtedness assumed by it and its maintenance and operating expenses, providing that such district shall not be created or such tax authorized unless approved by a majority of the qualified property taxpaying electors thereof voting at an election called for the purpose; and providing further that the support and maintenance of the district's hospital system shall never become a charge against or obligation of the State of Texas nor shall any direct appropriation be made by the Legislature for the construction, maintenance or improvement of any of the facilities of such district.

Provided, however, that no district shall be created except by act of the Legislature and then only after thirty (30) days' public notice to the district affected, and in no event may the Legislature provide for a district to be created without the affirmative vote of a majority of the taxpaying voters in the district concerned.

The Legislature may also provide for the dissolution of hospital districts provided that a process is afforded by statute for:

(1) determining the desire of a majority of the qualified voters within the district to dissolve it;

(2) disposing of or transferring the assets, if any, of the district; and

(3) satisfying the debts and bond obligations, if any, of the district, in such manner as to protect the interests of the citizens within the district, including their collective property rights in the assets and property of the district, provided, however, that any grant from federal funds, however dispensed, shall be considered an obligation to be repaid in satisfaction and provided that no election to dissolve shall be held more often than once each year. In such connection, the statute shall provide against disposal or transfer of the assets of the district except for due compensation unless such assets are transferred to another governmental agency, such as a county, embracing such district and using such transferred assets in such a way as to benefit citizens formerly within the district. Adopted Nov. 6, 1962; As amended Nov. 8, 1966.

Amendment adopted in 1966 was proposed by H.J.R. No. 48, Acts 1965, 59th Leg., p. 2226.

§ 12. Airport Authorities

Sec. 12. The Legislature may by law provide for the creation, establishment, maintenance and operation of Airport Authorities composed of one or more counties, with power to issue general obligation bonds, revenue bonds, either or both of them, for the purchase, acquisition by the exercise of the power of eminent domain or otherwise, construction, reconstruction, repair or renovation of any airport or airports, landing fields and runways, airport buildings, hangars, facilities, equipment, fixtures, and any and all property, real or personal, necessary to operate, equip and maintain an airport; shall provide for the option by the governing body of the city or cities whose airport facilities are served by certificated airlines and whose facility or some interest therein, is proposed to be or has been acquired by the Authority, to either appoint or elect a Board of Directors of said Authority; if the Directors are appointed such appointment shall be made by the County Commissioners Court after consultation with and consent of the governing body or bodies of such city or cities, and if the Board of Directors is elected they shall be elected by the qualified taxpaying voters of the county which chooses to elect the Directors to represent that county, such Directors shall serve without compensation for a term fixed by the Legislature not to exceed six (6) years, and shall be selected on the basis of the proportionate population of each county based upon the last preceding Federal Census, and shall be a resident or residents of such

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county; provide that no county shall have less than one (1) member on the Board of Directors; provide for the holding of an election in each county proposing the creation of an Authority to be called by the Commissioners Court or Commissioners Courts, as the case may be, upon petition of five per cent (5%) of the qualified taxpaying voters within the county or counties, said elections to be held on the same day if more than one county is included, provided that no more than one (1) such election may be called in a county until after the expiration of one (1) year; in the event such an election has failed, and thereafter only upon a petition of ten per cent (10%) of the qualified taxpaying voters being presented to the Commissioners Court or Commissioners Courts of the county or counties in which such an election has failed, and in the event that two or more counties vote on the proposition of the creation of an Authority therein, the proposition shall not be deemed to carry unless the majority of the qualified taxpaying voters in each county voting thereon vote in favor thereof; provided, however, that an Airport Authority may be created and be composed of the county or counties that vote in favor of its creation if separate propositions are submitted to the voters of each county so that they may vote for a two or more county Authority or a single county Authority; provide for the appointment by the Board of Directors of an Assessor and Collector of Taxes in the Authority, whether constituted of one or more counties, whose duty it shall be to assess all taxable property, both real and personal, and collect the taxes thereon, based upon the tax rolls approved by the Board of Directors, the tax to be levied not to exceed Seventy-Five Cents (75¢) per One Hundred Dollars (\$100) assessed valuation of the property, provided, however, that the property of state regulated common carriers required by law to pay a tax upon intangible assets shall not be subject to taxation by the Authority, said taxable property shall be assessed on a valuation not to exceed the market value and shall be equal and uniform throughout the Authority as is otherwise provided by the Constitution; the Legislature shall authorize the purchase or acquisition by the Authority of any existing airport facility publicly owned and financed and served by certificated airlines, in fee or of any interest therein, or to enter into any lease agreement therefor, upon such terms and conditions as may be mutually agreeable to the Authority and the owner of such facilities, or authorize the acquisition of same through the exercise of the power of eminent domain, and in the event of such acquisition, if there are any general obligation bonds that the owner of the publicly owned airport facility has outstanding, the same shall be fully assumed by the Authority and sufficient taxes levied by the Authority to discharge said outstanding indebtedness; and likewise any city or owner that has outstanding revenue bonds where the revenues of the airport have been pledged or said bonds constitute a lien against the airport facilities, the Authority shall assume and discharge all the obligations of the city under the ordinances and bond indentures under which said revenue bonds have been issued and sold. Any city which owns airport facilities not serving certificated airlines which are not purchased or acquired or taken over as herein provided by such Authority, shall have the power to operate the same under the existing laws or as the same may hereafter be amended. Any such Authority when created may be granted the power and authority to promulgate, adopt and enforce appropriate zoning regulations to protect the airport from hazards and obstructions which would interfere with the use of the airport and its facilities for landing and take-off; an additional county or counties may be added to an existing Authority if a petition of five per cent (5%) of the qualified taxpaying voters is filed with and an election is called by the Commissioners Court of the county or counties seeking admission to an Authority and the vote is favorable, then admission may be granted to such county or counties by the Board of Directors of the then existing Authority upon such terms and conditions as they may agree upon and evidenced by a resolution approved by

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two-thirds ($\frac{2}{3}$ rds) of the then existing Board of Directors, provided, however, the county or counties that may be so added to the then existing Authority shall be given representation on the Board of Directors by adding additional directors in proportion to their population according to the last preceding Federal census. Adopted Nov. 8, 1966.

Amendment adopted in 1966 was proposed by S.J.R. No. 1, Acts 1965, 59th Leg., p. 2187.

§ 13. Participation of municipalities and other political subdivisions in establishment of mental health, mental retardation or public health services

Sec. 13. Notwithstanding any other section of this article, the Legislature in providing for the creation, establishment, maintenance and operation of a hospital district, shall not be required to provide that such district shall assume full responsibility for the establishment, maintenance, support, or operation of mental health services or mental retardation services including the operation of any community mental health centers, community mental retardation centers or community mental health and mental retardation centers which may exist or be thereafter established within the boundaries of such district, nor shall the Legislature be required to provide that such district shall assume full responsibility of public health department units and clinics and related public health activities or services, and the Legislature shall not be required to restrict the power of any municipality or political subdivision to levy taxes or issue bonds or other obligations or to expend public moneys for the establishment, maintenance, support, or operation of mental health services, mental retardation services, public health units or clinics or related public health activities or services or the operation of such community mental health or mental retardation centers within the boundaries of the hospital districts; and unless a statute creating a hospital district shall expressly prohibit participation by any entity other than the hospital district in the establishment, maintenance, or support of mental health services, mental retardation services, public health units or clinics or related public health activities within or partly within the boundaries of any hospital district, any municipality or any other political subdivision or state-supported entity within the hospital district may participate in the establishment, maintenance, and support of mental health services, mental retardation services, public health units and clinics and related public health activities and may levy taxes, issue bonds or other obligations, and expend public moneys for such purposes as provided by law. Adopted Nov. 11, 1967.

Amendment adopted in 1967 was proposed by H.J.R. No. 37, Acts 1967, 60th Leg., p. 2990.

ARTICLE XVI

GENERAL PROVISIONS

§ 6. Appropriations for private purposes; state participation in programs financed with private or federal funds for rehabilitation of blind, crippled, physically or mentally handicapped persons

Sec. 6. (a) No appropriation for private or individual purposes shall be made, unless authorized by this Constitution. A regular statement, under oath, and an account of the receipts and expenditures of all public money shall be published annually, in such manner as shall be prescribed by law.

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(b) State agencies charged with the responsibility of providing services to those who are blind, crippled, or otherwise physically or mentally handicapped may accept money from private or federal sources, designated by the private or federal source as money to be used in and establishing and equipping facilities for assisting those who are blind, crippled, or otherwise physically or mentally handicapped in becoming gainfully employed, in rehabilitating and restoring the handicapped, and in providing other services determined by the state agency to be essential for the better care and treatment of the handicapped. Money accepted under this subsection is state money. State agencies may spend money accepted under this subsection, and no other money, for specific programs and projects to be conducted by local level or other private, nonsectarian associations, groups, and nonprofit organizations, in establishing and equipping facilities for assisting those who are blind, crippled, or otherwise physically or mentally handicapped in becoming gainfully employed, in rehabilitating and restoring the handicapped, and in providing other services determined by the state agency to be essential for the better care or treatment of the handicapped.

The state agencies may deposit money accepted under this subsection either in the state treasury or in other secure depositories. The money may not be expended for any purpose other than the purpose for which it was given. Notwithstanding any other provision of this Constitution, the state agencies may expend money accepted under this subsection without the necessity of an appropriation, unless the Legislature, by law, requires that the money be expended only on appropriation. The Legislature may prohibit state agencies from accepting money under this subsection or may regulate the amount of money accepted, the way the acceptance and expenditure of the money is administered, and the purposes for which the state agencies may expend the money. Money accepted under this subsection for a purpose prohibited by the Legislature shall be returned to the entity that gave the money.

This subsection does not prohibit state agencies authorized to render services to the handicapped from contracting with privately-owned or local facilities for necessary and essential services, subject to such conditions, standards, and procedures as may be prescribed by law. As amended Nov. 8, 1966.

Amendment adopted in 1966 was proposed
by S.J.R. No. 33, Acts 1965, 59th Leg., p.
2204.

§ 21. Public printing and binding; repairs and furnishings; contracts

Proposed amendment of this section by H.J.R. No. 49, see page CXXVII.

§ 33. Salary or compensation payments to agents, officers or appointees holding other offices; exceptions; non-elective officers and employees

Sec. 33. The Accounting Officers of this State shall neither draw nor pay a warrant upon the Treasury in favor of any person for salary or compensation as agent, officer or appointee, who holds at the same time any other office or position of honor, trust, or profit, under this State, except as prescribed in this Constitution. Provided, that this restriction as to the drawing and paying of warrants upon the Treasury shall not apply to officers of the National Guard or Air National Guard of Texas, the National Guard Reserve, the Air National Guard Reserve, the Air Force Reserve, the Officers Reserve Corps of the United States, nor to

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enlisted men of the National Guard, the Air National Guard, the National Guard Reserve, the Air National Guard Reserve, the Air Force Reserve, and the Organized Reserve of the United States, nor to retired officers of the United States Army, Air Force, Navy, and Marine Corps, and retired warrant officers and retired enlisted men of the United States Army, Air Force, Navy, and Marine Corps. It is further provided, until September 1, 1969, and thereafter only if authorized by the Legislature by general law under such restrictions and limitations as the Legislature may prescribe, that a non-elective State officer or employee may hold other non-elective offices or positions of honor, trust, or profit under this State or the United States, if the other offices or positions are of benefit to the State of Texas or are required by State or federal law, and there is no conflict with the original office or position for which he receives salary or compensation. No member of the Legislature of this State may hold any other office or position of profit under this state, or the United States. As amended Nov. 11, 1967.

Amendment adopted in 1967 was proposed by Acts 1967, 60th Leg., H.J.R. No. 27, Acts 1967, 60th Leg., p. 2989.

§ 62. State-wide system of retirement, disability and death compensation benefits

* * * * *

(c) The Texas Legislature is authorized to enact appropriate laws to provide for a System of Retirement, Disability and Death Benefits for all the officers and employees of a county or other political subdivision of the state, or a political subdivision of a county; providing that when the Texas Legislature has passed the necessary enabling legislation pursuant to the Constitutional authorization, then the governing body of the county, or other political subdivision of the state, or political subdivision of the county shall make the determination as to whether a particular county or other political subdivision of the state, or subdivision of the county participates in this System; providing further that such System shall be operated at the expense of the county or other political subdivision of the state or political subdivision of the county electing to participate therein and the officers and employees covered by the System; and providing that the Legislature of the State of Texas shall never make an appropriation to pay the costs of this Retirement, Disability and Death Compensation System.

The Legislature may provide for a voluntary merger into the System herein authorized by this Constitutional Amendment of any System of Retirement, Disability and Death Compensation Benefits which may now exist or that may hereafter be established under subsection (b) of Section 62 of Article XVI of the Texas Constitution; providing further that the Texas Legislature in the enabling statute will make the determination as to the amount of money that will be contributed by the county or other political subdivision of the state or political subdivision of the county to the State-wide System of Retirement, Disability and Death Benefits, and the Legislature shall further provide that the amount of money contributed by the county or other political subdivision of the state or subdivision of the county shall equal the amount paid for the same purpose from the income of each officer and employee covered by this State-wide System.

It is the further intention of the Legislature, in submitting this Constitutional Amendment, that the officers and employees of the county or

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other political subdivision of the state or political subdivision of a county may be included in these systems regardless of whether the county or other political subdivision of the state or political subdivision of the county participates in the Retirement, Disability and Death Benefit System authorized by this Constitutional Amendment, or whether they participate in a System under the provisions of subsection (b) of Section 62 of Article XVI of the Texas Constitution as the same is herein amended. As amended Nov. 8, 1966.

Amendment adopted in 1966 was proposed
by S.J.R. No. 4, Acts 1966, 59th Leg., p.
2190.

*Proposed amendment of subsection (a) of this section by S.J.R.
No. 39, see page CXXVII.*

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ARTICLE III

LEGISLATIVE DEPARTMENT

§ 18. Ineligibility for other offices; interest in contracts

Section 18. No Senator or Representative shall, during the term for which he was elected, be eligible to (1) any civil office of profit under this State which shall have been created, or the emoluments of which may have been increased, during such term, or (2) any office or place, the appointment to which may be made, in whole or in part, by either branch of the Legislature; provided, however, the fact that the term of office of Senators and Representatives does not end precisely on the last day of December but extends a few days into January of the succeeding year shall be considered as de minimis, and the ineligibility herein created shall terminate on the last day in December of the last full calendar year of the term for which he was elected. No member of either House shall vote for any other member for any office whatever, which may be filled by a vote of the Legislature, except in such cases as are in this Constitution provided, nor shall any member of the Legislature be interested, either directly or indirectly, in any contract with the State, or any county thereof, authorized by any law passed during the term for which he was elected.

Proposed by House Joint Resolution No. 22, Acts 1967, 60th Leg., p. 2988. For submission to the people Nov. 5, 1968.

§ 24. Compensation and expenses of members of Legislature

Section 24. Members of the Legislature shall receive from the Public Treasury an annual salary of not exceeding Eight Thousand, Four Hundred Dollars (\$8,400) per year and a per diem of not exceeding Twelve Dollars (\$12) per day of each Regular Session and each Special Session of the Legislature. No Regular Session shall be of longer duration than one hundred and forty (140) days.

In addition to the per diem the Members of each House shall be entitled to mileage in going to and returning from the seat of government not to exceed one round trip per month during such time as the Legislature is in session, which mileage shall not exceed Two Dollars and Fifty Cents (\$2.50) for every twenty-five (25) miles, the distance to be computed by the nearest and most direct route of travel, from a table of distances prepared by the Comptroller, to each county seat now or hereafter to be established; no Member to be entitled to mileage for any extra Session that may be called within one (1) day after the adjournment of the Regular or Called Session.

Proposed by House Joint Resolution No. 61, Acts 1967, 60th Leg., p. 2994. For submission to the people Nov. 5, 1968.

§ 48a. Fund for retirement, disability and death benefits for employees of public schools, colleges and universities

Section 48a. In addition to the powers given the Legislature under Section 48, Article III, it shall have the right to levy taxes to establish a

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fund to provide retirement, disability and death benefits for persons employed in the public schools, colleges and universities supported wholly or partly by the state; provided that the amount contributed by the state to such fund each year shall be equal to the aggregate amount required by law to be paid into the fund by such employees, and shall not exceed at any time six per centum (6%) of the compensation paid each such person by the state and/or school districts; and provided that no person shall be eligible for retirement who has not rendered ten (10) years of creditable service in such employment, and in no case shall any person retire before either attaining the age fifty-five (55) or completing thirty (30) years of creditable service, but shall be entitled to refund of moneys paid into the fund.

Moneys coming into such fund shall be managed and invested as provided in Section 48b of Section III of the Constitution of Texas; provided a sufficient sum shall be kept on hand to meet payments as they become due each year under such retirement plan, as may be provided by law; and provided that the recipients of such retirement fund shall not be eligible for any other state pension retirement funds or direct aid from the State of Texas, unless such other state pension or retirement fund, contributed by the state, is released to the State of Texas as a condition to receiving such other pension aid; providing, however, that this Section shall not amend, alter, or repeal Section 63 of Article 16 of the Constitution of Texas as adopted November, 1954, or any enabling legislation passed pursuant thereto.

Proposed by Senate Joint Resolution No. 4, Acts 1967, 60th Leg., p. 2967. For submission to the people Nov. 5, 1968.

§ 51. Grants of public money prohibited; exceptions

Sec. 51. The Legislature shall have no power to make any grant or authorize the making of any grant of public moneys to any individual, association of individuals, municipal or other corporations whatsoever; provided, however, the Legislature may grant aid to indigent and disabled Confederate soldiers and sailors under such regulations and limitations as may be deemed by the Legislature as expedient, and to their widows in indigent circumstances under such regulations and limitations as may be deemed by the Legislature as expedient; provided that the provisions of this Section shall not be construed so as to prevent the grant of aid in cases of public calamity.

Proposed by Senate Joint Resolution No. 32, Acts 1967, 60th Leg., p. 2972. For submission to the people Nov. 5, 1968.

§ 51-a. Assistance and medical care for needy aged, needy disabled and needy blind persons and children

Sec. 51-a. The Legislature shall have the power, by General Laws, to provide, subject to limitations herein contained, and such other limitations, restrictions and regulations as may by the Legislature be deemed expedient, for assistance to and/or medical care for, and for rehabilitation and any other services included in the Federal legislation providing matching funds to help such families and individuals attain or retain capability for independence or self-care, and for the payment of assistance to and/or medical care for, and for rehabilitation and other services for:

(1) Needy aged persons who are citizens of the United States or non-citizens who shall have resided within the boundaries of the United States for at least twenty-five (25) years and are over the age of sixty-five (65) years;

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(2) Needy individuals who are citizens of the United States who shall have passed their eighteenth (18th) birthday but have not passed their sixty-fifth (65th) birthday and who are totally and permanently disabled by reason of a mental or physical handicap or a combination of physical and mental handicaps;

(3) Needy blind persons who are citizens of the United States and who are over the age of eighteen (18) years;

(4) Needy children who are citizens of the United States and who are under the age of twenty-one (21) years, and to the caretakers of such children.

The Legislature may define the residence requirements, if any, for participation in these programs.

The Legislature shall have authority to enact appropriate legislation which will enable the State of Texas to cooperate with the Government of the United States in providing assistance to and/or medical care on behalf of needy persons, and in providing rehabilitation and any other services included in the Federal legislation providing matching funds to help such families and individuals attain or retain capability for independence or self-care and to accept and expend funds from the Government of the United States for such purposes in accordance with the laws of the United States as they now are or as they may hereafter be amended, and to make appropriations out of state funds for such purposes; provided that the maximum amount paid out of state funds to or on behalf of any individual recipient shall not exceed the amount that is matchable out of Federal funds; provided that the total amount of such assistance payments and/or medical assistance payments out of state funds on behalf of such recipients shall not exceed the amount that is matchable out of Federal funds; provided that if the limitations and restrictions herein contained are found to be in conflict with the provisions of appropriate Federal Statutes as they now are or as they may be amended, to the extent that Federal matching money is not available to the state for these purposes, then and in that event the Legislature is specifically authorized and empowered to prescribe such limitations and restrictions and enact such laws as may be necessary in order that such Federal matching money will be available for assistance and/or medical care for or on behalf of needy persons; and provided further, that the total amount of money to be expended per fiscal year out of state funds for assistance payments only to recipients of Old Age Assistance, Aid to the Permanently and Totally Disabled, Aid to the Blind, and Aid to Families with Dependent Children shall never exceed Seventy-five Million Dollars (\$75,000,000).

Nothing in this Section shall be construed to amend, modify or repeal Section 31 of Article XVI of this Constitution; provided further, however, that such medical care, services or assistance shall also include the employment of objective or subjective means, without the use of drugs, for the purpose of ascertaining and measuring the powers of vision of the human eye, and fitting lenses or prisms to correct or remedy any defect or abnormal condition of vision. Nothing herein shall be construed to permit optometrists to treat the eyes for any defect whatsoever in any manner nor to administer nor to prescribe any drug or physical treatment whatsoever, unless such optometrist is a regularly licensed physician or surgeon under the laws of this state.

Proposed by Senate Joint Resolution No. 41, Acts 1967, 60th Leg., p. 2977. For submission to the people Nov. 5, 1968.

§ 52a. Counties, cities or towns; revenue bonds for industrial development

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Sec. 52a. The Legislature shall have the power to authorize counties, cities, and towns to issue revenue bonds for industrial development purposes, or in aid thereof; provided, that property acquired from proceeds of the bonds shall be subject to ad valorem taxes. Legislation passed in anticipation of the adoption of this amendment shall not be invalid solely because of its anticipatory nature. The tax revenue, the utility revenue, and the revenue from services of any county, city or town may not be used to pay any bonds issued pursuant to this authority nor the interest thereon.

Proposed by Senate Joint Resolution No. 14, Acts 1967, 60th Leg., p. 2970. For submission to the people Nov. 5, 1968.

§ 52e. Dallas County bond issues for roads and turnpikes

Sec. 52e. Bonds to be issued by Dallas County under Section 52 of Article III of this Constitution for the construction, maintenance and operation of macadamized, graveled or paved roads and turnpikes, or in aid thereof, may, without the necessity of further or amendatory legislation, be issued upon a vote of a majority of the resident property taxpayers voting thereon who are qualified electors of said county, and bonds heretofore or hereafter issued under Subsections (a) and (b) of said Section 52 shall not be included in determining the debt limit prescribed in said Section.

Proposed by Senate Joint Resolution No. 37, Acts 1967, 60th Leg., p. 2973. For submission to the people on Nov. 5, 1968.

§ 64. Consolidation of governmental offices and functions in El Paso and Tarrant Counties

Sec. 64. (a) The Legislature may by statute provide for consolidation of governmental offices and functions of government of any one or more political subdivisions comprising or located within El Paso or Tarrant Counties. Any such statute shall require an election to be held within the political subdivisions affected thereby with approval by a majority of the voters in each of these subdivisions, under such terms and conditions as the Legislature may require.

(b) The county government, or any political subdivision(s) comprising or located therein, may contract one with another for the performance of governmental functions required or authorized by this Constitution or the Laws of this State, under such terms and conditions as the Legislature may prescribe. No person acting under a contract made pursuant to this Subsection (b) shall be deemed to hold more than one office of honor, trust or profit or more than one civil office of emolument. The term "governmental functions," as it relates to counties, includes all duties, activities and operations of statewide importance in which the county acts for the State, as well as of local importance, whether required or authorized by this Constitution or the Laws of this State.

Proposed by House Joint Resolution No. 60, Acts 1967, 60th Leg., p. 2993. For submission to the people Nov. 5, 1968.

ARTICLE VII

EDUCATION

§ 11a. Investment of Permanent University Fund

Sec. 11a. In addition to the bonds enumerated in Section 11 of Article VII of the Constitution of the State of Texas, the Board of Re-

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gents of The University of Texas may invest the Permanent University Fund in securities, bonds or other obligations issued, insured, or guaranteed in any manner by the United States Government, or any of its agencies, and in such bonds, debentures, or obligations, and preferred and common stocks issued by corporations, associations, or other institutions as the Board of Regents of The University of Texas System may deem to be proper investments for said funds; provided, however, that not more than one per cent (1%) of said fund shall be invested in the securities of any one (1) corporation, nor shall more than five per cent (5%) of the voting stock of any one (1) corporation be owned; provided, further, that stocks eligible for purchase shall be restricted to stocks of companies incorporated within the United States which have paid dividends for five (5) consecutive years or longer immediately prior to the date of purchase and which, except for bank stocks and insurance stocks, are listed upon an exchange registered with the Securities and Exchange Commission or its successors.

In making each and all of such investments said Board of Regents shall exercise the judgment and care under the circumstances then prevailing which men of ordinary prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income therefrom as well as the probable safety of their capital.

The interest, dividends and other income accruing from the investments of the Permanent University Fund, except the portion thereof which is appropriated by the operation of Section 18 of Article VII for the payment of principal and interest on bonds or notes issued thereunder, shall be subject to appropriation by the Legislature to accomplish the purposes declared in Section 10 of Article VII of this Constitution.

This amendment shall be self-enacting, and shall become effective upon its adoption, provided, however, that the Legislature shall provide by law for full disclosure of all details concerning the investments in corporate stocks and bonds and other investments authorized herein."

Proposed by House Joint Resolution No. 20, Acts 1967, 60th Leg., p. 2987. For submission to the people Nov. 5, 1968.

ARTICLE VIII

TAXATION AND REVENUE

§ 1-e. Abolition of ad valorem property taxes

Section 1—e.

1. From and after December 31, 1978, no State ad valorem taxes shall be levied upon any property within this State for State purposes except the tax levied by Article VII, Section 17, for certain institutions of higher learning.

2. The State ad valorem tax authorized by Article VII, Section 8, of this Constitution shall be imposed at the following rates on each One Hundred Dollars (\$100.00) valuation for the years 1968 through 1974: On January 1, 1968, Thirty-five Cents (35¢); on January 1, 1969, Thirty Cents (30¢); on January 1, 1970, Twenty-five Cents (25¢); on January 1, 1971, Twenty Cents (20¢); on January 1, 1972, Fifteen Cents (15¢); on January 1, 1973, Ten Cents (10¢); on January 1, 1974, Five Cents (5¢); and thereafter no such tax for school purposes shall be levied and col-

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lected. An amount sufficient to provide free text books for the use of children attending the public free schools of this State shall be set aside from any revenues deposited in the Available School Fund, provided, however, that should such funds be insufficient, the deficit may be met by appropriation from the general funds of the State.

3. The State ad valorem tax of Two Cents (2¢) on the One Hundred Dollars valuation levied by Article VII, Section 17, of this Constitution shall not be levied after December 31, 1976. At any time prior to December 31, 1976, the Legislature may establish a trust fund solely for the benefit of the widows of Confederate veterans and such Texas Rangers and their widows as are eligible for retirement or disability pensions under the provisions of Article XVI, Section 66, of this Constitution, and after such fund is established the ad valorem tax levied by Article VII, Section 17, shall not thereafter be levied.

4. Unless otherwise provided by the Legislature, after December 31, 1976 all delinquent State ad valorem taxes together with penalties and interest thereon, less lawful costs of collection, shall be used to secure bonds issued for permanent improvements at institutions of higher learning, as authorized by Article VII, Section 17, of this Constitution.

5. The fees paid by the State for both assessing and collecting State ad valorem taxes shall not exceed two per cent (2%) of the State taxes collected. This subsection shall be self-executing.

Proposed by Senate Joint Resolution No. 32, Acts 1967, 60th Leg., p. 2972. For submission to the people Nov. 5, 1968.

§ 1-f. Exemption from ad valorem taxes of property in temporary custody of warehousemen

Section 1-f. All merchandise, products, goods or wares in the temporary custody of a public warehouseman, who has no financial connection other than as bailee for hire with the owner, shipper, or consignee of the merchandise, products, goods, or wares, are exempt from ad valorem taxation if they are shipped to or from the warehouse by regulated or bona fide private carrier, are held by the warehouseman not longer than six (6) months, and have a predetermined out-of-state destination at point of origin. The books and records relating to out-of-state shipments covered hereby of such public warehouseman shall be available for reasonable inspection by the proper taxing authorities. This amendment shall not act as a validation of any present statute or law, but only those passed specifically pursuant hereto; provided, however, that enabling legislation passed in anticipation of the adoption of this amendment shall not be invalid solely because of its anticipatory nature.

Proposed by House Joint Resolution No. 16, Acts 1967, 60th Leg., p. 2982. For submission to the people Nov. 5, 1968.

§ 1-j. Refund of tax on cigars and tobacco products sold in Texarkana

Section 1-j. Notwithstanding the provisions of Section 1 of this article, the Legislature may provide for the refund of the tax paid on the first sale of cigars and tobacco products in this state which are subsequently sold at retail within the corporate limits of Texarkana, Texas, or any incorporated city or town in Texas contiguous to Texarkana.

Proposed by House Joint Resolution No. 50, Acts 1967, 60th Leg., p. 2992. For submission to the people Nov. 5, 1968.

§ 2-a. System for exempting property from ad valorem taxation

Sec. 2-a. (a) The Legislature may, by General Law, exempt from ad valorem taxation by the state and its political subdivisions all or a por-

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tion of any equipment, device or improvement installed or constructed on real property, which is designed to eliminate or abate the harmful effect of air emissions or water effluents on the air and water quality in this state, to the extent that the capital investment in such property is made to comply with or to exceed air or water quality standards established by law.

(b) Legislation which may be enacted in anticipation of the adoption of this Section is not void because of its anticipatory nature.

Proposed by Senate Joint Resolution No. 24, Acts 1967, 60th Leg., p. 2971. For submission to the people Nov. 5, 1968.

ARTICLE XVI

GENERAL PROVISIONS

§ 21. Materials and services purchase contracts

Sec. 21. All stationery and printing, except proclamations and such printing as may be done at the Texas School for the Deaf, and paper, except that for the Judicial Department, shall be furnished under contract, to be given to the lowest and best bidder under such regulations as shall be prescribed by law. No member or officer of any department of the government shall be in any way interested in such contract.

Proposed by House Joint Resolution No. 49, Acts 1967, 60th Leg., p. 2992. For submission to the people Nov. 5, 1968.

§ 62. State and county retirement, disability and death compensation funds

Sec. 62. (a) The Legislature shall have the authority to levy taxes to provide a State Retirement, Disability and Death Compensation Fund for the officers and employees of the state, and may make such reasonable inclusions, exclusions, or classifications of officers and employees of this state as it deems advisable. The Legislature may also include officers and employees of judicial districts of the state who are or have been compensated in whole or in part directly or indirectly by the state, and may make such other reasonable inclusions, exclusions, or classification of officers and employees of judicial districts of this state as it deems advisable. Persons participating in a retirement system created pursuant to Section 1-a of Article V of this Constitution shall not be eligible to participate in the Fund authorized in this subsection; and persons participating in a retirement system created pursuant to Section 48-a of Article III of this Constitution shall not be eligible to participate in the Fund authorized in this subsection except as permitted by Section 63 of Article XVI of this Constitution. Provided, however, any officer or employee of a county as provided for in Article XVI, Section 62, Subsection (b) of this Constitution, shall not be eligible to participate in the Fund authorized in this subsection, except as otherwise provided herein. The amount contributed by the state to such Fund shall equal the amount paid for the same purpose from the income of each such person, and shall not exceed at any time six per centum (6%) of the compensation paid to each such person by the state.

There is hereby created as an agency of the State of Texas the Employees Retirement System of Texas, the rights of membership in which, the retirement privileges and benefits thereunder, and the management and operations of which shall be governed by the provisions herein contained and by present or hereafter enacted Acts of the Legislature not inconsistent herewith. The general administration and responsibility for

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the proper operation of said system are hereby vested in a State Board of Trustees, to be known as the State Board of Trustees of the Employees Retirement System of Texas, which Board shall be constituted and shall serve as may now or hereafter be provided by the Legislature. Said Board shall exercise such powers as are herein provided together with such other powers and duties not inconsistent herewith as may be prescribed by the Legislature. All moneys from whatever source coming into the Fund and all other securities, moneys, and assets of the Employees Retirement System of Texas shall be administered by said Board and said Board shall be the trustees thereof. The Treasurer of the State of Texas shall be custodian of said moneys and securities. Said Board is hereby authorized and empowered to acquire, hold, manage, purchase, sell, assign, trade, transfer, and dispose of any securities, evidences of debt, and other investments in which said securities, moneys, and assets have been or may hereafter be invested by said Board. Said Board is hereby authorized and empowered to invest and reinvest any of said moneys, securities, and assets, as well as the proceeds of any of such investments, in bonds, notes, or other evidences of indebtedness issued, or assumed or guaranteed in whole or in part, by the United States or any agency of the United States, or by the State of Texas, or by any county, city, school district, municipal corporation, or other political subdivision of the State of Texas, both general and special obligations; or in home office facilities to be used in administering the Employees Retirement System including land, equipment, and office building; or in such corporation bonds, notes, other evidences of indebtedness, and corporation stocks, including common and preferred stocks, of any corporation created or existing under the laws of the United States or of any of the states of the United States, as said Board may deem to be proper investments; provided that in making each and all of such investments said Board shall exercise the judgment and care under the circumstances then prevailing which men of ordinary prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income therefrom as well as probable safety of their capital; and further provided, that a sufficient sum shall be kept on hand to meet payments as they become due each year under such retirement plan, as may now or hereafter be provided by law. Unless investments authorized herein are hereafter further restricted by an Act of the Legislature, no more than one per cent (1%) of the book value of the total assets of the Employees Retirement System shall be invested in the stock of any one (1) corporation, nor shall more than five per cent (5%) of the voting stock of any one (1) corporation be owned; and provided further, that stocks eligible for purchase shall be restricted to stocks of companies incorporated within the United States which have paid cash dividends for ten (10) consecutive years or longer immediately prior to the date of purchase and which, except for bank stocks and insurance stocks, are listed upon an exchange registered with the Securities and Exchange Commission or its successors; and provided further, that not less than twenty-five per cent (25%) at any one time of the book value of investments of said Fund shall be invested in Government and Municipal Securities as enumerated above. This Amendment shall be self-enacting and shall become effective immediately upon its adoption without any enabling legislation.

* * * * *
Proposed by Senate Joint Resolution No.
39, Acts 1967, 60th Leg., p. 2974. For sub-
mission to the people on Nov. 5, 1968.

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AMENDMENT XXV—SUCCESSION TO PRESIDENCY AND VICE PRESIDENCY; DISABILITY OF PRESIDENT

Section 1. In case of the removal of the President from office or of his death or resignation, the Vice President shall become President.

Sec. 2. Whenever there is a vacancy in the office of the Vice President, the President shall nominate a Vice President who shall take office upon confirmation by a majority vote of both Houses of Congress.

Sec. 3. Whenever the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that he is unable to discharge the powers and duties of his office, and until he transmits to them a written declaration to the contrary, such powers and duties shall be discharged by the Vice President as Acting President.

Sec. 4. Whenever the Vice President and a majority of either the principal officers of the executive departments or of such other body as Congress may by law provide, transmit to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office, the Vice President shall immediately assume the powers and duties of the office as Acting President.

Thereafter, when the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that no inability exists, he shall resume the powers and duties of his office unless the Vice President and a majority of either the principal officers of the executive department or of such other body as Congress may by law provide, transmit within four days to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office. Thereupon Congress shall decide the issue, assembling within forty-eight hours for that purpose if not in session. If the Congress, within twenty-one days after receipt of the latter written declaration, or, if Congress is not in session, within twenty-one days after Congress is required to assemble, determines by two-thirds vote of both Houses that the President is unable to discharge the powers and duties of his office, the Vice President shall continue to discharge the same as Acting President; otherwise, the President shall resume the powers and duties of his office.

Historical Note

Proposal and ratification. This amendment was proposed by the Eighty-ninth Congress on July 6, 1965 and submitted to the Legislature of the States for ratification under U.S.C.A. Const. art. 5. The Administrator of General Services certified that the amendment had been ratified on February 23, 1967.

The amendment was ratified by the following states:

Alabama	March 14, 1967	California	October 21, 1965
Alaska	February 18, 1966	Colorado	February 3, 1966
Arizona	September 22, 1965	Connecticut	February 14, 1967
Arkansas	November 4, 1965	Delaware	December 7, 1965
		Florida	May 25, 1967
		Hawaii	March 3, 1966
		Idaho	March 2, 1966
		Illinois	March 22, 1967
		Indiana	October 20, 1965
		Iowa	January 26, 1967
		Kansas	February 8, 1966
		Kentucky	September 15, 1965
		Louisiana	July 5, 1966
		Maine	January 24, 1966

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Maryland	March 23, 1966	Pennsylvania	August 18, 1965
Massachusetts	August 9, 1965	Rhode Island	January 28, 1966
Michigan	October 5, 1965	South Dakota	March 6, 1967
Minnesota	February 10, 1967	Tennessee	January 12, 1967
Mississippi	March 10, 1966	Texas	April 25, 1967
Missouri	March 30, 1966	Utah	January 17, 1966
Montana	February 15, 1967	Vermont	February 10, 1966
Nebraska	July 12, 1965	Virginia	March 8, 1966
Nevada	February 10, 1967	Washington	January 26, 1967
New Hampshire	June 13, 1966	West Virginia	January 20, 1966
New Jersey	November 29, 1965	Wisconsin	July 13, 1965
New Mexico	February 3, 1966	Wyoming	January 25, 1967
New York	March 14, 1966		
North Carolina	March 22, 1967		
Oklahoma	July 16, 1965		
Ohio	March 7, 1967		
Oregon	February 2, 1967		

Certification of Validity. Publication of the certifying statement of the Administrator of General Services that the Amendment had become valid was made on Feb. 23, 1967, F.R.Doc. 67-2208, 32 F.R. 3287.

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**VERNON'S
REVISED CIVIL STATUTES
OF THE
STATE OF TEXAS**

TITLE 1—GENERAL PROVISIONS

MISCELLANEOUS

Art.
29e. Boards and commissioners courts;
notice of certain public hearings
[New].

MISCELLANEOUS

Art. 29e. Boards and commissioners courts; notice of certain public hearings

In addition to other required notice and if not otherwise required by law to give notice by publication, any school board, county commissioners court, or governing board of a city or tax equalization board shall place a notice in at least one newspaper of general circulation in the county where the board or court is located not more than 30 days nor less than 10 days before a public hearing relating to fiscal budgets or to equalizations for tax purposes or a regular or special election. Acts 1967, 60th Leg., p. 1218, ch. 549, § 1, eff. Aug. 28, 1967.

Title of Act:

An Act requiring any school board, county commissioners court, or governing board of a city, or tax equalization board to pub-

lish notice of certain public hearings and of regular or special elections; and declaring an emergency. Acts 1967, 60th Leg., p. 1218, ch. 549.

TITLE 3—ADOPTION

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

Petition

Section 1. Any married or unmarried adult person or any person who is married or has been married whether an adult person or not, may petition the district court in any of the following counties: (1) the county of his residence, (2) the county of the residence of the child to be adopted, or (3) if such child were placed for adoption by a child-placing institution of this state, in the county of the residence of the petitioner, or in the county of the residence of the child, or in the county where such child-placing institution is situated, for leave to adopt a minor child; such petition shall set forth the facts relative to petitioner and child, and be verified by the affidavit of the petitioner. But no such petition made by a married person shall be granted unless the husband and wife shall join therein, excepting when such petitioner shall be married to the natural father or mother, then such joinder by such father or mother shall be unnecessary.

Sec. 1 amended by Acts 1967, 60th Leg., p. 667, ch. 278, § 1, eff. Aug. 28, 1967.

Contents of petition

Sec. 1a. Every petition for leave to adopt a minor child shall set forth among the facts relative to petitioner and child the following information: (1) the name, race, and age of each petitioner; (2) the residence and present address of petitioner; (3) the name to be given the child through the adoption; (4) the sex, race, birthdate, and birthplace of the child sought to be adopted; (5) the date on or about which the minor child was placed in the home of petitioners; (6) what written consent papers have been obtained from the natural parent or parents and if none obtained, then specify which exception to the necessity for such consent is applicable; (7) the relationship between the petitioner and the child; (8) whether waiver of six (6) months residence in the home of the petitioner is requested, and if so, the reason for requesting the waiver of the six-month period; and (9) the following information regarding each natural parent, or a statement that the information is unknown to the petitioner: the name; residence address; whether or not the parent is living; and, if any of these things are unknown to the petitioner the name and address of any person, agency, or institution which has the information.

Sec. 1a amended by Acts 1967, 60th Leg., p. 1819, ch. 700, § 1, eff. Aug. 28, 1967.

* * * * *

Service of citation

Sec. 1d. When a petition is filed to adopt a child without the written consent of the child's natural parents, as provided in Section 6 of this Act, the district clerk shall immediately issue citation to each non-consenting parent. The citation shall be served in accordance with the statutes and rules of civil procedure governing service of process in other civil cases. However, citation need not be served on any parent whose parental rights have been terminated by written court order as provided in Subsection (c), Section 6 of this Act, and who appeared or had actual notice of the proceedings.

Sec. 1d added by Acts 1967, 60th Leg., p. 1819, ch. 700, § 2, eff. Aug. 28, 1967.

Limitation of actions

Sec. 1e. This section applies only to adoptions decreed and adoption proceedings instituted before the effective date of Section 1d of this Act. After June 30, 1968, no person may bring an action to vacate an adoption decree on the grounds that he had no notice of the adoption proceedings, if more than one year has elapsed since he discovered or should have discovered that the adoption was decreed.

Sec. 1e added by Acts 1967, 60th Leg., p. 1820, ch. 700, § 2, eff. Aug. 28, 1967.

* * * * *

Consent of parents and child; exceptions

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

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

(c) Consent shall not be required of parents whose parental rights have been terminated by order of the Juvenile Court or other court of competent jurisdiction; provided, however, that in such cases adoption shall be permitted only upon the written order of the court terminating such parental rights. In the order the court shall include a statement indicating whether each parent appeared or had actual notice of the proceedings to terminate his parental rights. Such written order of the court giving consent for the adoption of such child shall be confidential and shall be filed with and made a part of the confidential records in the adoption proceedings, and shall be open for inspection only under such conditions and through such procedures as are prescribed by law for the inspection of the confidential adoption records in the court.

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

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

(f) In the case of any consent by the natural parents as herein required to the adoption of a minor child, regardless of whether or not said child was born in lawful wedlock, such consent shall be sufficient if given in writing after the birth of said child and duly acknowledged, giving the name, date and place of birth of said child, and shall agree to permanently surrender the care, custody, and parental authority of and over said child, and consent to its adoption upon judgment of any court of competent juris-

diction without the necessity of reciting therein the names of the parents by adoption.

Amended by Acts 1961, 57th Leg., p. 737, ch. 344, § 1; Acts 1963, 59th Leg., p. 941, ch. 370, § 1; Acts 1967, 60th Leg., p. 1820, ch. 700, § 3, eff. Aug. 28, 1967.

* * * * *

TITLE 3A—AERONAUTICS

OPERATION OF AIRCRAFT [NEW]

Art.

46f—1. Taking off, landing or maneuvering aircraft on highway, road or street.

OPERATION OF AIRCRAFT [NEW]

Art. 46f—1. Taking off, landing or maneuvering aircraft on highway, road or street

Section 1. No person may take off, land, or maneuver an aircraft, including heavier than air and lighter than air, on a public highway, road, or street except when it is necessary to prevent serious injury to a person or property. However, nothing herein shall prohibit any operation of said aircraft on a public highway, road, or street during or within a reasonable time after an emergency.

Sec. 1b. Any violation shall be subject to the provisions of Article 6701d, Section 148(a), Vernon's Texas Civil Statutes.

Sec. 2. A person who violates Section 1 of this Act is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$25 nor more than \$200.

Acts 1967, 60th Leg., p. 865, ch. 371, eff. Aug. 28, 1967.

Title of Act: An Act prohibiting a person from taking off, landing, or maneuvering an aircraft on a public highway, road, or street; providing a penalty; and declaring an emergency. Acts 1967, 60th Leg., p. 865, ch. 371.

area to be included. The petition must also propose either a 6, 9, 12, or 15-member board.

Action by Commissioner; Public Hearing; Certification of Organization

Sec. 4. Within 30 days after receiving the petition filed by the organization, the commissioner shall hold a public hearing to consider the petition. If the commissioner determines on the basis of testimony presented at the public hearing that the petitioning organization is representative of the producers of the particular agricultural commodity, within the boundaries set forth in the petition, and finds that the petition is in conformity with the provisions of this Act and the purposes herein stated, then he shall certify the organization as the duly delegated and authorized organization representative of the producers of such agricultural commodity, within the boundaries set forth in the petition, to conduct among the producers a referendum and election for the purposes herein stated.

Authority of Certified Organization

Sec. 5. (a) Upon being certified by the commissioner, the organization is fully authorized to hold and conduct on the part of the producers of the agricultural commodity, within the boundaries set forth in the petition, a referendum on the proposition of whether or not such producers shall levy an assessment upon themselves, not to exceed one percent of the market value of the commodity, for the purposes stated in this Act.

(b) The certified organization is further authorized to hold and conduct, at the same time as the referendum, an election of members to a commodity producers board for the particular commodity, which shall have the responsibility of formulating and administering programs for the purposes stated in this Act.

Notice of Referendum and Election; Distribution of Ballots

Sec. 6. (a) At least 60 days before the date set for the referendum and election, the certified organization shall give public notice, as hereinafter provided, of the date of the election; the estimated amount and basis of the assessment proposed to be collected; and a description of the manner in which the assessment, if authorized, shall be collected and the proceeds administered and utilized.

(b) The above notice shall be given by publication thereof in a newspaper or newspapers published and distributed within the boundaries set forth in the petition, for not less than once a week for three consecutive weeks. In addition, direct written notice shall be given to each county agent in any county within the boundaries set forth in the petition.

(c) The certified organization shall prepare and distribute in advance of the referendum and election all necessary ballots.

Nomination of Candidates

Sec. 7. (a) Following the certification of an organization by the commissioner, and the issuance of notice by the certified organization of the holding of a referendum and election, any producer of the particular agricultural commodity who is qualified to vote at the referendum and election, if he desires to be a candidate for membership on the commodity producers board, shall file with the certified organization an application to have his name printed on the ballot to be used at the referendum and election. The application must be signed by the candidate and by at least 10 producers of such agricultural commodity who are qualified to vote at the referendum and election, and must be filed at least 30 days prior to the date set for the election.

(b) No candidate, unless so nominated, shall have his name placed on the official ballot. However, this does not prevent the writing of the

name of any candidate on such ballot by any qualified voter at the election, and spaces shall be provided on the ballot for such write-in candidates.

Basis of Referendum and Election; Eligibility of Voters; Expenses

Sec. 8. (a) Any referendum and election conducted under the provisions of this Act may be held either on an area or statewide basis, as determined by the certified organization in its petition to the commissioner of agriculture, and if approved by him at the public hearing herein provided for.

(b) All producers of the particular agricultural commodity, within the area defined in the call for the referendum and election, including owners of farms on which such commodity is produced, and their tenants and sharecroppers, are eligible to vote in the referendum and election.

(c) All expenses incurred in connection with the referendum and election shall be borne by the certified organization, but the organization may be reimbursed for actual and necessary expenses out of funds received and deposited in the treasury of the commodity producers committee for such commodity, in the event the assessment is levied and subsequently collected.

Conduct of Election; Ballots; Canvass; Reporting

Sec. 9. The commissioner shall make and publish rules to regulate the form of the ballot, the conduct of the election, the canvass of the returns, and the reporting of the returns to the commissioner. The purpose of the commissioner's rules is to insure efficient and honest elections and efficient canvassing and reporting of the returns. The ballot shall have a space for the voter to certify the volume of his production of the commodity within the area described in the referendum petition during the preceding year or other relevant production period as designated on the ballot. In any contest of the election, if it is determined that on any ballot the voter has overstated his volume of production by more than 10 percent, the ballot shall be declared void and the results adjusted accordingly. Any other error in stating volume of production is not grounds for invalidating the ballot, but the error shall be corrected on the returns and the total results adjusted accordingly.

Findings of Commissioner

Sec. 10. On receiving the report of the returns of an election, the commissioner shall determine:

(1) the number of votes cast for and against the referendum proposition;

(2) the total volume of production of the commodity during the last preceding calendar year or relevant production period in the area defined in the petition for certification;

(3) the percentage of the total volume of production which was produced by those voting in favor of the referendum proposition; and

(4) the 6, 9, 12, or 15 candidates, whichever is applicable, receiving the highest number of votes for membership on the commodity producers board.

Result Certified

Sec. 11. If the commissioner finds that two-thirds or more of those voting in the election voted in favor of the referendum proposition, or that those voting in favor of the proposition produced at least 50 percent of the volume of production of the commodity during the last preceding calendar year or relevant production period, he shall publicly certify the establishment of the commodity producers board and issue certificates of election to those elected members of the board as determined under Sec-

tion 10(4) of this Act. Otherwise, the commissioner shall publicly certify that the referendum proposition was defeated.

Commodity Producers Board Established

Sec. 12. If the commissioner certifies establishment of the commodity producers board, the board is established and it has all the powers and duties prescribed by this Act.

Terms of Office; Officers; Subsequent Elections; Vacancies; Quorum; Compensation

Sec. 13. (a) On receiving certificates of election from the commissioner, the members of the commodity producers board shall meet and organize. Members shall be divided into three classes by drawing lots. Those of class one hold office for two years beginning on the date the certificates of election were issued. Those of class two hold office for four years, and those of class three hold office for six years. Each member holds office until his successor is elected and has qualified. Successors hold office for terms of six years.

(b) The board shall elect from its number a chairman, a secretary-treasurer, and such other officers as it may deem necessary. The secretary-treasurer shall execute a corporate surety bond in such amount as may be required by the board. The condition of such bond shall be that he will faithfully account for all money which shall come into his custody. The bond shall be filed with the commissioner.

(c) The commodity producers board shall call and hold elections biennially for the purpose of electing members to the board. The giving of notice and the holding of the election are governed by the applicable provisions of this Act relating to the first election, and, to the extent necessary, by rules of the commissioner.

(d) In the event of a vacancy on the board, the board shall fill the vacancy by appointment for the unexpired term.

(e) A majority of the members of the board constitute a quorum for the transaction of any business; and for any action of the board to be valid, a majority vote of all members present shall be necessary.

(f) Members of the board shall receive no compensation for their services, but shall be entitled to receive all reasonable and necessary expenses incurred in the discharge of their duties.

Powers and Duties of Board

Sec. 14. A commodity producers board for any particular agricultural commodity has the following powers and duties:

(1) to employ necessary personnel, fix the amount and manner of their compensation, and incur other expenses that are necessary and proper to enable the committee to effectively carry out the purposes of this Act;

(2) to promulgate and adopt reasonable rules and regulations, not inconsistent with the purposes of this Act;

(3) to keep minutes of its meetings, and other books and records which will clearly reflect all of the acts and transactions of the board, and to keep these records open to examination by any person during normal business hours;

(4) to set the rate of the assessment which shall, however, in no instance exceed one percent of the market value of the commodity upon which the assessment is to be paid; and

(5) to act jointly and in cooperation with others, or separately, for the purpose of developing, carrying out, and participating in programs of research, education, and promotion, designed to encourage the production, marketing, and use of the commodity upon which the assessment is levied.

**Collection of Assessment; Participation Certificates;
 Right to Exemption; Refund**

Sec. 15. (a) The levying of an assessment which has been authorized by referendum vote shall be made and collected as provided in this section.

(b) The secretary-treasurer of the board shall notify each processor of the commodity, by registered or certified mail, that on and after the date specified in the letter, the processor, when making any purchase of the commodity or advancing any funds therefor shall

(1) place on file a participation certificate signed by the producer who wishes to participate in the assessment; and

(2) collect the assessment from the producer who has signed a participation certificate by deducting the amount thereof from the purchase price or funds advanced by the processor.

(c) The following commodities are exempt from the provisions of this Act: Rice, poultry, soybean, flax, cattle, and commodities of producers who do not sign participation certificates shall be exempt from all provisions of this Act.

(d) The secretary-treasurer of the board shall furnish each processor an adequate supply of participation certificate forms and exemption certificate forms. The board shall prescribe the form of the participation certificates and exemption certificates. Each processor shall keep records for each transaction with producers in such a manner as to correctly indicate whether or not the transaction is an exempt or participating transaction.

(e) If a producer has a participation certificate on record with a processor, the processor shall collect the assessment on all transactions with the producer until such time as the producer exempts himself with respect to that commodity by signing an exemption certificate.

(f) Each processor shall maintain an alphabetical file of participation and exemption certificates, and the file is open to inspection by the board and its authorized agents during ordinary and regular business hours.

(g) The amount of the assessment collected shall be clearly shown on the sales invoice or other document evidencing the transaction, and a copy of such receipt shall be furnished the producer by the processor.

(h) The processor collecting the assessment shall remit such funds monthly, not later than the 10th day of the month following that in which they were collected, to the secretary-treasurer of the commodity producers board for such commodity.

(i) Any producer who has paid such assessment may, if he desires to do so, obtain a refund of the amount paid, if application for a refund is made within 60 days after the date of payment. Such application shall be in writing on a form designed and furnished for such purpose by the commodity producers board. The application shall be filed with the secretary-treasurer of the board, accompanied by proof of the payment of the assessment, and it is the duty of the secretary-treasurer to promptly issue a check in payment of the refund to the producer.

Discontinuance of Assessment

Sec. 16. The levy and collection of an assessment which has been authorized by referendum vote as herein provided shall be terminated if a simple majority of the qualified voters voting in a referendum, held upon the petition of 10 percent of the producers participating in the program, shall vote in favor of termination. Such a petition shall be filed with the secretary-treasurer of the board, and it shall be the duty and responsibility of the board to call and hold a referendum for such purpose, after giving notice in the manner provided for the original referendum. A referendum on the discontinuance of the levying and collecting of an assessment shall be held within 90 days of the date of filing of the

petition. The referendum shall be held and the results declared in the manner provided for the original referendum, with any necessary exceptions as provided by rule of the commissioner.

Penalty

Sec. 17. A person who violates any provision of this Act is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$50 nor more than \$200, or by imprisonment in the county jail for not less than 10 days nor more than six months, or by both. Acts 1967, 60th Leg., p. 1052, ch. 462, eff. Aug. 28, 1967.

Title of Act:

An Act authorizing the producers of any agricultural commodity to conduct a referendum, either on an area or statewide basis, on the proposition of whether or not such producers shall levy an assessment upon themselves, to finance programs of research, education, and promotion, designed to encourage the production, marketing, and use of such agricultural commodity;

limiting the amount of such assessment; providing for the administration of such programs; providing for the collection of such assessment and providing certain exemptions; providing for refund of such assessment; providing for termination of such assessment; prescribing procedures; prescribing penalties; and declaring an emergency. Acts 1967, 60th Leg., p. 1052, ch. 462.

CHAPTER SEVEN A—PLANT DISEASES AND PESTS

Art.

135a—4. Testing agricultural products for aflatoxins [New].

Art. 135a—4. Testing agricultural products for aflatoxins

Section 1. The Texas Department of Agriculture is hereby authorized to test any agricultural product for aflatoxins when requested to do so for an individual, company, association or corporation.

Sec. 2. The Texas Department of Agriculture is hereby authorized to charge a fee for the making of a test of an agricultural product for aflatoxins. Such fee shall be in an amount to be determined by the Commissioner of Agriculture of the Texas Department of Agriculture; provided, however, the fee set by the Commissioner of Agriculture shall be not less than Ten Dollars (\$10) nor more than Twenty Dollars (\$20).

Sec. 3. All fees collected by the State Department of Agriculture for making tests for aflatoxins pursuant to the provisions of this Act shall be deposited in the Special Department of Agriculture Fund in the State Treasury.

Sec. 4. If any portion of this Act is declared unconstitutional, it is the intention of the Legislature that the other portions shall remain in full force and effect.

Acts 1967, 60th Leg., p. 2074, ch. 775, emerg. eff. June 18, 1967.

Title of Act:

An Act authorizing the Texas Department of Agriculture to test agricultural products for aflatoxins and charge a fee for such tests; providing that fees collect-

ed shall be deposited in the Special Department of Agriculture Fund; providing for severability; and declaring an emergency. Acts 1967, 60th Leg., p. 2074, ch. 775.

Art. 135b—4. Sale, use and transportation of herbicides

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Definitions

Sec. 2. For the purposes of this Act:

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(f) The term "Dealer" means any person who sells, wholesales, distributes, offers or exposes for sale, exchanges, barter or gives away with-

missioners court within 20 days from entrance of the order, in which case the rules and procedure governing appeals from orders of the Railroad Commission of Texas shall be followed, the "substantial evidence rule" shall apply, and appeals may be taken as in other civil cases. It is further provided that the following named counties shall be exempt from the provisions of this Act: Coleman, Runnels, Coke, Tom Green, Sterling, Reagan, Upton, Irion, Crane, Sutton, Schleicher, Crockett, Val Verde, Presidio, Pecos, Jeff Davis, Brewster, Terrell, Edwards, Mills, Lampasas, Burnet, Llano, Gillespie, Kerr, Bandera, Kinney, Uvalde, Zavala, Real, Kimble, Mason, Menard, McCulloch, Montague, San Saba, Concho, Brooks, Cameron, Dimmit, Duval, McMullen, Nueces, Starr, Webb, Frio, Hidalgo, Jim Hogg, Jim Wells, Kenedy, Kleberg, La Salle, Willacy, Zapata, Maverick, and Panola.

Sec. 17 amended by Acts 1965, 59th Leg., p. 427, ch. 213, § 1, eff. Aug. 30, 1965; Acts 1965, 59th Leg., p. 870, ch. 425, § 1, eff. Aug. 30, 1965; Acts 1967, 60th Leg., p. 39, ch. 19, § 1, eff. Aug. 28, 1967.

Amendment of section 17 by Acts 1967, 60th Leg., p. 1080, ch. 474, § 4, see section 17, post.

Application of act to certain counties

Sec. 17. (a) The provisions of this Act relating to appliers and custom appliers shall not be effective at this time in any county in this state north and northwest of the southernmost boundaries of Andrews, Martin, Howard, Mitchell, Nolan, Taylor, Callahan, and Eastland Counties, and the easternmost boundary line of a portion of Eastland County, and the counties of Stephens and Young; and the southernmost boundary and the easternmost boundary of Clay County, it being the intention of the Legislature that all of the counties named shall be exempted from the provisions of this Act, as herein provided, and all counties of Texas north and west of said named counties shall also be exempted from the provisions of this Act; because it is found to be a fact that there is now no crop or vegetation of value susceptible to damage in this area. It is further provided that the following named counties shall be exempt from the provisions of this Act relating to appliers and custom appliers: Coleman, Runnels, Coke, Tom Green, Sterling, Glasscock, Reagan, Upton, Irion, Crane, Sutton, Schleicher, Crockett, Val Verde, Presidio, Pecos, Jeff Davis, Brewster, Terrell, Edwards, Mills, Lampasas, Burnet, Llano, Gillespie, Kerr, Bandera, Kinney, Uvalde, Zavala, Real, Kimble, Mason, Menard, McCulloch, Montague, San Saba, Concho, Brooks, Cameron, Dimmit, Duval, McMullen, Nueces, Starr, Webb, Frio, Hidalgo, Jim Hogg, Jim Wells, Kenedy, Kleberg, La Salle, Willacy, Zapata, Maverick, and Panola. However, the provisions of this Act relating to dealers apply to every county in the state.

(b) When any crop or vegetation of value that is susceptible to damage exists in any county exempted by Subsection (a) of this section, which fact shall be determined by the commissioners court of the affected county, evidenced by an appropriate order entered in the minutes of the court, the provisions of this Act relating to appliers and custom appliers shall be in full force and effect in that county immediately upon the entry of said order. Before any such order shall be entered by a commissioners court, the court shall first give notice in at least one newspaper in said county 10 days prior to a hearing on this matter. Any interested person may appeal to the district court to test the reasonableness of the fact-finding of the commissioners court within 20 days from entry of the order, in which case the rules and procedure governing appeals from orders of the Railroad Commission of Texas shall be followed, the "substantial evidence rule" shall apply, and appeals may be taken as in other civil cases.

(c) When the commissioners court of a county subject to this Act finds it to be a fact that there is no crop or vegetation of value susceptible to damage in the county, the commissioners court by order may exempt the

For Annotations and Historical Notes, see V.A.T.S.

county from the provisions of this Act relating to appliers and custom appliers. In finding the fact and entering the order, the commissioners court is governed by the requirements set out in Subsection (b) of this section, insofar as they are applicable.

Sec. 17 amended by Acts 1965, 59th Leg., p. 427, ch. 213, § 1, eff. Aug. 30, 1965; Acts 1965, 59th Leg., p. 870, ch. 425, § 1, eff. Aug. 30, 1965; Acts 1967, 60th Leg., p. 1080, ch. 474, § 4, eff. Aug. 28, 1967.

Amendment of section 17 by Acts 1967, 60th Leg., p. 39, ch.

19, § 1, see section 17, ante.

Sec. 17a. Repealed. Acts 1967, 60th Leg., p. 1080, ch. 474, § 5, eff. Aug. 28, 1967.

CHAPTER NINE—SOIL CONSERVATION AND PRESERVATION

Art. 165a—4. State Soil and Water Conservation

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Creation of Soil and Water Conservation Districts

Sec. 5.

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H. (a) Petitions for including additional territory within an existing District may be filed with the State Soil Conservation Board, and the proceedings provided for herein in the case of petitions to organize a District shall be observed in the case of petitions for such inclusion. The Board shall prescribe the form for such petitions, which shall be as nearly as may be in the form prescribed in this Act for petitions to organize a District. Where the total number of landowners in the area proposed for inclusion shall be less than one hundred (100), the petition may be filed when signed by a two-thirds majority of owners of land in such area and in such case no election need be held. In election upon petitions for such inclusion, all owners of land within the proposed additional area shall be eligible to vote; only such landowners shall be eligible to vote.

(b) The Board of Supervisors of any one or more Districts organized under the provisions of this Act may submit to the State Soil and Water Conservation Board a petition signed by a majority of the members of the Board of Supervisors of each District affected requesting a division of a District, a combination of two or more Districts, or a transfer of land from one District to another. The Board shall make a determination as to the practicality and feasibility of the proposed change. If the Board determines that the proposed change of District boundaries is not administratively practicable and feasible, it shall record such determination and deny the petition. If the Board determines that the proposed change is administratively practicable and feasible, it shall record the determination and reorganize the Districts in the manner set out in the petition.

Sec. 5, subsec. H amended by Acts 1959, 56th Leg., p. 743, ch. 337, § 1, eff. May 30, 1959; Acts 1967, 60th Leg., p. 424, ch. 189, § 2, eff. Aug. 28, 1967.

Method of selection, qualifications, and tenure of Soil and Water Conservation District Supervisors

Sec. 6.

* * * * *

(g) If a vacancy occurs in the office of supervisor, the remaining supervisors, by majority vote, shall appoint a person to fill the unexpired term. Before a person appointed by the remaining supervisors to fill an

unexpired term may take office, his appointment must be approved by the State Soil and Water Conservation Board.

Sec. 6 subsec. (g) amended by Acts 1967, 60th Leg., p. 424, ch. 189, § 1, eff. Aug. 28, 1967.

Art. 165a—10. Funds; powers and duties of supervisors; discontinuance of districts; conventions

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Bonds; accounts and records; audits

Sec. 3. (a) The Board of Supervisors of a District shall provide that all officers and employees entrusted with funds or property of a District are bonded in accordance with the State Employee Bonding Act.

(b) The Board shall provide for keeping full and accurate accounts, records of proceedings, resolutions, regulations, and orders issued or adopted. 1967.

(c) The Board shall provide for an audit of the District's accounts as of August 31 of every second year by a Registered Public Accountant. The Board shall furnish a copy of the audit to the Governor and to the Legislative Budget Board not later than January 1 of the year following the audit.

(d) The cost for keeping accounts and making audits may be paid out of any funds available to a District.

Sec. 3 amended by Acts 1967, 60th Leg., p. 425, ch. 190, § 1, eff. Aug. 28, 1967.

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CHAPTER TEN—MILK PRODUCERS AND DISTRIBUTORS

Art. 165—3. Milk grading and pasteurization

Definitions

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

A. Milk. Milk is hereby defined to be the lacteal secretion, practically free from colostrum, obtained by the complete milking of one or more healthy cows, which contains not less than 8¼ percent milk solids-not-fat and not less than 3¼ percent milkfat. (Milkfat or butterfat is the fat of milk.)

A-1. Goat Milk. Goat milk is the lacteal secretion, practically free from colostrum, obtained by the complete milking of healthy goats. The word 'milk' shall be interpreted to include goat milk.

B. Cream. Cream is the sweet, fatty liquid separated from milk, with or without the addition of milk or skim milk, which contains not less than 18 percent milkfat.

B-1. Light Cream, Coffee Cream, or Table Cream. Light cream, coffee cream, or table cream is cream which contains not less than 18 percent but less than 30 percent milkfat.

B-2. Whipping Cream. Whipping cream is cream which contains not less than 30 percent milkfat.

B-3. Light Whipping Cream. Light whipping cream is cream that contains not less than 30 percent but less than 36 percent milkfat.

B-4. Heavy Cream or Heavy Whipping Cream. Heavy cream or heavy whipping cream is cream which contains not less than 36 percent milkfat.

B-5. Whipped Cream. Whipped cream is whipping cream into which air or gas has been incorporated. Optional ingredients as defined in this Section under Definition S may be used in these products.

B-6. Whipped Light Cream, Coffee Cream, or Table Cream. Whipped light cream, coffee cream, or table cream is light cream, coffee cream, or table cream into which air or gas has been incorporated. Optional ingredients as defined in this Section under Definition S may be used in these products.

B-7. Sour Cream or Cultured Sour Cream. Sour cream or cultured sour cream is a fluid or semifluid cream resulting from the souring, by lactic acid producing bacteria or similar culture, of pasteurized cream, which contains not less than 0.20 percent acidity expressed as lactic acid. Optional ingredients as defined in this Section under Definition S may be used in this product.

C. Half-and-Half. Half-and-half is a product consisting of a mixture of milk and cream which contains not less than 10.5 percent milkfat. Optional ingredients as defined in this Section under Definition S may be used in this product.

C-1. Sour Half-and-Half or Cultured Half-and-Half. Sour half-and-half or cultured half-and-half is fluid or semifluid half-and-half derived from the souring, by lactic acid producing bacteria or similar culture, or pasteurized half-and-half, which contains not less than 0.20 percent acidity expressed as lactic acid. Optional ingredients as defined in this Section under Definition S may be used in this product.

D. Reconstituted or Recombined Milk and Milk Products. Reconstituted or recombined milk and/or milk products shall mean milk or milk products defined in this Section which result from the recombining of milk constituents with potable water. Optional ingredients as defined in this Section under Definition S may be used in these products.

E. Concentrated Milk. Concentrated milk is a fluid product, unsterilized and unsweetened, resulting from the removal of a considerable portion of the water from milk, which, when combined with potable water, results in a product conforming with the standards for milkfat and solids-not-fat of milk as defined above. Optional ingredients as defined in this Section under Definition S may be used in this product.

E-1. Concentrated Milk Products. Concentrated milk products shall be taken to mean and to include homogenized concentrated milk, vitamin D concentrated milk, concentrated skim milk, fortified concentrated skim milk, concentrated lowfat milk, fortified concentrated lowfat milk, concentrated flavored milk, concentrated flavored milk products, and similar concentrated products made from concentrated milk or concentrated skim milk, and which, when combined with potable water in accordance with instructions printed on the container, conform with the definitions of the corresponding milk products in this section. Optional ingredients as defined in this Section under Definition S may be used in these products.

F. Skim Milk or Skimmed Milk. Skim milk or skimmed milk is milk from which sufficient milkfat has been removed to reduce its milkfat content to less than 0.50 percent. Optional ingredients as defined in this Section under Definition S may be used in this product.

G. Lowfat Milk. Lowfat milk is milk from which a sufficient portion of milkfat has been removed to reduce its milkfat content to not less than 0.50 percent and not more than 2.0 percent. Optional ingredients as defined in this Section under Definition S may be used in this product.

H. Vitamin D Milk and Milk Products. Vitamin D milk and milk products are milk and milk products, the vitamin D content of which has been increased by an approved method to at least 400 U.S.P. units per quart. Optional ingredients as defined in this Section under Definition S may be used in these products.

I. Fortified Milk and Milk Products. Fortified milk and milk products are milk and milk products other than vitamin D milk and milk prod-

ucts, the vitamin and/or mineral content of which have been increased by a method and in an amount approved by the health authority. Optional ingredients as defined in this Section under Definition S may be used in these products.

J. Homogenized Milk. Homogenized milk is milk which has been treated to insure breakup of the fat globules to such an extent that, after 48 hours of quiescent storage at 45° F., no visible cream separation occurs on the milk, and the fat percentage of the top 100 milliliters of milk in a quart, or of proportionate volumes in containers of other sizes, does not differ by more than 10 percent from the fat percentage of the remaining milk as determined after thorough mixing. The word "milk" shall be interpreted to include homogenized milk. Optional ingredients as defined in this Section under Definition S may be used in this product.

K. Flavored Milk or Milk Products. Flavored milk or milk products shall mean milk and milk products as defined in this Act to which has been added a flavor and/or sweetener. Optional ingredients as defined in this Section under Definition S may be used in these products.

L. Buttermilk. Buttermilk is a fluid product resulting from the manufacture of butter from milk or cream. It contains not less than 8¼ percent of milk solids-not-fat. Optional ingredients as defined in this Section under Definition S may be used in this product.

L-1. Cultured Buttermilk. Cultured buttermilk is a fluid product resulting from the souring, by lactic acid producing bacteria of similar culture, of pasteurized skim milk or pasteurized lowfat milk. Optional ingredients as defined in this Section under Definition S may be used in this product.

M. Cultured Milk or Cultured Whole Milk Buttermilk. Cultured milk or cultured whole milk buttermilk is a fluid product resulting from the souring, by lactic acid producing bacteria of similar culture, of pasteurized milk. Optional ingredients as defined in this Section under Definition S may be used in this product.

N. Acidified Milk and Milk Products. Acidified milk and milk products are milk and milk products obtained by the addition of food grade acids to pasteurized cream, half-and-half, milk, lowfat milk, or skim milk, resulting in a product acidity of not less than 0.20 percent expressed as lactic acid. Optional ingredients as defined in this Section under Definition S may be used in these products.

O. Milk Products. Milk products include cream, light cream, coffee cream, table cream, whipping cream, light whipping cream, heavy cream, heavy whipping cream, whipped cream, whipped light cream, whipped coffee cream, whipped table cream, sour cream, cultured sour cream, half-and-half, sour half-and-half, cultured half-and-half, reconstituted or recombined milk and milk products, concentrated milk, concentrated milk products, skim milk, skimmed milk, lowfat milk, fortified milk and milk products, vitamin D milk and milk products, homogenized milk, flavored milk or milk products, buttermilk, cultured buttermilk, cultured milk, cultured whole milk buttermilk, and acidified milk and milk products. Optional ingredients as defined in this Section under Definition S may be used in these products.

This definition is not intended to include such products as sterilized milk and milk products hermetically sealed in a container and so processed, either before or after sealing, as to prevent microbial spoilage, or evaporated milk, condensed milk, ice cream and other frozen desserts, butter, dry milk products (except as defined herein), or cheese except when they are combined with other substances to produce any pasteurized milk or milk product defined herein.

P. Grade "A" Raw Milk or Milk Products. Grade "A" raw milk or milk products are milk or milk products which have been produced and handled in accordance with the specifications and requirements as pro-

mulgated by the Commissioner of Health and which grade and grade label has been determined and awarded by a City or County Health Officer or by his representative.

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

R. Grade "A" Dry Milk Products. Grade "A" dry milk products are milk products which have been produced for use in Grade "A" pasteurized milk products and which have been manufactured under the provisions of Grade "A" Dry Milk Products—Recommended Sanitation Ordinance and Code for Dry Milk Products Used in Grade "A" Pasteurized Milk Products.

S. Optional Ingredients. Optional ingredients shall mean and include Grade "A" dry milk products, concentrated milk, concentrated milk products, flavors, sweeteners, stabilizers, emulsifiers, acidifiers, vitamins, minerals, and similar ingredients.

T. Adulterated Milk and Milk Products. Any milk or milk product shall be deemed to be adulterated (1) if it bears or contains any poisonous or deleterious substance in a quantity which may render it injurious to health; (2) if it bears or contains any added poisonous or deleterious substance for which no safe tolerance has been established by State or Federal regulation, or in excess of such tolerance if one has been established; (3) if it consists, in whole or in part, of any substance unfit for human consumption; (4) if it has been produced, processed, prepared, packed, or held under insanitary conditions; (5) if its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health; or (6) if any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength, or make it appear better or of greater value than it is.

T-1. Misbranded Milk and Milk Products. Milk and milk products are misbranded (1) when their container(s) bear or accompany any false or misleading written, printed or graphic matter; (2) when such milk and milk products do not conform to their definitions as contained in this Act; and (3) when such products are not labeled in accordance with the labeling requirements of the current edition of the United States Public Health Service Milk Ordinance.

U. Pasteurization. The terms "pasteurization," "pasteurized," and similar terms shall mean the process of heating every particle of milk or milk product to at least 145° F., and holding it continuously at or above this temperature for at least 30 minutes, or to at least 161° F., and holding it continuously at or above this temperature for at least 15 seconds, in equipment which is properly operated and approved by the health authority: Provided, that milk products which have a higher milk fat content than milk and/or contain added sweeteners shall be heated to at least 150° F., and held continuously at or above this temperature for at least 30 minutes, or to at least 166° F., and held continuously at or above this temperature for at least 15 seconds: Provided further, that nothing in this definition shall be construed as barring any other pasteurization process which has been recognized by the United States Public Health Service to be equally efficient and which is approved by the State health authority.

V. Sanitization. Sanitization is the application of any effective method or substance to a clean surface for the destruction of pathogens,

and of other organisms as far as is practicable. Such treatment shall not adversely affect the equipment, the milk or milk product or the health of consumers, and shall be acceptable to the health authority.

W. Milk Producer. A milk producer is any person who operates a dairy farm and provides, sells, or offers milk for sale to a milk plant, receiving station, or transfer station.

X. Milk Hauler. A milk hauler is any person who transports raw milk and/or raw milk products to or from a milk plant, a receiving or transfer station.

Y. Milk Distributor. A milk distributor is any person who offers for sale or sells to another any milk or milk products.

Z. State Health Officer. The term "State Health Officer" shall mean the Commissioner of Health of the State of Texas.

AA. Health Authority. The health authority shall mean the city or county health officer or his representative. The term "Health Authority", wherever it appears in these specifications and requirements, shall mean the appropriate agency having jurisdiction and control over the matters embraced within these specifications and requirements.

BB. Dairy Farm. A dairy farm is any place or premises where one or more cows or goats are kept, and from which a part or all of the milk or milk product(s) is provided, sold, or offered for sale to a milk plant, transfer station, or receiving station.

CC. Milk Plant and/or Receiving Station. A milk plant and/or receiving station is any place, premises, or establishment where milk or milk products are collected, handled, processed, stored, pasteurized, bottled, or prepared for distribution.

DD. Transfer Station. A transfer station is any place, premises, or establishment where milk or milk products are transferred directly from one transport tank to another.

EE. Official Laboratory. An official laboratory is a biological, chemical, or physical laboratory which is under the direct supervision of the State or a local health authority.

FF. Officially Designated Laboratory. An officially designated laboratory is a commercial laboratory authorized to do official work by the supervising agency, or a milk industry laboratory officially designated by the supervising agency for the examination of producer samples of Grade "A" raw milk for pasteurization.

GG. Person. The word "person" shall mean any individual, plant operator, partnership, corporation, company, firm, trustee, or association.

Sec. 1 amended by Acts 1967, 60th Leg., p. 1974, ch. 734, § 1, emerg. eff. June 18, 1967.

State Health Officer to fix specifications

Sec. 2. The State Health Officer is hereby authorized and empowered to define which shall constitute and to fix the specifications for the production of Grade "A" raw milk and raw milk products, according to the safety and food value of the same and the sanitary conditions under which the same are produced and handled. Provided, such specifications defined and fixed by the State Health Officer shall be based upon and in harmony with the specifications for these grades of raw milk and raw milk products as set forth in the current United States Public Health Service Milk Ordinance.

And the State Health Officer is hereby authorized and empowered to define what shall constitute and to fix the specifications for the production and handling of Grade "A" pasteurized milk and pasteurized milk products according to the safety and food value of the same, and the sanitary conditions under which the same are produced or handled. Provided, such specifications defined and fixed by the State Health Officer shall be based upon and in harmony with the specifications for

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these grades of pasteurized milk and pasteurized milk products as set forth in the current United States Public Health Service Milk Ordinance.

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

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

Sec. 2 amended by Acts 1967, 60th Leg., p. 1978, ch. 734, § 2, emerg. eff. June 18, 1967.

Permits for use of labels in advertising or labeling milk

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

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

Sec. 3 amended by Acts 1967, 60th Leg., p. 1979, ch. 734, § 3, emerg. eff. June 18, 1967.

Milk to conform to marked grades

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

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

products, shall be represented, published, labeled or advertised as being Grade "A" milk or Grade "A" milk products.
Sec. 4 amended by Acts 1967, 60th Leg., p. 1979, ch. 734, § 4, emerg. eff. June 18, 1967.

* * * * *

Enabling Clause

Sec. 7. The governing body of any city in the State of Texas may make mandatory the grading and labeling of milk and milk products sold or offered for sale under the United States Standard Milk Ordinance within their respective jurisdictions; provided such milk or milk products sold or offered for sale shall be covered by the definitions, specifications and regulations promulgated by the Commissioner of Health under Section 2 for Grade "A" raw milk or milk products, and for Grade "A" pasteurized milk or milk products, by adopting an ordinance to that effect, and by providing the necessary facilities for determining the grade and for the enforcement of this Act; provided, however, the provisions of this section shall apply only to milk or milk products, sold or offered for sale by any person, partnership, or corporation, directly to the consumer of such milk or milk products.

Sec. 7 amended by Acts 1967, 60th Leg., p. 1980, ch. 734, § 5, emerg. eff. June 18, 1967.

Sampling, testing and inspection of Grade "A" milk and milk products

Sec. 7A. It shall be the duty of authorized personnel of any health department, State or municipal, to sample, test, or inspect Grade "A" pasteurized milk and milk products, or Grade "A" raw milk and milk products for pasteurization delivered to any milk plant and/or receiving station, or other place of delivery. Grade "A" pasteurized milk or grade "A" raw milk for pasteurization which comes from beyond the limits of routine inspection of any municipal health department of this State shall be sampled, tested and/or inspected in order to determine if such Grade "A" pasteurized milk and milk products or Grade "A" raw milk and milk products for pasteurization meets the standards and requirements of the Texas State Department of Health or municipal ordinances relating to milk and milk products. Such sampling, testing, and inspection of Grade "A" pasteurized milk and milk products or Grade "A" raw milk and milk products for pasteurization shall include, in addition to any other tests that may be required, the following:

- (1) plate count or direct microscopic count;
- (2) antibiotics;
- (3) sediments;
- (4) phosphotase;
- (5) checks for water or any elements foreign to the natural contents of Grade "A" pasteurized milk or milk products or Grade "A" raw milk or milk products for pasteurization as defined in this Act.

Sec. 7a added by Acts 1967, 60th Leg., p. 1980, ch. 734, § 6, emerg. eff. June 18, 1967.

* * * * *

Sections 7-10 of the act of 1967 amended article 165-3a; section 11 thereof provided: "If any provision of this Act or application thereof to any person or circumstances is held invalid, such invalidity shall not af-

fect other provisions or applications of the Act which can be given effect without the invalid provisions or application, and to this end the provisions of the Act are declared to be severable."

Art. 165—3a. Texas Equal Health Standard Milk Sanitation Act of 1961

Declaration of purpose

Sec. 2. The purpose of this Act is to utilize effectively existing agencies and departments in regulating, processing, and distributing milk

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and milk products to the end that Texas consumers will be assured of a full supply of wholesome, high quality milk, cream, and milk products by requiring that all Grade "A" pasteurized milk and/or Grade "A" raw milk for pasteurization shipped into Texas be produced under rules, regulations, and statutes providing standards as high as or higher than those provided by the Texas Milk Grading and Labeling Law, Chapter 172 (codified as Article 165—3, Vernon's Annotated Civil Statutes), Acts of the 45th Legislature, Regular Session, 1937, as amended, and any other statutes, rules, and regulations governing the production of milk in Texas. Sec. 2 amended by Acts 1967, 60th Leg., p. 1981, ch. 734, § 7, emerg. eff. June 18, 1967.

Shipping Grade "A" milk into State; standards; inspections

Sec. 3. From and after the effective date of this Act, no person, officer, or inspector authorized under the laws of this State or any municipality within the State to inspect or regulate the production of fluid milk of whatever quality, shall in anywise approve, grant, or issue a permit, certificate, or other authorization for Grade "A" pasteurized milk and/or Grade "A" raw milk for pasteurization to be shipped into Texas unless the same is produced in accordance with standards, rules, regulations, and statutes governing the production of milk in the State of Texas; and no such person, officer, or inspector shall in anywise permit, certify, or authorize the shipping of any Grade "A" pasteurized milk and/or Grade "A" raw milk for pasteurization into this State regardless of the grade, unless such person, officer, or inspector, shall certify that such fluid milk was produced under equivalent rules and regulations required for the production of milk in the State of Texas. Provided, however, inspections to approve, grant, issue or maintain a permit, certificate, or other authorization for the shipping of Grade "A" pasteurized milk and/or Grade "A" raw milk for pasteurization into this State shall have inspections made as frequently as, and in the same manner on dairy farms, transfer stations, milk plants and/or receiving stations shipping into Texas as are made on Texas dairy farms, transfer stations, milk plants and/or receiving stations. Nothing herein shall be construed as requiring any more frequent or different inspections of dairy farms, transfer stations, milk plants and/or receiving stations shipping milk into Texas than are made of Texas dairy farms, transfer stations, milk plants and/or receiving stations. Provided, further, that any Grade "A" pasteurized milk or Grade "A" raw milk for pasteurization shipped into the State of Texas from any dairy farm, transfer station, milk plant, and/or receiving station shall be accompanied to the point of delivery with a manifest specifically listing each such dairy farm, transfer station, milk plant and/or receiving station permit or certification number issued by the Texas State Department of Health making up each such separate load of Grade "A" pasteurized milk or Grade "A" raw milk for pasteurization to be shipped into Texas. Provided further that Grade "A" pasteurized milk or Grade "A" raw milk for pasteurization shipped into Texas shall not have been commingled prior to shipping with any milk not authorized by permit or certificate issued by the Texas State Department of Health to be shipped into the State of Texas. Provided, however, that the provisions of this Section, shall not be applicable to a dairy farm, transfer station, milk plant and/or receiving station which is now under the routine inspection(s) and supervision of municipalities of the State of Texas.

Sec. 3 amended by Acts 1967, 60th Leg., p. 1981, ch. 734, § 8, emerg. eff. June 18, 1967.

Enforcement of act; permits to ship or deliver Grade A milk; application; fee

Sec. 4 (a) The enforcement of the provisions of this Act, shall be the responsibility of the Texas State Health Department, which Depart-

ment is hereby charged with the duty of enforcing the provisions of this Act. Said Department is hereby authorized to require the payment of a reasonable fee for any inspection required or made in the enforcement of this Act, such fee to be levied against the out-of-State dairy farm, transfer station, milk plant and/or transfer station receiving a permit, certificate, or other authorization for the shipping and delivering of Grade "A" pasteurized milk or Grade "A" raw milk for pasteurization into the State of Texas under this Act. The Texas State Department of Health, upon receiving application from such dairy farm, transfer station, milk plant and/or receiving station desiring a permit or other authority for the shipping and delivering of Grade "A" pasteurized milk or Grade "A" raw milk for pasteurization into this State, shall make or cause to be made, by personnel under its jurisdiction, the necessary inspection(s) to determine that full compliance is being made with all standards, rules, regulations, and statutes governing production, processing, pasteurization or bottling of Grade "A" pasteurized milk or Grade "A" raw milk for pasteurization in the State of Texas; and in the event it finds such compliance is being made by said applicant(s), it shall issue a permit, certificate, or other authorization, to such applicant(s) upon receipt of the prescribed fee. Provided, however, that the provisions of this Section shall not be applicable to a dairy farm, transfer station, milk plant and/or receiving station which is now under the routine inspection(s) and supervision of municipalities of the State of Texas.

(b) Beginning on the effective date of this Act, any person, firm, association, or corporation wanting to transport Grade "A" pasteurized milk or Grade "A" raw milk for pasteurization into the State of Texas from dairy farms, transfer stations, milk plants and/or receiving stations from outside the State of Texas must apply to the Texas State Health Department for a permit, certificate, or other authorization.

(c) The Texas State Health Department shall issue a permit, certificate, or other authorization referred to in Subsection (b) of this Section provided the applicant:

(1) presents satisfactory proof and evidence that he is in compliance with rules, regulations, standards, and requirements prescribed by the Texas State Health Department relating to production, processing and transportation of Grade "A" pasteurized milk and milk products or Grade "A" raw milk and milk products for pasteurization; and

(2) pays a reasonable fee prescribed by the Texas State Health Department, which shall be limited to actual costs of salary and travel of personnel under its jurisdiction in connection with such inspection.

Sec. 4 amended by Acts 1967, 60th Leg., p. 1982, ch. 734, § 9, emerg. eff. June 18, 1967.

Violations; penalties

Sec. 5. (a) Any person, firm, association, or corporation who transports Grade "A" pasteurized milk or Grade "A" raw milk for pasteurization into this State from dairy farms, transfer stations, milk plants and/or receiving stations without a permit, certificate, or other authorization issued by the Texas State Health Department under the provisions of Subsections (b) and (c) of Section 4 of this Act is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than Twenty-five (\$25) Dollars nor more than Two Hundred (\$200) Dollars. Provided, however, that the provisions of this Subsection shall not be applicable to a dairy farm, transfer station, milk plant and/or receiving station which is now under the routine inspection(s) and supervision of municipalities of the State of Texas.

(b) Any person, firm, association, or corporation who holds a permit, certificate, or other authorization issued by the Texas State Health Department to transport Grade "A" pasteurized milk or Grade "A" raw milk for pasteurization into the State of Texas and fails to provide the manifest

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for each such separate load of milk as required under Section 3 of this Act shall have his permit, certificate, or authorization revoked by the Texas State Health Department.

(c) Any person, firm, association or corporation who receives any Grade "A" pasteurized milk or Grade "A" raw milk for pasteurization from outside the State of Texas from a transporter of milk, dairy farm, transfer station, milk plant and/or receiving station not authorized by permit, certificate, or other authorization issued by the Texas State Health Department as required under Sections 3 and 4 of this Act is guilty of a misdemeanor and upon conviction, is punishable by a fine of not less than Twenty-five (\$25) Dollars nor more than Two Hundred (\$200) Dollars. Sec. 5 amended by Acts 1967, 60th Leg., p. 1982, ch. 734, § 10, emerg. eff. June 18, 1967.

Sections 1-6 of the act of 1967 amended ability clause is set out as a note under article 165—3; section 11 thereof, a sever- article 165—3.

TITLE 8—APPORTIONMENT

CONGRESSIONAL DISTRICTS

- Art.
197b. Repealed.
197c. Congressional Districts [New].

REPRESENTATIVE DISTRICTS

Art. 195a. Representative Districts

Section 1. The Representative Districts of the State of Texas shall be composed respectively of the following counties or defined areas and each District shall be entitled to elect one Representative except as otherwise provided herein:

1. Bowie
2. Cass, Marion, Morris, Titus
3. Harrison, Panola
4. Sabine, San Augustine, Shelby, Nacogdoches
5. Angelina, Polk, San Jacinto
6. Chambers, Liberty, Montgomery
7. Hardin, Jasper, Newton, Tyler
8. Orange
9. Jefferson
 - Place 1
 - Place 2
 - Place 3
 - Place 4
10. Delta, Franklin, Lamar, Red River
11. Camp, Hopkins, Upshur, Wood
12. Henderson, Kaufman, Van Zandt
13. That part of Gregg County included in the following:

BEGINNING at a point where the Missouri and Pacific Railroad intersects the common line of Gregg and Rusk counties;

THEN northeasterly along the Missouri and Pacific Railroad to Rabbit Creek;

THEN northeasterly along Rabbit Creek to the Sabine River;

THEN southeasterly along the Sabine River to Graybill Creek (also called Winds Bayou);

THEN generally southerly along Graybill Creek (also called Winds Bayou) to the common line of Gregg and Rusk counties;

THEN east, northeast, west, north, northwest, south and east along the Gregg County line to the Missouri and Pacific Railroad, the point of beginning.
14. That part of Smith County included in the following:

BEGINNING at a point where Saline Creek intersects the common line between Smith and Wood counties;

THEN south along the meanders of Saline Creek to County Road 10;

THEN east along County Road 10 to Lavender Road;

THEN south along Lavender Road to State Highway 14;

THEN south along State Highway 14 to the city limit of the city of Tyler;

THEN east along the northern city limit of the city of Tyler and south along the eastern city limit of the city of Tyler then westerly

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along the south city limit of the city of Tyler to the point where the south city limit of the city of Tyler intersects Briar Branch;

THEN south along the meanders of Briar Branch to Mud Creek (the said Briar Branch and Mud Creek being a common boundary line between two commissioners precincts in the south part of Smith County);

THEN south and east along the meanders of Mud Creek to the common line between Smith and Cherokee counties;

THEN west, north and east along the Smith County line to Saline Creek, the point of beginning.

15. Rusk County and that part of Gregg County not included in District 13 and that part of Smith County not included in District 14

16. Anderson, Cherokee

17. Houston, Leon, Trinity, Walker

18. Brazos, Grimes, Madison

19. That part of Brazoria County included in the following:

BEGINNING at the intersection of the common boundary of Galveston and Brazoria counties and Brazoria County Road 129;

THEN southwest along County Road 129 to State Highway 35;

THEN south along State Highway 35 to County Road 281;

THEN west along County Road 281 to County Road 144;

THEN south along County Road 144 to County Road 145;

THEN northwest along County Road 145 to County Road 146;

THEN southwest along County Road 146 to County Road 181;

THEN southeast along County Road 181 to County Road 180;

THEN southwest along County Road 180 to County Road 182;

THEN southeast along County Road 182 to County Road 179;

THEN southeast along County Road 179 to County Road 185;

THEN south along County Road 185 to Farm to Market Road 1462;

THEN southwest along Farm to Market Road 1462 to Chocolate Bayou;

THEN southeast along Chocolate Bayou to State Highway 35;

THEN southwest along State Highway 35 to County Road 46;

THEN north along County Road 46 to County Road 45;

THEN west along County Road 45 to State Highway 288;

THEN south along State Highway 288 to Farm to Market Road 521;

THEN southwest and south along Farm to Market Road 521 to State Highway 35;

THEN west along State Highway 35 to the eastern city limits of West Columbia;

THEN generally south and west along the eastern and southern city limits of West Columbia to Farm to Market Road 1301;

THEN west along Farm to Market Road 1301 to the common boundary of Matagorda and Brazoria counties;

THEN generally south, southeast, northeast and north along the boundary of Brazoria County to the point of beginning.

20. Fort Bend and that part of Brazoria County not included in District 19

21. Galveston

Place 1

Place 2

22. That part of Harris County included in the following:

BEGINNING with the point where Willow Creek crosses the boundary of Harris and Montgomery counties westerly along the middle of Willow Creek with its meanders to the point where it intersects Kuykendahl Road;

THEN southeasterly along Kuykendahl Road to the point where same enters U.S. Highway 75;

THEN southerly along U.S. Highway 75 to the point where same is intersected by Greens Bayou;

THEN easterly along the center of Greens Bayou with its meanders to the point where same intersects the right-of-way referred to as the International and Great Northern right-of-way (the Houston Belt and Terminal tracks generally parallel to Hardy Street);

THEN along such railroad right-of-way to the point where the said tracks cross Buffalo Bayou;

THEN up the center line of Buffalo Bayou in a westerly direction with its meanders to the point where same intersects Main Street;

THEN southwesterly along Main Street to the point where the same intersects the Texas and New Orleans Railroad;

THEN southwesterly along the Texas and New Orleans Railroad to the point where the same intersects Hillcroft Street;

THEN southerly along Hillcroft Street to the point where the same enters U.S. Highway 90A;

THEN southwesterly along U.S. Highway 90A to the point where the same intersects Blue Ridge Street;

THEN southerly along Blue Ridge Street to the point where the same intersects the boundary between Harris and Fort Bend counties;

THEN beginning in a northwesterly direction following the Harris County boundary to the point of beginning.

Place 1

Place 2

Place 3

Place 4

Place 5

Place 6

Place 7

23. That part of Harris County included in the following:

BEGINNING with the point where Willow Creek crosses the boundary of Harris and Montgomery counties westerly along the middle of Willow Creek with its meanders to the point where it intersects Kuykendahl Road;

THEN southeasterly along Kuykendahl Road to the point where same enters U.S. Highway 75;

THEN southerly along U.S. Highway 75 to the point where same is intersected by Greens Bayou;

THEN easterly along the center of Greens Bayou with its meanders to the point where same intersects the right-of-way referred to as the International and Great Northern right-of-way (the Houston Belt and Terminal tracks generally parallel to Hardy Street);

THEN along such railroad right of-way to the point where the said tracks cross Buffalo Bayou;

THEN up the center line of Buffalo Bayou in a westerly direction with its meanders to the point where same intersects Main Street;

THEN southwesterly along Main Street to its intersection with Tuam Street;

THEN southeasterly along Tuam Street to its intersection with Bastrop Street;

THEN northeasterly along Bastrop Street to its intersection with McGowen Street;

THEN southeasterly along McGowen Street to the point where it is crossed by the Houston Belt and Terminal Railroad;

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THEN northeasterly along the Houston Belt and Terminal Railroad right-of-way to Interstate Highway 45 (sometimes known as the Gulf Freeway);

THEN southeasterly along Interstate Highway 45 (sometimes known as the Gulf Freeway) to Plum Creek;

THEN northerly and easterly along Plum Creek with its meanders to its intersection with Sims Bayou;

THEN northerly and easterly along Sims Bayou with its meanders to its intersection with the Houston Ship Channel;

THEN easterly down the Houston Ship Channel to the Harris County boundary line;

THEN following the Harris County boundary line following its east and north boundaries to the point of beginning.

Place 1

Place 2

Place 3

Place 4

Place 5

Place 6

24. That part of Harris County included in the following:

BEGINNING at the intersection of the center line of Blue Ridge Street with the boundary line between Harris and Fort Bend counties;

THEN northerly along Blue Ridge Street to the point where Blue Ridge Street enters U.S. Highway 90A;

THEN in a northeasterly direction along U.S. Highway 90A to the point where Hillcroft Street enters U.S. Highway 90A;

THEN northerly along Hillcroft Street to the point where the same intersects the Texas and New Orleans Railroad right-of-way;

THEN in a northeasterly direction along the Texas and New Orleans Railroad to the point where the same intersects Main Street;

THEN northeasterly along Main Street to its intersection with Tuam Street;

THEN southeasterly along Tuam Street to its intersection with Bastrop Street;

THEN northeasterly along Bastrop Street to its intersection with McGowen Street;

THEN southeasterly along McGowen Street to the point where it is crossed by the Houston Belt and Terminal Railroad;

THEN northeasterly along the Houston Belt and Terminal Railroad right-of-way to Interstate Highway 45 (sometimes known as the Gulf Freeway);

THEN southeasterly along Interstate Highway 45 (sometimes known as the Gulf Freeway) to Plum Creek;

THEN northerly and easterly along Plum Creek with its meanders to its intersection with Sims Bayou;

THEN northerly and easterly along Sims Bayou with its meanders to its intersection with the Houston Ship Channel;

THEN easterly down the Houston Ship Channel to the Harris County boundary line;

THEN following the Harris County boundary line southerly and westerly to the point of beginning.

Place 1

Place 2

Place 3

Place 4

Place 5

Place 6

25. Fannin, Hunt, Rains
26. Freestone, Limestone, Navarro
27. Falls, Milam, Robertson
28. Bastrop, Colorado, Fayette
29. Austin, Burleson, Lee, Waller, Washington
30. Matagorda, Wharton

31. That part of Grayson County included in the following:

BEGINNING at a point where State Highway 289 intersects the southern boundary of Grayson County;

THEN east, north and west along the Grayson County line to Big Mineral Arm of Lake Texoma;

THEN south along Big Mineral Arm of Lake Texoma to Old Hagerman Road;

THEN east along Old Hagerman Road to Farm to Market Road 1417;

THEN south along Farm to Market Road 1417 to Farm to Market Road 691;

THEN east along Farm to Market Road 691 to the Missouri-Kansas and Texas Railroad;

THEN south along the Missouri-Kansas and Texas Railroad to the city limits of the city of Sherman;

THEN west and south along the city limits of Sherman to U.S. Highway 82;

THEN west along U.S. Highway 82 to State Highway 289;

THEN south along State Highway 289 to the city limits of Gunter;

THEN east and south along the city limits of Gunter to State Highway 289;

THEN south along State Highway 289 to the Grayson County line, the point of beginning.

32. Collin, Rockwall and that part of Grayson County not included in District 31.

33. Dallas

Place 1

Place 2

Place 3

Place 4

Place 5

Place 6

Place 7

Place 8

Place 9

Place 10

Place 11

Place 12

Place 13

Place 14

Place 15

34. Ellis, Hill

35. That part of McLennan County included in the following:

BEGINNING at the point where Tradinghouse Creek intersects the common boundary of McLennan and Limestone counties;

THEN southwest along Tradinghouse Creek to its intersection with Tehuacana Creek;

THEN south and southwest along Tehuacana Creek to the Brazos River;

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THEN northwest along the Brazos River to the southern city limits of Waco;

THEN generally west along the city limits of Waco to State Highway 6 (Loop 340);

THEN northwest on State Highway 6 to the city limit of Waco at a point immediately south of Fish Pond Road;

THEN north on the city limit of Waco to Fish Pond Road;

THEN east on Fish Pond Road to Ridgewood Drive;

THEN north on Ridgewood Drive to North Valley Mills Drive;

THEN east on North Valley Mills Drive to Waco Drive;

THEN northeast along Waco Drive to North 38th Street;

THEN northwest along North 38th Street to Harlan Avenue;

THEN southwest along Harlan Avenue to Sunset Drive;

THEN north along Sunset Drive to North 39th Street;

THEN northwest along North 39th Street to Colcord Avenue;

THEN southwest along Colcord Avenue to North 41st Street;

THEN northwest along North 41st Street to Cobbs Drive;

THEN southwest along Cobbs Drive to North 42nd Street;

THEN north along North 42nd Street to Hillcrest Drive;

THEN east along Hillcrest Drive to North 41st Street;

THEN north along North 41st Street and an extension of North 41st Street to Lake Waco;

THEN north along Lake Waco to Lake Shore Drive;

THEN northeast along Lake Shore Drive to the North Bosque River;

THEN north, east and southeast along the North Bosque River to the Brazos River;

THEN northeast and generally northwest along the Brazos River to the McLennan County line;

THEN east and south along the McLennan County line to Tradinghouse Creek, the point of beginning.

Place 1

Place 2

36. Coryell and that part of McLennan County not included in District 35.

37. That part of Bell County included in the following:

BEGINNING at the point where Ranch Road 440 intersects the common line of Bell and Williamson counties;

THEN northerly along Ranch Road 440 to the city limit line of Killeen;

THEN east and north along the city limit line of Killeen to the point where the city limit line of Killeen and the boundary of Fort Hood intersect;

THEN easterly along the boundary of Fort Hood to the southeastern corner of that portion of Fort Hood;

THEN north northeasterly along the boundary of Fort Hood to the point where that boundary, if continued in a straight line, would intersect the south shore of Belton Reservoir;

THEN westerly along the south shore of Belton Reservoir to the point where the south shore intersects Cowhouse Creek;

THEN westerly along Cowhouse Creek to the point where Cowhouse Creek intersects the common line of Bell and Coryell counties;

THEN northeast, east, southeast, south and west along the county line of Bell County to Ranch Road 440, the point of beginning.

38. Williamson and that part of Bell County not included in District 37.
39. Travis and Burnet
 - Place 1
 - Place 2
 - Place 3
 - Place 4
40. Blanco, Caldwell, Gillespie, Gonzales, Hays
41. Comal, Guadalupe, Kendall, Wilson
42. De Witt, Goliad, Jackson, Lavaca
43. Calhoun, Victoria
44. Aransas, La Salle, Live Oak, McMullen, San Patricio
45. Nueces, Kleberg
 - Place 1
 - Place 2
 - Place 3
 - Place 4
46. Brooks, Cameron, Kenedy, Willacy
 - Place 1
 - Place 2
 - Place 3
47. Hidalgo
 - Place 1
 - Place 2
 - Place 3
48. Duval, Jim Hogg, Jim Wells, Starr
49. Dimmit, Frio, Medina, Uvalde, Zavala
50. Cooke, Denton
51. Erath, Hood, Parker, Wise
52. Tarrant
 - Place 1
 - Place 2
 - Place 3
 - Place 4
 - Place 5
 - Place 6
 - Place 7
 - Place 8
53. Callahan, Eastland, Palo Pinto, Shackelford, Stephens
54. Bosque, Hamilton, Johnson, Mills, Somervell
55. Bandera, Kerr, Kimble, Lampasas, Llano, McCulloch, Mason, Real, San Saba
56. Tom Green
57. Bexar
 - Place 1
 - Place 2
 - Place 3
 - Place 4
 - Place 5
 - Place 6
 - Place 7
 - Place 8
 - Place 9
 - Place 10
58. Atascosa, Bee, Karnes, Refugio

For Annotations and Historical Notes, see V.A.T.S.

59. Webb, Zapata
60. Wichita
 - Place 1
 - Place 2
61. Archer, Baylor, Clay, Jack, Montague, Throckmorton, Young
62. Jones, Taylor
 - Place 1
 - Place 2
63. Howard, Mitchell, Nolan
64. Brown, Coleman, Comanche, Runnels
65. Concho, Crockett, Edwards, Kinney, Maverick, Menard, Schleicher, Sutton, Val Verde
66. Brewster, Coke, Crane, Glasscock, Irion, Jeff Davis, Pecos, Presidio, Reagan, Sterling, Terrell, Upton, Ward
67. El Paso
 - Place 1
 - Place 2
 - Place 3
 - Place 4
 - Place 5
68. That part of Ector County included in the following:

BEGINNING in the southeast corner of Ector County;

THEN north along the east county line of Ector County to a point where the north boundary of Section 16 Block 41, T-2-S, T&P Railway Co. Survey in Ector County intersects the east county line of Ector County;

THEN west along the north boundary of Sections 16, 17 and 18, Block 41, T-2-S and Sections 13, 14 and 15, Block 42, T-2-S to U.S. Highway 385;

THEN south along U.S. Highway 385 to 27th Street in the city of Odessa;

THEN west along 27th Street to State Highway 302;

THEN northwest along State Highway 302 to County Road West;

THEN south along County Road West to the Texas & Pacific Railroad;

THEN westerly along the Texas & Pacific Railroad to the south county line of Ector County;

THEN east along the south county line of Ector County to the southeast corner of Ector County, the point of beginning.
69. Culberson, Hudspeth, Loving, Reeves and Winkler counties and that part of Ector County not included in District 68.
70. Midland
71. Borden, Crosby, Fisher, Garza, Haskell, Kent, King, Scurry, Stonewall
72. Bailey, Castro, Deaf Smith, Lamb, Parmer, Cochran
73. Andrews, Dawson, Lynn, Martin, Gaines, Yoakum
74. Potter
 - Place 1
 - Place 2
75. Armstrong, Briscoe, Carson, Collingsworth, Donley, Randall
76. Lubbock, Hockley, Terry
 - Place 1
 - Place 2
 - Place 3
77. Dallam, Hartley, Hutchinson, Moore, Oldham, Sherman
78. Floyd, Hale, Swisher

79. Gray, Hansford, Hemphill, Lipscomb, Ochiltree, Roberts, Wheeler

80. Childress, Cottle, Dickens, Foard, Hall, Hardeman, Knox, Motley, Wilbarger.

Sec. 2. This Act shall become effective for the elections, primary and general, for all Representatives from the places herein specified and described to the 61st Legislature, and continue in effect thereafter for succeeding Legislatures; provided specifically that this Act shall not affect the membership, personnel or districts of the 60th Legislature; and provided further, that in case a vacancy occurs in the office of any Representative of the 60th Legislature by death, resignation, or otherwise, and a special election to fill such vacancy becomes necessary, said election shall be held in the district as it was constituted on January 1, 1967.

Sec. 3. Wherever in this Act reference is made to a city limit it means the city limit as it existed in 1960 as reflected in census tract maps prepared and published by the United States Bureau of the Census. Wherever a street, highway, road, drive, avenue, railroad, or other identification is named to define the boundary of a district it means the center line of the boundary identification. Wherever a street or other boundary identification is described as intersecting another street or boundary identification and they do not actually intersect, the named streets or boundary identifications shall be deemed to extend so as to intersect one another.

Acts 1965, 59th Leg., p. 753, ch. 351, eff. Aug. 30, 1965. Amended by Acts 1967, 60th Leg., p. 1187, ch. 531, § 1, eff. Aug. 28, 1967.

Title of Act:

An Act apportioning the State of Texas into Representative Districts; naming the Counties composing each District; providing the number of Representatives to be elected in each District; making the Act effective for the elections for all Representatives from the places herein specified and described for the Sixtieth Legislature; and continuing in effect thereafter for succeeding Legislatures; providing the Act

shall not affect present membership, personnel, or Representative Districts of the Fifty-ninth Legislature; and providing Special Elections for the filling of vacancies in the office of any Representative of the Fifty-ninth Legislature shall be filled in the District as it now exists; repealing Sections 1, 2, 3, 6, 7, and 8, Chapter 256, Acts of the 57th Legislature, Regular Session, 1961; and declaring an emergency. Acts 1965, 59th Leg., p. 753, ch. 351.

CONGRESSIONAL DISTRICTS

Art. 197b. Repealed. Acts 1967, 60th Leg., p. 817, ch. 342, § 26. Eff. Aug. 30, 1965

See, now, art. 197c.

Art. 197c. Congressional Districts

Section 1. The State of Texas is apportioned into Congressional Districts as provided in the following sections. Each district is entitled to elect one Member to the House of Representatives of the Congress of the United States.

Sec. 2. District 1 is composed of Bowie, Camp, Cass, Cherokee, Delta, Franklin, Harrison, Hopkins, Lamar, Marion, Morris, Panola, Red River, Rusk, Shelby, Titus, Upshur, and Wood counties.

Sec. 3. District 2 is composed of Anderson, Angelina, Hardin, Henderson, Houston, Jasper, Liberty, Montgomery, Nacogdoches, Newton, Orange, Polk, Sabine, San Augustine, San Jacinto, Trinity, Tyler, and Walker counties.

Sec. 4. District 3 is composed of that part of Dallas County included in the following:

BEGINNING at the point where the Elm Fork of the Trinity River intersects the common line between Dallas and Denton counties;

For Annotations and Historical Notes, see V.A.T.S.

THEN south along the Elm Fork of the Trinity River to Valley View Lane;

THEN east along Valley View Lane to the Missouri, Kansas and Texas Railroad;

THEN north along the Missouri, Kansas and Texas Railroad to Valwood Parkway;

THEN east along Valwood Parkway to Webbs Chapel Road;

THEN north along Webbs Chapel Road to Crosby Road;

THEN east along Crosby Road to Webbs Chapel Road;

THEN north along Webbs Chapel Road to Belt Line Road;

THEN east along Belt Line Road to Marsh Lane;

THEN south along Marsh Lane to Spring Valley Road;

THEN east along Spring Valley Road to Dooley Road;

THEN south along Dooley Road to Valley View Lane;

THEN east along Valley View Lane to Inwood Road;

THEN south along Inwood Road to Northwest Highway;

THEN east along Northwest Highway to the city limit of University Park;

THEN south along the city limit of University Park to the city limit of Highland Park;

THEN west, south and east along the city limit line of Highland Park to the Missouri, Kansas and Texas Railroad;

THEN southwest along the Missouri, Kansas and Texas Railroad to Fitzhugh Avenue;

THEN southeast along Fitzhugh Avenue to Central Expressway;

THEN southerly along Central Expressway to Pearl Street;

THEN northwesterly along Pearl Street to McKinney Avenue;

THEN southwesterly along McKinney Avenue to the Missouri, Kansas & Texas Railroad;

THEN southerly along the Missouri, Kansas & Texas Railroad to Young Street;

THEN east along Young Street to Central Expressway;

THEN south along Central Expressway to the GC&SF Railroad;

THEN southwest along the GC&SF railroad, crossing the Trinity River to Corinth Street;

THEN south along Corinth Street to Lancaster Road (State Highway #342);

THEN south along Lancaster Road to Cedardale Road, and the common city limit line between Dallas and Lancaster;

THEN west, north, west, south and west along said common city limit line between Dallas and Lancaster to Beckley Avenue (U.S. Highway #77);

THEN south along Beckley Avenue to the south city limit line of the City of Dallas;

THEN west, north and west along the city limit line of Dallas to U.S. Highway #67;

THEN southwest along U.S. Highway #67 to the north city limit line of Cedar Hill;

THEN west, north and west along the north line of Cedar Hill to Clark Road, and the common line between the City of Cedar Hill and the City of Dallas 10.0 foot strip as established by City of Dallas Ordinance No. 9925 on August 19, 1963;

THEN south, west, northwest and southwest along the common city limit line between the City of Dallas and Cedar Hill to Belt Line Road;

THEN northwest along Belt Line Road to Walnut Creek;
THEN west along Walnut Creek to the Dallas-Tarrant County line;
THEN north and east along the Dallas County line to the Elm Fork of the Trinity River, the point of origin.

Sec. 5. District 4 is composed of Collin, Fannin, Grayson, Gregg, Hunt, Kaufman, Rains, Rockwall, Smith, and Van Zandt counties and that part of Dallas County included in the following:

BEGINNING at the point where State Highway 78 intersects the common boundary of Dallas and Collin counties;

THEN southwest along State Highway 78 to Sachse Road;
THEN southwest and south along Sachse Road to Buckingham Road;
THEN west along Buckingham Road to North Star;
THEN south along North Star to Avenue D;
THEN east along Avenue D to First Avenue;
THEN south along First Avenue to Centerville Road;
THEN southwest along Centerville Road to the Long Branch of Duck Creek;

THEN southeast along the Long Branch of Duck Creek to Oates Drive;
THEN southwest along Oates Drive to Barnes Bridge Road;
THEN southeast along Barnes Bridge Road to U.S. Highway 67;
THEN northeast along U.S. Highway 67 to Belt Line Road;
THEN south along Belt Line Road to U.S. Highway 80;
THEN east along U.S. Highway 80 to North Mesquite Creek;
THEN generally southeast along North Mesquite Creek to the Texas & Pacific Railroad;

THEN east along the Texas & Pacific Railroad to the common boundary of Dallas and Kaufman counties;

THEN north and west along the boundary of Dallas County to the point of origin.

Sec. 6. District 5 is composed of that part of Dallas County included in the following:

BEGINNING at the point where the Texas & Pacific Railroad intersects the common boundary of Dallas and Kaufman counties;

THEN west along the Texas & Pacific Railroad to North Mesquite Creek;

THEN generally northwest along North Mesquite Creek to U.S. Highway 80;

THEN west along U.S. Highway 80 to Belt Line Road;
THEN north along Belt Line Road to U.S. Highway 67;
THEN southwest along U.S. Highway 67 to Barnes Bridge Road;
THEN northwest along Barnes Bridge Road to Oates Drive;
THEN northeast along Oates Drive to the Long Branch of Duck Creek;
THEN northwest along the Long Branch of Duck Creek to Centerville Road;

THEN northeast along Centerville Road to First Avenue;

THEN north along First Avenue to Avenue D;

THEN west along Avenue D to North Star Road;

THEN north along North Star Road to Buckingham Road;

THEN west along Buckingham Road to an inner corner of the City of Dallas city limit line, a point about one-fourth mile west of Plano Road;

THEN south and east with the common city limit line between Dallas and Garland to Groves Road;

For Annotations and Historical Notes, see V.A.T.S.

THEN west along Groves Road and Northwest Highway to the city limit line of University Park;

THEN west and south along the city limit line of University Park to the city limit line of Highland Park;

THEN west, south and east along the city limit line of Highland Park to the Missouri, Kansas and Texas Railroad;

THEN southwest along the Missouri, Kansas and Texas Railroad to Fitzhugh Avenue;

THEN southeast along Fitzhugh Avenue to Central Expressway;

THEN south along Central Expressway to Pearl Street;

THEN northwesterly along Pearl Street to McKinney Avenue;

THEN southwesterly along McKinney Avenue to the Missouri, Kansas & Texas Railroad;

THEN southerly along the Missouri, Kansas & Texas Railroad to Young Street;

THEN east on Young Street to Central Expressway;

THEN south along Central Expressway to the GC&SF Railroad;

THEN southwest along the GC&SF Railroad, crossing the Trinity River to Corinth Street;

THEN south along Corinth Street to Lancaster Road (State Highway #342);

THEN south along Lancaster Road to Simpson Stewart Road;

THEN northeast along Simpson Stewart Road and its extension to the Trinity River;

THEN east along the Trinity River and common line between Commissioners Districts Nos. 2 and 3, to the east line of the G. Marcum Survey, Abstract #980;

THEN north along the east line of G. Marcum Survey, Abstract #980, and said Commissioners District line to Fairport Road extended west;

THEN east, to and along Fairport Road, continuing along said Commissioners District line, to Dowdy Ferry Road;

THEN north along Dowdy Ferry Road and Pleasant Drive continuing along said Commissioners District line, to Elam Road;

THEN west along Elam Road to Buckner Boulevard;

THEN north along Buckner Boulevard to Lake June Road;

THEN east along Lake June Road to Peachtree Road;

THEN south along Peachtree Road to Old Seagoville Road;

THEN east along Old Seagoville Road to Seagoville Road;

THEN southeast along Seagoville Road to Belt Line Road;

THEN southwest along Belt Line Road to Pin Oak Road;

THEN southwest and southeast along Pin Oak Road to Belt Line Road;

THEN southwest along Belt Line Road to the Trinity River;

THEN generally southeast along the Trinity River to the Dallas County line;

THEN east and north along the Dallas County line to the Texas & Pacific Railroad, the point of origin.

Sec. 7. District 6 is composed of Austin, Brazos, Ellis, Fort Bend, Freestone, Grimes, Hill, Johnson, Leon, Madison, Navarro, Waller, and Washington counties and that part of Dallas County not included in Districts 3, 4, 5 and 13 and that part of Tarrant County south of a line beginning at the point where U.S. Highway 377 intersects the common line between Tarrant and Parker counties;

THEN northeast along U.S. Highway 377 to the city limits of Benbrook;

THEN in a generally northeast direction along the western city limits of Benbrook to U.S. Highway 377;

THEN northeast along U.S. Highway 377 to Edgehill Road;

THEN south along Edgehill Road to Old Stove Foundry Road;

THEN northeast along Old Stove Foundry Road to Bryant-Irvin Road to the Clear Fork of the Trinity River;

THEN in a generally northeast direction along the Clear Fork of the Trinity River to the eastern boundary of Forest Park;

THEN southeast along the eastern boundary of Forest Park to Park Place;

THEN east along Park Place to the Gulf, Colorado and Santa Fe Railroad;

THEN south along the Gulf, Colorado, and Santa Fe Railroad to Bowie Street;

THEN east along Bowie Street to 8th Avenue;

THEN south along 8th Avenue to Biddison Street;

THEN east along Biddison Street to Hemphill Street;

THEN south along Hemphill Street to Seminary Drive;

THEN east along Seminary Drive to the city limits of Fort Worth;

THEN east, northwest, and southeast along the city limits of Fort Worth to Wichita Street;

THEN north along Wichita Street to Martin Street;

THEN east along Martin Street to Miller Avenue;

THEN north along Miller Avenue to Poly-Webb Road;

THEN east along Poly-Webb Road to Interstate Highway 820;

THEN northeast along Interstate Highway 820 to Willard Road;

THEN east along Willard Road to the common city limits of Fort Worth and Arlington;

THEN generally south, northeast and east along the western and southern city limits of Arlington to the city limits of Grand Prairie;

THEN east along the southern city limits of Grand Prairie to its intersection with the common line of Tarrant and Dallas counties.

Sec. 8. District 7 is composed of that part of Harris County included in the following:

BEGINNING with the point where Willow Creek crosses the boundary of Harris and Montgomery counties westerly along Willow Creek with its meanders to the point where it intersects Kuykendahl Road;

THEN southeasterly along Kuykendahl Road to the point where same enters U.S. Highway 75;

THEN southerly along U.S. Highway 75 to the point where same is intersected by Greens Bayou;

THEN easterly along Greens Bayou with its meanders to the point where same intersects the right-of-way referred to as the I&GN Railroad right-of-way (the Houston Belt and Terminal Railroad tracks generally parallel to Hardy Street);

THEN along such railroad right-of-way to the point where the said tracks cross Buffalo Bayou;

THEN along Buffalo Bayou in a westerly direction with its meanders to the point where same intersects Main Street;

THEN southwesterly along Main Street to the point where the same intersects the T&NO Railroad;

THEN southwesterly along the T&NO Railroad to the point where the same intersects Hillcroft Street;

For Annotations and Historical Notes, see V.A.T.S.

THEN southerly along Hillcroft Street to the point where the same enters U.S. Highway 90A;

THEN southwesterly along U.S. Highway 90A to the point where the same intersects Blue Ridge Street;

THEN southerly along Blue Ridge Street to the point where the same intersects the boundary between Harris and Fort Bend counties;

THEN beginning in a northwesterly direction following the Harris County boundary to the point of origin.

Sec. 9. District 8 is composed of that part of Harris County included in the following:

BEGINNING with the point where Willow Creek crosses the boundary of Harris and Montgomery counties westerly along Willow Creek with its meanders to the point where it intersects Kuykendahl Road;

THEN southeasterly along Kuykendahl Road to the point where same enters U.S. Highway 75;

THEN southerly along U.S. Highway 75 to the point where same is intersected by Greens Bayou;

THEN easterly along Greens Bayou with its meanders to the point where same intersects the right-of-way referred to as the I&GN Railroad right-of-way (the Houston Belt and Terminal Railroad tracks generally parallel to Hardy Street);

THEN along such railroad right-of-way to the point where the said tracks cross Buffalo Bayou;

THEN along Buffalo Bayou in a westerly direction with its meanders to the point where same intersects Main Street;

THEN southwesterly along Main Street to its intersection with Tuam Street;

THEN southeasterly along Tuam Street to its intersection with Bastrop Street;

THEN northeasterly along Bastrop Street to its intersection with McGowen Street;

THEN southeasterly along McGowen Street to the point where it is crossed by the Houston Belt and Terminal Railroad;

THEN northeasterly along the Houston Belt and Terminal Railroad right-of-way to Interstate Highway 45 (sometimes known as the Gulf Freeway);

THEN southeasterly along Interstate Highway 45 (sometimes known as the Gulf Freeway) to Plum Creek;

THEN northerly and easterly along Plum Creek with its meanders to its intersection with Sims Bayou;

THEN northerly and easterly along Sims Bayou with its meanders to its intersection with the Houston Ship Channel;

THEN easterly along the Houston Ship Channel to the Harris County boundary line;

THEN following the Harris County boundary line following its east and north boundaries to the point of origin.

Sec. 10. District 9 is composed of Chambers, Galveston, and Jefferson counties.

Sec. 11. District 10 is composed of Bastrop, Blanco, Burleson, Caldwell, Colorado, Fayette, Hays, Jackson, Lee, Travis, Wharton, and Williamson counties.

Sec. 12. District 11 is composed of Bell, Bosque, Coryell, Falls, Hood, Limestone, McLennan, Milam, Parker, Robertson, and Somervell counties.

Sec. 13. District 12 is composed of that part of Tarrant County not included in District 6.

Sec. 14. District 13 is composed of Archer, Baylor, Childress, Clay, Cooke, Cottle, Denton, Dickens, Foard, Hardeman, Jack, Kent, King, Knox, Montague, Stonewall, Wichita, Wilbarger, Wise, and Young counties, and that part of Dallas County included in the following:

BEGINNING at the point where the Elm Fork of the Trinity River intersects the common line between Dallas and Denton counties;

THEN south along the Elm Fork of the Trinity River to Valley View Lane;

THEN east along Valley View Lane to the Missouri, Kansas and Texas Railroad;

THEN north along the Missouri, Kansas and Texas Railroad to Valwood Parkway;

THEN east along Valwood Parkway to Webbs Chapel Road;

THEN north along Webbs Chapel Road to Crosby Road;

THEN east along Crosby Road to Webbs Chapel Road;

THEN north along Webbs Chapel Road to Belt Line Road;

THEN east along Belt Line Road to Marsh Lane;

THEN south along Marsh Lane to Spring Valley Road;

THEN east along Spring Valley Road to Dooley Road;

THEN south along Dooley Road to Valley View Lane;

THEN east along Valley View Lane to Inwood Road;

THEN south along Inwood Road to Northwest Highway;

THEN east along Northwest Highway and Groves Road to the common city limit line between Dallas and Garland;

THEN north, west, and north along the common city limit line between Dallas and Garland to Buckingham Road;

THEN east along Buckingham Road to Sachse Road;

THEN northeast along Sachse Road to State Highway 78;

THEN northeast along State Highway 78 to the Dallas County line;

THEN west along the Dallas County line to the Elm Fork of the Trinity River, the point of origin.

Sec. 15. District 14 is composed of Aransas, Brazoria, Calhoun, Matagorda, Nueces, Refugio, San Patricio, and Victoria counties.

Sec. 16. District 15 is composed of Brooks, Cameron, Hidalgo, Jim Hogg, Kenedy, Kleberg, Starr, Willacy, and Zapata counties.

Sec. 17. District 16 is composed of Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, Loving, Pecos, Presidio, Reeves, Terrell, Ward, and Winkler counties.

Sec. 18. District 17 is composed of Brown, Burnet, Callahan, Coke, Coleman, Comanche, Concho, Eastland, Erath, Fisher, Glasscock, Hamilton, Haskell, Howard, Jones, Lampasas, Llano, Mason, McCulloch, Menard, Mills, Mitchell, Nolan, Palo Pinto, Runnels, San Saba, Shackelford, Stephens, Sterling, Taylor, and Throckmorton counties.

Sec. 19. District 18 is composed of Armstrong, Bailey, Briscoe, Carson, Castro, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hale, Hall, Hansford, Hartley, Hemphill, Hutchinson, Lamb, Lipscomb, Moore, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, and Wheeler counties.

Sec. 20. District 19 is composed of Andrews, Borden, Cochran, Crosby, Dawson, Floyd, Gaines, Garza, Hockley, Lubbock, Lynn, Martin, Midland, Motley, Scurry, Terry, and Yoakum counties.

Sec. 21. District 20 is composed of that part of Bexar County not included in Districts 21 and 23.

Sec. 22. District 21 is composed of Bandera, Comal, Crane, Crockett, Ector, Edwards, Gillespie, Irion, Kendall, Kerr, Kimble, Kinney, Reagan;

For Annotations and Historical Notes, see V.A.T.S.

Real, Schleicher, Sutton, Tom Green, Upton, Uvalde, and Val Verde counties, and that part of Bexar County included in the following:

BEGINNING at the point where Culebra Road intersects the common boundary of Bexar and Medina counties;

THEN southeast along Culebra Road to Rogers Road;

THEN south along Rogers Road to Potranco Road;

THEN southwest along Potranco Road to Medio Creek;

THEN southeast along Medio Creek to Castroville Road;

THEN southwest along Castroville Road to Pue Road;

THEN south along Pue Road to Nelson Road;

THEN east and southeast along Nelson Road to Pearsall Road;

THEN northeast along Pearsall Road to the southern limits of Kelly Air Force Base;

THEN generally west, north, and east along the southern, western, and northern limits of Kelly Air Force Base and Lackland Air Force Base to Castroville Road;

THEN east along Castroville Road to 36th Street;

THEN north along 36th Street to Commerce Street;

THEN east along Commerce Street to Clements Street;

THEN north along Clements Street to Mayberry Avenue;

THEN west along Mayberry Avenue to Camino Santa Maria;

THEN north along Camino Santa Maria to Woodlawn Avenue;

THEN east along Woodlawn Avenue to St. Cloud Road;

THEN north along St. Cloud Road to Shadwell Drive;

THEN east along Shadwell Drive to Wilson Boulevard;

THEN north along Wilson Boulevard to North Drive;

THEN east along North Drive to Fredericksburg Road;

THEN northwest along Fredericksburg Road to West Ridgewood Court;

THEN east along West Ridgewood Court to West Avenue;

THEN north along West Avenue to Mariposa Street;

THEN east along Mariposa to San Pedro Avenue;

THEN south along San Pedro Avenue to Norwood Court;

THEN east along Norwood Court to the boundary line of Olmos Park; THEN east along the southern and north along the eastern boundary of Olmos Park to Olmos Dam;

THEN northeast along Olmos Dam to the boundary of Alamo Heights;

THEN south and east along the southern boundary of Alamo Heights to the boundary of Terrell Hills;

THEN east along the southern and north along the eastern boundary of Terrell Hills to the northern boundary of Fort Sam Houston;

THEN east along the northern and south along the eastern boundary of Fort Sam Houston to the Texas and New Orleans Railroad;

THEN northeast along the Texas and New Orleans Railroad to the city limits of San Antonio;

THEN north along the city limits of San Antonio to U.S. Highway 81;

THEN northeast along U.S. Highway 81 to Sherri Ann Road;

THEN northeast and east along Sherri Ann Road to Weldner Road;

THEN south along Weldner Road to Walzem Road;

THEN southeast along Walzem Road to the Texas & New Orleans Railroad;

THEN northeast along the Texas & New Orleans Railroad to the common boundary of Bexar and Guadalupe counties;

THEN generally northwest, west, and south along the boundary of Bexar County to the point of origin.

Sec. 23. District 22 is composed of that part of Harris County included in the following:

BEGINNING at the intersection of the center line of Blue Ridge Street with the boundary line between Harris and Fort Bend counties;

THEN northerly along Blue Ridge Street to the point where Blue Ridge Street enters U.S. Highway 90A;

THEN in a northeasterly direction along U.S. Highway 90A to the point where Hillcroft Street enters U.S. Highway 90A;

THEN northerly along Hillcroft Street to the point where the same intersects the T&NO Railroad right-of-way;

THEN in a northeasterly direction along the T&NO Railroad to the point where the same intersects Main Street;

THEN northeasterly along Main Street to its intersection with Tuam Street;

THEN southeasterly along Tuam Street to its intersection with Bastrop Street;

THEN northeasterly along Bastrop Street to its intersection with McGowen Street;

THEN southeasterly along McGowen Street to the point where it is crossed by the Houston Belt and Terminal Railroad;

THEN northeasterly along the Houston Belt and Terminal Railroad right-of-way to Interstate Highway 45 (sometimes known as the Gulf Freeway);

THEN southeasterly along Interstate Highway 45 (sometimes known as the Gulf Freeway) to Plum Creek;

THEN northerly and easterly along Plum Creek with its meander to its intersection with Sims Bayou;

THEN northerly and easterly along Sims Bayou with its meander to its intersection with the Houston Ship Channel;

THEN easterly along the Houston Ship Channel to the Harris County boundary line;

THEN following the Harris County boundary line southerly and westerly to the point of origin.

Sec. 24. District 23 is composed of Atascosa, Bee, De Witt, Dimmit, Duval, Frio, Goliad, Gonzales, Guadalupe, Jim Wells, Karnes, La Salle, Lavaca, Live Oak, Maverick, McMullen, Medina, Webb, Wilson, and Zavala counties and that part of Bexar County included in the following:

BEGINNING at the point where Culebra Road intersects the common boundary of Bexar and Medina counties;

THEN southeast along Culebra Road to Rogers Road;

THEN south along Rogers Road to Potranco Road;

THEN southwest along Potranco Road to Medio Creek;

THEN southwest along Medio Creek to Castroville Road;

THEN southwest along Castroville Road to Pue Road;

THEN south along Pue Road to Nelson Road;

THEN east and southeast along Nelson Road to Pearsall Road;

THEN northeast along Pearsall Road to the southern limits of Kelly Air Force Base;

THEN east and north along the southern and eastern limits of Kelly Air Force Base to Military Road;

For Annotations and Historical Notes, see V.A.T.S.

THEN east along Military Road to Pleasanton Road;
 THEN south along Pleasanton Road to Ware Street;
 THEN east along Ware Street to Flores Street;
 THEN south along Flores Street to Airport Road;
 THEN east along Airport Road to Roosevelt Avenue;
 THEN north along Roosevelt Avenue to Military Highway;
 THEN southeast along Military Highway to the boundary of Brooks Air Force Base;
 THEN south along the western, east along the southern, and north along the eastern boundary of Brooks Air Force Base to Goliad Road;
 THEN north along Goliad Road to Hot Wells Avenue;
 THEN west along Hot Wells Avenue to Clark Avenue;
 THEN north along Clark Avenue to Grover Street;
 THEN east along Grover Street to Dollarhide Street;
 THEN north along Dollarhide Street to Hiawatha Street;
 THEN east along Hiawatha Street to Elgin Street;
 THEN north along Elgin Street to Villa Real Street;
 THEN east along Villa Real Street to Mozart Street;
 THEN north along Mozart Street to Hicks Avenue;
 THEN east along Hicks Avenue to Amanda Avenue;
 THEN north along Amanda Avenue to Rigsby Avenue;
 THEN east along Rigsby Avenue to Artesia Avenue;
 THEN north along Artesia Avenue to Nebraska Street;
 THEN west along Nebraska Street to the Missouri, Kansas and Texas Railroad;
 THEN north along the Missouri, Kansas and Texas Railroad to the boundary of Fort Sam Houston;
 THEN north along the eastern boundary of Fort Sam Houston to the Texas and New Orleans Railroad;
 THEN northeast along the Texas and New Orleans Railroad to the city limits of San Antonio;
 THEN north along the city limits of San Antonio to U.S. Highway 81;
 THEN northeast along U.S. Highway 81 to Sherri Ann Road;
 THEN northeast and east along Sherri Ann Road to Weldner Road;
 THEN south along Weldner Road to Walzem Road;
 THEN southeast along Walzem Road to the Texas & New Orleans Railroad;
 THEN northeast along the Texas & New Orleans Railroad to the common boundary of Bexar and Guadalupe counties;
 THEN southeast, southwest, northwest, and north along the boundary of Bexar County to the point of origin.

Sec. 25. Wherever in this Act reference is made to a city limit it means the city limit as it existed in 1960 as reflected in census tract maps prepared and published by the United States Bureau of the Census. Wherever a street, highway, road, drive, avenue, railroad, or other identification is named to define the boundary of a district it means the center line of the boundary identification. Wherever a street or other boundary identification is described as intersecting another street or boundary identification and they do not actually intersect, the named streets or boundary identifications shall be deemed to extend so as to intersect one another.

Sec. 26. Chapter 349, Acts of the 59th Legislature, Regular Session, 1965 (Article 197b, Vernon's Texas Civil Statutes), is repealed.

Sec. 27. Nothing in this Act shall affect the tenure in office of the present delegation in Congress, but this Act takes effect for the general election in 1968, and thereafter until this law is changed by the Legislature of this state.

Acts 1967, 60th Leg., p. 807, ch. 342, eff. Aug. 28, 1967.

Title of Act:

An Act to apportion the State of Texas into Congressional Districts, naming the counties and parts of counties composing the districts, providing for the election of a member of the Congress of the United

States from each district; repealing Chapter 349, Acts of the 59th Legislature, Regular Session, 1965 (Article 197b, Vernon's Texas Civil Statutes); and declaring an emergency. Acts 1967, 60th Leg., p. 807, ch. 342.

SUPREME JUDICIAL DISTRICTS

Art. 198. [29] [21] [16] Supreme Judicial Districts

This state shall be divided into fourteen (14) Supreme Judicial Districts, composed of the following named counties for the purpose of constituting and organizing a Court of Civil Appeals in each of the several Supreme Judicial Districts, as follows, to wit:

First: Trinity, Walker, Grimes, Burleson, Washington, Waller, Harris, Chambers, Austin, Brazoria, Fort Bend, Galveston, Colorado and Brazos.

Second: Wichita, Clay, Montague, Wise, Tarrant, Cooke, Denton, Parker, Archer, Young, Jack and Hood.

Third: Milam, Lee, Bastrop, Caldwell, Hays, Travis, Williamson, Bell, Burnet, Blanco, Llano, San Saba, Lampasas, Mills, McCulloch, Runnels, Tom Green, Concho, Comal, Fayette, Coke, Sterling, Irion and Schleicher.

Fourth: Jim Wells, Val Verde, Guadalupe, Sutton, Edwards, Kinney, Maverick, Menard, Kimble, Kerr, Bandera, Uvalde, Zavala, Dimmit, Webb, LaSalle, Frio, Medina, Duval, McMullen, Atascosa, Bexar, Kendall, Wilson, Zapata, Karnes, Starr, Jim Hogg, Real, Brooks, Gillespie and Mason.

Fifth: Grayson, Collin, Dallas, Rockwall, Hunt, Kaufman and Van Zandt.

Sixth: Fannin, Lamar, Red River, Bowie, Delta, Hopkins, Franklin, Titus, Morris, Cass, Marion, Harrison, Gregg, Camp, Hunt, Wood, Upshur, Rusk and Panola.

Seventh: Dallam, Sherman, Hansford, Ochiltree, Lipscomb, Hartley, Moore, Hutchinson, Roberts, Hemphill, Oldham, Potter, Carson, Gray, Wheeler, Deaf Smith, Randall, Armstrong, Donley, Collingsworth, Parmer, Castro, Swisher, Briscoe, Hall, Childress, Bailey, Lamb, Hale, Floyd, Motley, Cottle, Foard, Hardeman, Wilbarger, Crosby, Lubbock, Hockley, Cochran, Yoakum, Terry, Lynn, Garza, Dickens, Kent and King.

Eighth: Crockett, Gaines, Andrews, Martin, Loving, Winkler, Midland, Glasscock, Reeves, Ward, Crane, Upton, Reagan, Terrell, Pecos, Brewster, Presidio, Jeff Davis, El Paso, Ector, Culberson and Hudspeth.

Ninth: San Jacinto, Montgomery, Liberty, Jefferson, Orange, Hardin, Newton, Jasper, Tyler, Polk and Angelina.

Tenth: McLennan, Coryell, Hamilton, Bosque, Johnson, Somervell, Falls, Limestone, Hill, Brazos, Madison, Robertson, Ellis, Leon, Freestone and Navarro.

Eleventh: Dawson, Howard, Mitchell, Scurry, Nolan, Fisher, Stonewall, Taylor, Jones, Haskell, Knox, Callahan, Shackelford, Throckmorton, Baylor, Coleman, Brown, Comanche, Eastland, Stephens, Erath, Palo Pinto and Borden.

For Annotations and Historical Notes, see V.A.T.S.

Twelfth: Kaufman, Van Zandt, Rains, Hopkins, Wood, Upshur, Smith, Henderson, Anderson, Houston, Cherokee, Rusk, Nacogdoches, San Augustine, Sabine, Shelby, Panola and Gregg.

Thirteenth: Lavaca, Wharton, Gonzales, De Witt, Jackson, Matagorda, Victoria, Goliad, Calhoun, Bee, Refugio, Aransas, San Patricio, Nueces, Kleberg, Kenedy, Willacy, Hidalgo, Cameron and Live Oak.

Fourteenth: Trinity, Walker, Grimes, Burleson, Washington, Waller, Harris, Chambers, Austin, Brazoria, Fort Bend, Galveston, Colorado and Brazos.

Article amended by Acts 1963, 58th Leg., p. 539, ch. 198, § 1, eff. Aug. 23, 1963; Acts 1963, 58th Leg., p. 927, ch. 357, eff. May 24, 1963; Acts 1967, 60th Leg., p. 1952, ch. 728, § 1, eff. Sept. 1, 1967.

Acts 1967, 60th Leg., p. 1952, ch. 728, §§ 2 and 3 amended articles 1817 and 1817a; sections 4-6, relating to the appointment of justices for the 14th Supreme Judicial District, appropriation of moneys and the effective date of the act, are also set out as notes under article 1817a.

TRANSITIONAL PROVISIONS

Acts 1967, 60th Leg., p. 1952, ch. 728 which, inter alia, amended this article and articles 1817, 1817a by creating the Fourteenth Supreme Judicial District, provided in sections 4-6:

"Sec. 4. (a) On or before the 10th day after this Act takes effect, the Governor shall, by and with the consent of the Senate if in session, appoint one chief and two associate justices for the Fourteenth Supreme Judicial District.

"(b) To be eligible for appointment to the court, a person must possess the qualifications prescribed by Article 1814, Revised Civil Statutes of Texas, 1925.

"(c) The justices appointed hold their offices until the next general election at which justices shall be elected and qualify in accordance with Article 1813, Revised Civil Statutes of Texas, 1925, as amended.

"Sec. 5. The following sums or as much of them as may be necessary for the objectives and purposes shown are appropriated from the General Revenue Fund for the expenses of the Fourteenth Supreme Judicial District for the fiscal year ending August 31, 1968.

Fourteenth District, Houston	
Personal Services—	
1. Judges, 3 at \$24,000	\$72,000
2. Clerk	10,000
3. Deputy Clerk	5,616
4. Stenographer III	5,616
Subtotal, Personal Services	\$93,232
5. Consumable supplies and materials, current and recurring operating expenses (excluding travel expense), and capital outlay	3,400
Total, Fourteenth District, Houston	\$96,632

"Sec. 6. This Act takes effect on September 1, 1967."

JUDICIAL DISTRICTS

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

104. — Jones and Taylor

Composition of District

Section 1. The 104th Judicial District of Texas is composed of the counties of Jones and Taylor.

Terms of Court

Sec. 2. (a) The 104th District Court shall convene in Jones County on the first Monday in January of each year, and on the fifteenth Monday after the first Monday in January of each year and on the first Monday in September of each year, and each of said terms of Court in said

County shall continue until the convening of the next succeeding term of court in said County.

(b) Said Court shall convene in Taylor County on the eleventh Monday after the first Monday in January of each year, and on the twenty-fourth Monday after the first Monday in January of each year and on the ninth Monday after the first Monday in September of each year, and each of said terms of Court in said County shall continue until the convening of the next succeeding term of Court in said County.

Quarters for Court

Sec. 3. It shall be the duty of the Commissioners Court of Taylor County to provide in the county courthouse of said County suitable quarters for holding the terms of Court of said 104th Judicial District of Texas, in Taylor County, as well as suitable quarters for the officers of said Court.

District Clerk

Sec. 4. The District Clerk of Taylor County shall act as Clerk of the reorganized 104th Judicial District of Texas, in Taylor County, as well as the 42nd Judicial District of Texas, and in filing civil suits, said Clerk shall file same alternately in said two (2) District Courts and in numbering all suits in each of said Courts, said Clerk shall place after all numbers of all suits which are filed after this Act takes effect the letters A or B, so as to distinguish causes pending in said two (2) Court, placing after the number of all suits filed in said 42nd District Court the capital letter A, and placing after the number of all suits filed in said 104th District Court the capital letter B.

Concurrent Jurisdiction

Sec. 5. The 42nd Judicial District of Texas and the 104th Judicial District of Texas, and the Courts of said Judicial Districts in and for Taylor County, shall have concurrent civil and criminal jurisdiction with each other in said County in all matters over which jurisdiction is given or shall be hereafter given by the Constitution and laws of this State to district courts. Either of the Judges of said District Courts for Taylor County may in their discretion, in term-time or vacation, transfer any case or cases, civil or criminal, to said other District Court by order entered on the minutes of his Court from which said case is transferred or minutes or orders made in chambers as the case may be, which orders, when made, shall be copied and certified to by the District Clerk of Taylor County together with all orders made in said case and such certified copies of such orders, together with the original papers, shall be filed among the papers of any case thus transferred, and the fees thereof shall be taxed as a part of the costs of said suit, and the Clerk of said Court shall docket any such case in the court to which it shall have been transferred, and when so entered the court to which same shall have been thus transferred shall have like jurisdiction therein as in cases originally brought in said Court, and the same shall be dropped from the docket of the said Court from which it was transferred.

Acts 1961, 54th Leg., p. 365, ch. 184, § 2, eff. Jan. 1, 1962. Article amended by Acts 1967, 60th Leg., p. 1201, ch. 538, § 1 (1-5), eff. Aug. 28, 1967.

Sec. 6. [Codified as article 326k-62].

Section 1 of the amendatory Act of 1961 reorganized the 32nd Judicial District by adding Fisher County to the district. See art. 199(32) and notes thereunder.

Section 1(6) of Acts 1967, 60th Leg., p. 1201, ch. 538 created the office of criminal district attorney for the 42nd and 104th Judicial Districts and is codified as article

326k-62; section 2 of the 1967 act amended article 322; section 3 of the act provided:

"Sec. 3(a) Effective January 1, 1969,

"(1) the offices of district attorney for the 42nd and 104th Judicial Districts are abolished; and

For Annotations and Historical Notes, see V.A.T.S.

"(2) the office of county attorney of Taylor County is abolished. future general election, for the offices of district attorney for the 42nd and 104th Judicial Districts, or for the office of county attorney of Taylor County."

"(b) No one may be elected at the general election in November 1968, or at any

155. — Austin, Fayette and Waller

Section 1. Beginning September 1, 1967, the 155th Judicial District is composed of Austin, Fayette, and Waller counties, and its jurisdiction is coextensive with the boundaries of those counties. Its court is the 155th District Court, which has concurrent jurisdiction with the 22nd District Court in Austin and Fayette counties and with the 9th District Court in Waller County.

Sec. 2. The governor shall appoint a qualified person to the office of Judge of the 155th District Court. The person appointed holds office until the next general election and until his successor is elected and has qualified. The Judge of the 155th District Court is entitled to the compensation prescribed by law.

Sec. 3. (a) The terms of the court are two each year as follows: In Austin County, beginning on the first Mondays in April and November; in Fayette County, beginning on the first Mondays in February and September; and in Waller County, beginning on the first Mondays in January and June. Each term of court shall continue until the convening of the next regular term of court therein. The Judge of the 155th Judicial District may, at his discretion, hold as many sessions of court in any term of court as may be deemed by him proper and expedient for the disposition of the court's business.

Sec. 4. The Judge of the 22nd District Court or the Judge of the 155th District Court may hear and dispose of any suit or proceeding on the docket of either court in Austin or Fayette county. The Judge of the 9th District Court or the Judge of the 155th District Court may hear and dispose of any suit or proceeding on the docket of either court in Waller County. This may be done in any case without the necessity of transferring the action or proceeding from one court to the other, and the Judges may transfer cases from one court to the other by an order entered on the docket of the court from which the case is transferred. Provided, however, that no case shall be transferred without the consent of the Judge of the court to which transferred. Every judgment and order shall be entered in the minutes of the District Court of the county in which the proceedings are pending, and the Clerk of the District Court in said county shall keep the minutes of the court in which shall be recorded all the judgments and orders of the respective courts.

Sec. 5. (a) The District Attorney of the 155th Judicial District composed of Austin, Fayette, and Waller counties shall be appointed by the Governor. The person appointed shall hold office until the next general election and until his successor is elected and has qualified. The District Attorney of the 155th Judicial District shall be entitled to the compensation prescribed by law.

(b) The district clerk of each of the respective counties included in the 155th Judicial District shall be the clerk of the District Court of the 155th Judicial District in each respective county and each clerk shall keep a docket for the 155th District Court.

Sec. 5 amended by Acts 1963, 58th Leg., p. 946, ch. 374, § 1, eff. Aug. 23, 1963.

Sec. 6. In Austin and Fayette Counties, jurors shall be selected as prescribed by law for service in both the 22nd and 155th District Courts. In Waller County, jurors shall be selected as prescribed by law for service in both the 9th and 155th District Courts. In each county, jurors may be summoned and used for the trial of cases interchangeable in either of the district courts.

Sec. 7. The Sheriff of each county of the 155th Judicial District shall attend either in person or by deputy the court as required by law in said county, or when required by the Judge thereof and the sheriffs and constables of the several counties of this state when executing process out of said court shall receive fees provided by general law for executing process out of district courts.

Article amended by Acts 1967, 60th Leg., p. 308, ch. 150, § 1, emerg. eff. May 9, 1967.

174. — Harris

Section 1. The territorial limits of the Criminal Judicial District composed of the counties of Galveston and Harris is hereby changed so as to hereafter include Harris county alone, and there is hereby created and established in the city of Houston, in the county of Harris, a Criminal District Court, which shall have original and exclusive jurisdiction over all criminal cases, both felony and misdemeanor, in the county of Harris, of which district and county courts under the Constitution and laws of this State, have original and exclusive jurisdiction, and shall be known as "The Criminal District Court of Harris County."

Sec. 2. The said court shall have exclusive appellate jurisdiction over all criminal cases tried and determined by justices of the peace, mayors and recorders in said county of Harris, under the same rules and regulations as are provided by law for appeals from justices of the peace, mayors and recorders to the county courts in criminal cases.

Sec. 3. The judge of said court hereinafter provided for shall have power to grant writs of habeas corpus, mandamus and all writs necessary to enforce the jurisdiction of his court, under the same rules and regulations which govern district judges.

Sec. 4. Said court shall have jurisdiction over all bail bonds and recognizances taken in proceedings had before said court, or that may be returned to said court from other courts, and may enter forfeitures thereof, and final judgments, and enforce the collection of the same by proper process in the same manner as is provided by law in district courts.

Sec. 5. Said court shall have jurisdiction over all criminal cases heretofore transferred from other courts to the Criminal District Court of Harris County as heretofore established, and over such criminal cases as may hereafter be transferred to the court created by this Act, as fully in all respects as if said cases had originated in said court.

Sec. 6. The said Criminal District Court of Harris County shall have a seal similar to the seal of the district court, with the words "Criminal District Court of Harris County" engraved thereon, an impression of which seal shall be attached to all writs and other process, except subpoenas issuing from said court, and shall be used in the authentication of all official acts of the clerk of the said court.

Sec. 7. The practice in said court shall be conducted according to the laws governing the practice in the district court, and the rules of pleading and evidence in the district court shall govern in so far as the same may be applicable.

Sec. 8. All laws regulating the selection, summoning, and impaneling of grand and petit jurors in the district court shall govern and apply in the criminal district court in so far as the same may be applicable; provided, that the clerk of the district court of Harris county shall assist in drawing the names of the jurors for said criminal court as is now provided by law.

Sec. 9. All rules of the criminal procedure governing the district and county courts shall apply to and govern said criminal district court.

Sec. 10. [Not included.]

For Annotations and Historical Notes, see V.A.T.S.

Sec. 11. Said court shall hold four terms each year for the trial of causes and the disposition of business coming before it, one term beginning the first Monday in May, one term beginning the first Monday in August, one term beginning on the first Monday in November and one term beginning on the first Monday in February of each year. Each term shall continue until the business is disposed of.

Sec. 12. Whenever the Criminal District Court of Harris County shall be engaged in the trial of any cause when the time for the expiration of the term of said court as fixed by law shall arrive, the judge presiding shall have the power and may, if he deems it expedient, continue the term of said court until the conclusion of such pending trial; in such case the extension of such term shall be shown on the minutes of the court before they are signed.

Sec. 13. The sheriff of Harris county and his deputies shall attend upon said court and execute all the process issuing therefrom and perform all duties required by said court or the judge thereof, and shall perform all such services for said court as sheriffs and constables are authorized or required to perform in and for other district courts of this State and he shall receive the same fees for his services as are provided by law for the same services in the district court.

Sec. 14. In all matters over which said criminal district court has jurisdiction, it shall have the same power within said district as is conferred by law upon the district court, and shall be governed by the same rules in the exercise of such power.

Sec. 15. Appeals and writs of error may be prosecuted from the said criminal district court to the court of criminal appeals, in the same manner and form as from district courts in like cases. Superseding article 2228, Rev.Civ.St.1911.

Sec. 16. The county of Harris is hereby created a separate criminal judicial district and at the next general election after this Act shall take effect, there shall be elected in and for said district a criminal district judge, a criminal district clerk and a district attorney, each of whom shall have and exercise, respectively, the same duties, powers and authority within said county as are now possessed and exercised by the judge of the criminal district court, the clerk of the criminal district court, and the district attorney for the criminal district composed of Galveston and Harris Counties, and such other duties as are prescribed herein.

Sec. 17. From and after the taking effect of this Act, the criminal district now composed of Galveston and Harris counties shall cease to exist so far as it embraces Galveston county, and all cases of felony that are then pending on the docket of the Criminal District Court of Galveston County shall be at once transferred to the district courts in said county of the Tenth and Fifty-sixth Judicial Districts, the felony cases on said docket of even numbers shall be transferred to the district court for the Tenth Judicial District and the felony cases on said docket of odd numbers shall be transferred to the district court for the Fifty-sixth Judicial District, and the said district court for the Tenth Judicial District and the said court for the Fifty-sixth Judicial District are hereby vested with concurrent exclusive jurisdiction of all felony cases arising in the county of Galveston, and the judges of said courts are hereby vested with all powers, privileges, and authority given by the Constitution and laws of this State in criminal matters, to the district courts of this State; and the judge of the district court for the Tenth Judicial District and the judge of the district court for the Fifty-sixth Judicial District shall alternately impanel grand juries in said county of Galveston in the same manner provided therefor by the judges of the district courts of this State; and from and after taking effect of this Act, all cases of misde-

meanor pending on the docket of the Criminal District Court of Galveston County shall be transferred to the County Court of Galveston County, Texas, unless there be a county court at law of said county, in which event they shall be transferred to the latter court; and said county court and the judge thereof is hereby vested with all the powers, privileges and authority in criminal cases that are conferred by the laws of this State on the county court; and the clerk of the District Court of Galveston County is hereby vested with the powers, duties and authority in criminal matters in cases of felony that are now conferred by law on clerks of the district court in this State, and shall be the custodian of the records in felony cases transferred from said Criminal District Court and hereafter arising in the county of Galveston; and the clerk of the County Court of Galveston County is hereby vested with the powers, duties and authority in criminal matters in cases of misdemeanor as are now conferred by law on the clerks of the county courts of this State, and such clerk shall be the custodian of the papers and records of misdemeanor cases arising in such county after such transfer, and the clerk of the Criminal District Court of Galveston County shall at once make the transfer of cases herein provided and turn over the papers and records of his office to the clerk of the district court and the clerk of the County Court of Galveston County as herein provided. The clerk of the district court shall file and docket the even numbered felony cases in the court of the Tenth Judicial District and the odd numbered felony cases in the court of the Fifty-sixth Judicial District, but any case pending in either of said courts may, in the discretion of the judge thereof, be transferred by one of said district courts to the other, and in case of the disqualification of the judge of either of said courts and in any case, such case on his suggestion of disqualification shall stand transferred to the other of said courts and docketed by the clerk accordingly. All writs and process heretofore, or that may hereafter be issued, up to the time this Act shall take effect, which are made returnable to the Criminal District Court of Galveston and Harris Counties, shall be returnable to the court to which the cause has been or may be transferred in like manner as if originally made returnable to said court and all writs and process are hereby validated.

The district clerk of Galveston county shall receive the sum of \$600.00 per annum, to be paid by the county of Galveston for ex officio services, and receive the same fees in criminal cases as fixed by law in felony cases, and the county clerk shall receive the sum of \$600.00 per annum for ex officio services and be entitled to such fees as are provided by law in misdemeanor cases.

The county commissioners court shall have authority to pay for the services of a special deputy district or county clerk, or both, if in their judgment such shall be required; such assistant to be appointed by the clerk of the court in which his services are needed. The county attorney and his assistant shall conduct all prosecutions in said district and county courts and county court at law and said county attorneys and the clerks of said court shall receive such fees as are now or may hereafter be provided for by law.

Sec. 17a. The Criminal District Court of Harris County herein provided for shall, from and after the time when this Act takes effect, be taken and deemed to be, in respect to all matters of jurisdiction, records and procedure a continuation of the Criminal District Court of Galveston and Harris Counties as now organized for Harris county, it being the intention of this Act to reduce the territorial limits of the Criminal Judicial District of Galveston and Harris Counties to Harris county alone.

Sec. 18. The judge of the Criminal District Court of Harris County shall be elected by the qualified voters of said county for a term of four years and shall hold his office until his successor is elected and qualified. He shall possess the same qualifications as are required of the judges

For Annotations and Historical Notes, see V.A.T.S.

of the district court and shall receive the salary and compensation as is now, or may hereafter be provided for district judges of this State, to be paid in the same manner as the salary and compensation of other district judges is paid. Said judge of said criminal district court shall have and exercise all the powers and duties which are now, or hereafter may be by law vested in and exercised by district judges of this State in criminal cases. The judge of said court may exchange with other district judges, as provided by law, and the said judge shall have all the power within said criminal district which is by the Constitution and laws of this State vested in district judges of their respective judicial districts, except that the jurisdiction and authority of said criminal district judge shall be limited to criminal cases, and to the exercise of such powers and the granting of such writs and process as may be necessary or incidental to the exercise of such criminal jurisdiction.

Sec. 19. There shall be elected by the qualified electors of the criminal district of Harris county, Texas, an attorney for said court who shall be styled "The Criminal District Attorney of Harris County," and who shall hold his office for a period of two years and until his successor is elected and qualified. The said criminal district attorney shall possess all of the qualifications and take the oath and give the bond required by the Constitution and laws of this State, of other district attorneys. It shall be the duty of said criminal district attorney, or of his assistants, as hereinafter provided, to be in attendance upon each term of said Criminal District Court of Harris County and to represent the State in all matters pending before said court. And he shall have exclusive control of all criminal cases wherever pending, or in whatever court in Harris county that now has jurisdiction of criminal cases, as well as any or all courts that may be hereafter created and given jurisdiction of any criminal cases, and he shall collect the fees therefor provided by law. He shall also have control of any and all cases heard on habeas corpus before any civil district court of Harris county, as well as before the criminal court of said county. The criminal district attorney of Harris county shall have and exercise, in addition to the specific powers given and duties imposed upon him by this Act, all such powers, duties and privileges within said criminal district of Harris county as are by law now conferred or which may hereafter be conferred upon district and county attorneys in the various counties and judicial districts of this State. It is further provided that he and his assistants shall have the exclusive right, and it shall be their sole duty to perform the duties provided for in this Act, except in cases of the absence from the county of the criminal district attorney and his assistants, or their inability or refusal to act; and no other person shall have the power to perform the duties provided in this Act, or to represent the State in any case in Harris county, except in case of the absence from Harris county, or the disability or refusal to act, of the criminal district attorney and his assistants.

Sec. 20. The said criminal district attorney of Harris county shall be commissioned by the Governor and shall receive a salary of five hundred dollars per annum, to be paid by the State, and in addition thereto shall receive the following fees in felony cases, to be paid by the State: For each conviction of felonious homicide, where the defendant does not appeal or dies, or escapes after appeal and before final judgment of the Court of Criminal Appeals, or where, upon appeal, the judgment is affirmed, the sum of forty dollars. For all other convictions in felony cases, where the defendant does not appeal, or dies, or escapes, after appeal, and before final judgment of the Court of Criminal Appeals, or where, upon appeal, the judgment is affirmed, the sum of thirty dollars; provided, that in all convictions of felony, in which punishment is fixed by the verdict and judgment by confinement in the House of Correction and Reformatory, his fee shall be fifteen dollars. For representing the State in each case of habeas corpus where the defendant is charged with a

felony, the sum of twenty dollars. For representing the State in examining trials, in felony cases, where indictment is returned, in each case, the sum of five dollars. The criminal district attorney shall also receive such fees in misdemeanor cases, to be paid by the defendant and by the county, as is now provided by law for district and county attorneys, and he shall also receive such compensation for other services rendered by him as is now, or may hereafter be, authorized by law to be paid to other district and county attorneys in this State.

Sec. 21. The criminal district attorney of Harris county shall retain out of the fees earned by him in the Criminal District Court of Harris County the sum of twenty-five hundred dollars per annum, and in addition thereto, one-fourth of the gross excess of all fees in excess of twenty-five hundred dollars per annum, the three-fourths of the excess over and above twenty-five hundred dollars per annum, remaining, to be paid by him into the treasury of Harris county. It is provided that in arriving at the amount collected by him, he shall include the fees arising from all classes of criminal cases of which the Criminal District Court of Harris County has original and exclusive jurisdiction, whether felony, misdemeanor, habeas corpus hearings, or commission on fines and forfeitures collected in said court, it being the intention of this Act that the criminal district attorney of Harris county shall include all fees of every kind and class earned by him in said criminal district court in arriving at the amount collected by him; it being further provided that at the end of each year he shall make a full and complete report and accounting to the county judge of Harris county of the amount of such fees collected by him.

Sec. 22. The Criminal District Attorney of Harris County shall appoint two assistant criminal district attorneys, who shall each receive a salary of eighteen hundred dollars per annum, payable monthly. He shall also appoint a stenographer, who shall receive a salary of not more than twelve hundred dollars per annum, payable monthly. In addition to the assistant criminal district attorneys and stenographer, above provided for, the county judge of Harris County may, with the approval of the commissioners' court, appoint as many additional assistants as may be necessary to properly administer the affairs of the office of Criminal District Attorney and enforce the law, upon the Criminal District Attorney making application under oath, addressed to the County Judge of Harris County, setting out the need therefor, provided, the county judge, with the approval of the commissioners' court may discontinue the service of any one or more of the assistant criminal district attorneys provided for in this Act, when in his judgment and of the judgment of the commissioners' court, they are not necessary; provided that the additional assistants appointed by the county judge as herein provided for shall receive not more than \$1,800.00 per year, payable monthly. The salaries of all assistants shall be paid by Harris County; provided that if the above salaries be insufficient and inadequate for the proper investigation of crime in Harris County and the efficient performance of the duties of said office, then the Criminal District Attorney may contract for and pay such additional compensation as is necessary for the proper and efficient discharge of his duties, out of the excess fees collected by him which would otherwise go to the county, a detailed itemized statement, under oath, of which he shall include in his annual report to the County Judge of Harris County, to be approved by the county auditor, but in no event shall the county be liable for such extra compensation. Provided further that before said Criminal District Attorney shall pay such extra compensation he shall secure the written approval of a majority of the District Judges of Harris County. The assistant criminal district attorneys above provided for, when so appointed, shall take the oath of office and be authorized to represent the State before said Criminal District Court, and in all other courts in Harris County in which the Criminal District Attorney of Harris County, is authorized by this Act to represent

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the State, such authority to be exercised under the direction of the said Criminal District Attorney, and which assistants shall be subject to removal at the will of the said Criminal District Attorney. Each of said assistant criminal district attorneys shall be authorized to file informations, examine witnesses before the grand jury and generally to perform any duty devolving upon the Criminal District Attorney of Harris County, and to exercise any power conferred by law upon the said Criminal District Attorney when by him so authorized. The Criminal District Attorney of Harris County shall be paid the same fees for services rendered by his assistants as he would be entitled to receive if the services should have been rendered by himself. Provided, further, that the \$2,500 in fees and the one-fourth of the excess fees heretofore provided for shall in no event exceed the total sum of \$6,000 per year as compensation to said District Attorney, and any amount in excess thereof shall be turned in to the County Treasurer. As amended Act Feb. 23, 1917, ch. 42, § 1.

Sec. 23. The clerk of the Criminal District Court of Harris County shall be elected by the qualified voters of Harris county, and shall hold his office for a term of two years, and until his successor is elected and qualified. Said clerk shall receive such fees as are now or may hereafter be prescribed by law to be paid to the clerk of the district courts of this State, and to be paid and collected in the same manner; and in addition thereto, he shall receive an annual salary of one thousand dollars, to be paid out of the treasury of Harris county monthly. Said clerk shall have the same power and authority, and shall perform the same duties with respect to said Criminal District Court of Harris County as are by law conferred upon the clerks of other district courts in criminal cases, and shall have authority to appoint one or more deputies as needed, whose salary shall be paid by said clerk. Said deputies shall take the oath of office prescribed by the Constitution of this State, and said deputies are authorized to perform such services as may be authorized by said criminal district clerk, and shall be removable at the will of the clerk.

Sec. 24. The criminal district judge and the criminal district attorney of the criminal judicial district composed of Galveston and Harris counties, who shall be in office at the time when this Act goes into effect, shall continue in office, respectively, as the judge and the district attorney of the Criminal District Court of Harris County until the next general election, or until their successors shall be elected and qualified.

The clerk of the Criminal District Court of Harris County who shall be in office at the time when this Act goes into effect shall continue in office as clerk of the Criminal District Court of Harris County until January 1, A.D. 1912, and until his successor is appointed and qualified.

The Governor shall, on January 1, 1912, or thereafter, appoint a clerk of the Criminal District Court of Harris County, who shall hold his office from January 1, A.D. 1912, until the next general election, or until his successor is elected and qualified. Acts 1911, 32nd Leg. p. 111, ch. 67.

Change of Names

Acts 1967, 60th Leg., p. 2073, ch. 774, §§ 1-4, which changed the names of the criminal judicial districts of Harris County to regular numbered judicial districts and which changed the names of the courts to district courts provided:

"Section 1. The names of the Criminal Judicial District of Harris County, Texas, the Criminal Judicial District No. 2 of Harris County, Texas, as the Criminal Judicial District No. 3 of Harris County, Texas, the Criminal Judicial District No. 4 of Harris County, Texas, the Criminal Judicial District No. 5 of Harris County, Texas, and the Criminal Judicial District No. 6 of

Harris County, Texas, are changed to the 174th Judicial District, the 176th Judicial District, the 177th Judicial District, the 178th Judicial District, the 179th Judicial District, and the 180th Judicial District, respectively; and the names of the respective courts are changed to the 174th District Court, the 176th District Court, the 177th District Court, the 178th District Court, the 179th District Court, and the 180th District Court, respectively.

"Sec. 2. The judges of the respective criminal district courts shall continue to serve for the terms to which they were elected, but shall be known and referred to as district judges for their respective district courts.

"Sec. 3. All appropriations heretofore made or hereafter made for the payment of the salaries and expenses of the judges of the Criminal District Court of Harris County and the Criminal District Courts No. 2 through 6 Harris County, respectively, shall be made available for the payment of the salaries of the judges of the 174th District Court and the judges of the 176th through the 180th District Courts of Harris County, respectively.

"Sec. 4. This Act has no effect on any existing law except to change the names of the specified criminal judicial districts and their respective courts."

176. — Harris

Section 1. There is hereby created and established at the city of Houston a criminal district court to be known as the "Criminal District Court No. 2 of Harris County," which court shall have and exercise concurrent jurisdiction with the criminal district court of Harris County under the Constitution and laws of the State of Texas.

Sec. 2. From and after the time this law shall take effect, the criminal district court of Harris County and the Criminal District Court No. 2 of Harris County shall have and exercise concurrent jurisdiction with each other in all felony causes, and in all matters and proceedings of which the said criminal district court of Harris County now has jurisdiction; and either of the judges of said criminal district courts may in their discretion transfer any cause or causes that may at any time be pending in his court to the other criminal district court by an order or orders entered upon the minutes of his court; and where such transfer or transfers are made the clerk of such criminal district court shall enter such cause or causes upon the docket to which such transfer or transfers are made, and, when so entered upon the docket, the judge of that court shall try and dispose of said causes in the same manner as if such causes were originally instituted in said court. From and after the taking effect of this Act, all felony cases of even numbers that are then pending on the docket of the criminal district court of Harris County shall be at once transferred to the Criminal District Court No. 2 of Harris County, and from and after the taking effect of this Act, the clerk of the criminal district court shall file and docket the felony cases of even numbers in the Criminal District Court No. 2 of Harris County, and the felony cases of odd numbers in the criminal district court of Harris County.

Sec. 3. The judge of said Criminal District Court No. 2 of Harris County shall be elected by the qualified voters of Harris County for a term of four years, and shall hold his office until his successor shall have been elected and qualified. He shall possess the same qualifications as are required of the judge of a district court, and shall receive the same salary as is now or may hereafter be paid to the district judges, to be paid in like manner. He shall have and exercise all the powers and duties now or hereafter to be vested in and exercised by district judges of the criminal district court of Harris County. The judge of said court may ex-

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change with any district judge, as provided by law in cases of district judges, and, in case of disqualification or absence of a judge, a special judge may be selected, elected or appointed as provided by law in cases of district judges; provided, that the Governor, under the authority now provided by law, upon this Act becoming effective, shall appoint a judge of said court, who shall hold the office until the next general election, after the passage of this Law, and until his successor shall have been elected and qualified. Either of the judges of said criminal district courts may, in his discretion, in the absence of the judge of the other criminal district court from his court room or from the County of Harris, Texas, try and dispose of any cause or causes that may be pending in such criminal district court as fully as could such absent judge were he personally present and presiding. And either of said judges may receive in open court from the foreman of the grand jury any bill or bills of indictment in the court to which such bill or bills of indictment may be returnable, entering the presentment of such bill or bills of indictment in the minutes of the proceedings of such court, and may hear and receive from any empaneled petit jury any report, information or verdict, and make and cause to be entered any order or orders in reference thereto, or with reference to the continuation of the deliberation of such petit jury or their final discharge, as fully and completely as such absent district judge could do if personally present and presiding over such court; and may make any other order or orders in such courts respecting the causes therein pending or the procedure pertaining thereto as the regular judge of said criminal district court could make if personally present and presiding.

Sec. 4. Said court shall have a seal of like design as the seal now provided by law for district courts, except that the words "Criminal District Court No. 2 of Harris County" shall be engraved around the margin thereof, which seal shall be used for all the purposes for which the seals of the district courts are required to be used; and certified copies of the orders, proceedings, judgments and other official acts of said court, under the hand of the clerk and attested by the seal of said court, shall be admissible in evidence in all the courts of this State in like manner as similar certified copies from courts of record are now or may hereafter be admissible.

Sec. 5. The sheriff, district attorney and the clerk of the criminal district court of Harris County, as heretofore provided for by law, shall be the sheriff, district attorney and clerk, respectively, of said Criminal District Court No. 2 of Harris County under the same rules and regulations as are now or may hereafter be prescribed by law for the government of sheriffs, district attorneys and clerks of the district courts of the State; and said sheriff, district attorney and clerk shall respectively receive such fees as are now or may hereafter be prescribed by law for such officers in the district courts of the State, to be paid in the same manner.

The county commissioners' court shall have authority to pay out of the general funds of the county for the services of such special deputy district clerks as in their judgment shall be required, such special deputy or deputies to be appointed by the clerk of the criminal district court, and to be removable at the will of the clerk, and to be paid a salary not to exceed the compensation allowed by law to other deputy district clerks, said salary shall be payable monthly. The criminal district attorney may appoint an assistant district attorney, in addition to those now provided by law, to attend said court. Said assistant shall have the authority and shall qualify as provided by law for assistant district attorneys, and shall be removable at the will of the district attorney, and shall receive a salary not to exceed the maximum salary allowed assistant district attorneys; said salary to be payable monthly by said county by warrant drawn from the general funds thereof.

Sec. 6. Said court shall hold four terms each year for the trial of causes and the disposition of business coming before it, one term beginning the first Monday in May, one term beginning on the first Monday in August, one term beginning on the first Monday in November, and one term beginning on the first Monday in February of each year. Each term shall continue until the business is disposed of. The trials and proceedings in said court shall be conducted according to the law governing the pleadings, practice and proceedings in criminal cases in the district courts. The district judges of the criminal district courts of Harris County shall alternately appoint grand jury commissioners and empanel grand juries; and they shall meet together and determine approximately the number of petit jurors that are reasonably necessary for jury service in the criminal district courts of the county for each week during the time said courts may hold during the year, and shall thereupon order the drawing of such number of jurors from the jury wheel of the county for each of said weeks, said jury to be known as the panel of jurors for service in the criminal district courts for the respective weeks for which they are designated to serve. The judges of the said criminal district courts shall agree upon which one shall be authorized to act in carrying out the provisions of this Act as relating to the calling and qualifying of the jury panel; they may increase or diminish the number of jurors to be selected for any week, and shall order said jurors drawn for as many weeks in advance of service as they deem proper. From time to time they shall designate the criminal district judge to whom the panel of jurors shall report for duty, and said judge, for such time as he is chosen to so act, shall organize said juries and have immediate supervision and control of them. The said jurors, after being regularly drawn from the wheel, shall be served by the sheriff to appear and report for jury service before said judge so designated, who shall hear excuses of said jury and swear them in for service for the week that they are to serve to try all cases that may be submitted to them in any of said criminal district courts, and they may be used interchangeably in the criminal district courts. In the event of a deficiency of said jurors, the judge having control of said panel of jurors shall order such additional jurors to be drawn from the wheel as may be sufficient to meet such emergency, but such jurors shall act only as special jurors and shall be discharged as soon as their services are no further needed. The provisions of the articles commonly known as the "jury wheel law" shall remain in full force and effect, except as modified by this Act and other laws now in effect. Acts 1927, 40th Leg., p. 33, ch. 24.

Change of Name

Acts 1967, 60th Leg., p. 2073, ch. 774, §§ 1-4, changed the name of the Criminal Judicial District No. 2 of Harris County to the 176th Judicial District and the name of the Criminal District Court No. 2 of Harris County to the 176th District Court, and are set out as notes under article 199(174).

Historical Note

Renumbered from art. 1926-32 to conform with the changes affected by Acts 1967, 60th Leg., p. 2073, ch. 774, §§ 1-4, set out as notes under art. 199(174).

177. — Harris

Section 1. There is hereby created and established at the city of Houston a criminal district court to be known as the "Criminal District Court No. 3 of Harris County," which court shall have and exercise concurrent jurisdiction with the criminal district court of Harris County and the Criminal District Court No. 2 of Harris County under the Constitution and laws of the State of Texas.

For Annotations and Historical Notes, see V.A.T.S.

Sec. 2. From and after the time this law shall take effect, the Criminal District Court of Harris County, the Criminal District Court No. 2 of Harris County and the Criminal District Court No. 3 of Harris County shall have and exercise concurrent jurisdiction with each other in all felony causes, and in all matters and proceedings of which the said Criminal District Court of Harris County and the Criminal District Court No. 2 of Harris County now have jurisdiction; and the judge of any one (1) of said criminal district courts may in his discretion transfer any cause or causes that may at any time be pending in his court to one (1) of the other criminal district courts by an order or orders entered upon the minutes of his court; and where such transfer or transfers are made the clerk of such criminal district court shall enter such cause or causes upon the docket to which such transfer or transfers are made, and, when so entered upon the docket, the judge of that court shall try and dispose of said causes in the same manner as if such causes were originally instituted in said court, provided no case shall be transferred without the consent of the judge of the court to which transferred. When this Act becomes effective, all felony cases having numbers ending with 3, 6, or 9 pending on the dockets of the Criminal District Court of Harris County and the Criminal District Court No. 2 of Harris County shall be at once transferred to and docketed in the Criminal District Court No. 3 of Harris County, and after the effective date of this Act, the clerk of the criminal district courts shall file and docket felony cases in the Criminal District Court of Harris County, the Criminal District Court No. 2 of Harris County and the Criminal District Court No. 3 of Harris County in rotation in the order filed so that the first case or proceeding filed after the effective date of this Act and every third case or proceeding thereafter filed shall be docketed in the Criminal District Court of Harris County, and the second case or proceeding filed and every third case or proceeding thereafter filed shall be docketed in the Criminal District Court No. 2 of Harris County, and the third case or proceeding filed and every third case or proceeding thereafter filed shall be docketed in the Criminal District Court No. 3 of Harris County and so on in rotation.

Sec. 3. The judge of said Criminal District Court No. 3 of Harris County shall be elected by the qualified voters of Harris County for a term of four (4) years, and shall hold his office until his successor shall have been elected and qualified. He shall possess the same qualifications as are required of the judge of a district court, and shall receive the same salary and additional compensation as is now or may hereafter be paid to the district judges, to be paid in like manner. He shall have and exercise all the powers and duties now or hereafter to be vested in and exercised by district judges of the Criminal District Court of Harris County and the Criminal District Court No. 2 of Harris County. The judge of said court may exchange with any district judge, as provided by law in cases of district judges, and, in case of disqualification or absence of the judge, a special judge may be selected, elected or appointed as provided by law in cases of district judges; provided that the Governor, under the authority now provided by law, upon this Act becoming effective, shall appoint a judge of said court, who shall hold the office until the next general election, after the passage of this Act, and until his successor shall have been elected and qualified. The judge of any one of said criminal district courts may, in his discretion, in the absence of the judge of one of the other criminal district courts from his courtroom or from the County of Harris, Texas, try and dispose of any cause or causes that may be pending in such criminal district court as fully as could such absent judge were he personally present and presiding. And any one of said judges may receive in open court from the foreman of the grand jury any bill or bills of indictment in the court to which such bill or bills of indictment may be returnable, entering the presentment of such bill or bills of indictment in the minutes of the proceedings of such

court, and may hear and receive from any empaneled petit jury any report, information or verdict, and make and cause to be entered any order or orders in reference thereto, or with reference to the continuation of the deliberation of such petit jury or their final discharge, as fully and completely as such absent district judge could do if personally present and presiding over such court; and may make any other order or orders in such courts respecting the causes therein pending or the procedure pertaining thereto as the regular judge of said criminal court could make if personally present and presiding.

Sec. 4. Said court shall have a seal of like design as the seal now provided by law for district courts, except that the words "Criminal District Court No. 3 of Harris County" shall be engraved around the margin thereof, which seal shall be used for all the purposes for which the seals of the district courts are required to be used; and certified copies of the orders, proceedings, judgments and other official acts of said court, under the hand of the clerk and attested by the seal of said court, shall be admissible in evidence in all the courts of this State in like manner as similar certified copies from courts of record are now or may hereafter be admissible.

Sec. 5. The sheriff, criminal district attorney and the clerk of the Criminal District Court of Harris County, as heretofore provided for by law, shall be the sheriff, criminal district attorney and clerk, respectively, of said Criminal District Court No. 3 of Harris County under the same rules and regulations as are now or may hereafter be prescribed by law for the government of sheriffs, criminal district attorneys and clerks of the district courts of the State; and said sheriff, criminal district attorney and clerk shall respectively receive such fees as are now or may hereafter be prescribed by law for such officers in the district courts of the State, to be paid in the same manner. The County Commissioners Court shall have authority to pay out of the Officers' Salary Fund or other general funds of the county for the services of such special deputy district clerks as in their judgment shall be required, such special deputy or deputies to be appointed by the clerk of the criminal district court, and to be removable at the will of the clerk, and to be paid a salary not to exceed the compensation allowed by law to other deputy district clerks, said salary shall be payable monthly. The criminal district attorney may appoint an assistant criminal district attorney, in addition to those now provided by law, to attend said court. Said assistant shall have the authority and shall qualify as provided by law for assistant district attorneys, and shall be removable at the will of the criminal district attorney, and shall receive a salary not to exceed the maximum salary allowed assistant district attorneys; said salary to be payable monthly by said county by warrant drawn from the Officers' Salary Fund or other general funds thereof. The judge of the Criminal District Court No. 3 of Harris County shall appoint an official court reporter for said court as provided by law.

Sec. 6. Said court shall hold four (4) terms each year for the trial of causes and the disposition of business coming before it, one (1) term beginning the first Monday in May, one (1) term beginning on the first Monday in August, one (1) term beginning on the first Monday in November, and one (1) term beginning on the first Monday in February of each year. Each term shall continue until the business is disposed of. The trials and proceedings in said court shall be conducted according to the law governing the pleadings, practice and proceedings in criminal cases in district courts. The district judges of the criminal district courts of Harris County shall successively appoint grand jury commissioners and empanel grand juries; and they shall meet together and determine approximately the number of petit jurors that are reasonably necessary for jury service in the criminal district courts of the county for each

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week during the time said courts may hold court during the year, and shall thereupon order the drawing of such number of jurors from the jury wheel of the county for each of said weeks, said jury to be known as the panel of jurors for service in the criminal district courts for the respective weeks for which they are designated to serve. The judges of the said criminal district courts shall agree upon which one shall be authorized to act in carrying out the provisions of this Act as relating to the calling and qualifying of the jury panel; they may increase or diminish the number of jurors to be selected for any week, and shall order said jurors drawn for as many weeks in advance of service as they deem proper. From time to time they shall designate the criminal district judge to whom the panel of jurors shall report for duty, and said judge, for such time as he is chosen to so act, shall organize said juries and have immediate supervision and control of them. The said jurors, after being regularly drawn from the wheel, shall be served by the sheriff to appear and report for jury service before said judge so designated, who shall hear excuses of said jurors and swear them in for service for the week that they are to serve to try all cases that may be submitted to them in any of said criminal district courts, and they may be used interchangeably in the criminal district courts. In the event of a deficiency of said jurors, the judge having control of said panel of jurors shall order such additional jurors to be drawn from the wheel as may be sufficient to meet such emergency, but such jurors shall act only as special jurors and shall be discharged as soon as their services are no further needed. The provisions of the Statutes commonly known as the "jury wheel law" shall remain in full force and effect, except as modified by this Act. Acts 1951, 52nd Leg., p. 500, ch. 307.

Change of Name

Acts 1967, 60th Leg., p. 2073, ch. 774, §§ 1-4 changed the name of the Criminal Judicial District No. 3 of Harris County to the 177th Judicial District and the name of the Criminal District Court No. 3 of Harris County to the 177th District Court, and are set out as notes under article 199(174).

Historical Note

Renumbered from art. 1926-33 to conform with the changes affected by Acts 1967, 60th Leg., p. 2073, ch. 774, §§ 1-4, set out as notes under art. 199(174).

178, 179. Harris

Section 1. There is hereby created and established at the City of Houston, two (2) Criminal District Courts to be known as the "Criminal District Court No. 4 of Harris County," and "Criminal District Court No. 5 of Harris County," which Courts shall have and exercise concurrent jurisdiction with the Criminal District Court of Harris County, the Criminal District Court No. 2 of Harris County, and the Criminal District Court No. 3 of Harris County, under the Constitution and laws of the State of Texas.

Sec. 2. From and after the time this law shall take effect, the Criminal District Court of Harris County, the Criminal District Court No. 2 of Harris County, the Criminal District Court No. 3 of Harris County, the Criminal District Court No. 4 of Harris County and the Criminal District Court No. 5 of Harris County, shall have and exercise concurrent jurisdiction with each other in all felony causes, and in all matters and proceedings of which the said Criminal District Court of Harris County, the Criminal District Court No. 2 of Harris County and the Criminal District Court No. 3 of Harris County now have jurisdiction; and the Judge of any one of said Criminal District Courts may in his discretion transfer any

cause or causes that may at any time be pending in his Court to one of the other Criminal District Courts by an order or orders entered upon the minutes of his Court; and where such transfer or transfers are made the Clerk of such Criminal District Court shall enter such cause or causes upon the docket to which such transfer or transfers are made, and, when so entered upon the docket, the Judge of that Court shall try and dispose of said causes in the same manner as if such causes were originally instituted in said Court, provided no case shall be transferred without the consent of the Judge of the Court to which transferred. When this Act becomes effective, all felony cases having numbers ending with 4 or 9 pending on the dockets of the Criminal District Court of Harris County and the Criminal District Court No. 2 of Harris County and the Criminal District Court No. 3 of Harris County shall be at once transferred to and docketed in the Criminal District Court No. 4 of Harris County, and all felony cases having numbers ending with 5 or 0 pending on the dockets of the Criminal District Court of Harris County and the Criminal District Court No. 2 of Harris County and the Criminal District Court No. 3 of Harris County shall be at once transferred to and docketed in the Criminal District Court No. 5 of Harris County, and after the effective date of this Act, the Clerk of the Criminal District Courts shall file and docket felony cases in the Criminal District Court of Harris County, the Criminal District Court No. 2 of Harris County, the Criminal District Court No. 3 of Harris County, the Criminal District Court No. 4 of Harris County, and the Criminal District Court No. 5 of Harris County in rotation in the order filed so that the first case or proceeding filed after the effective date of this Act and every fifth case or proceeding thereafter filed shall be docketed in the Criminal District Court of Harris County, and the second case or proceeding filed and every fifth case or proceeding thereafter filed shall be docketed in the Criminal District Court No. 2 of Harris County, and the third case or proceeding filed and every fifth case or proceeding thereafter filed shall be docketed in the Criminal District Court No. 3 of Harris County, and the fourth case or proceeding filed and every fifth case or proceeding thereafter filed shall be docketed in the Criminal District Court No. 4 of Harris County, Texas, and the fifth case or proceeding filed and every fifth case or proceeding thereafter filed shall be docketed in the Criminal District Court No. 5, of Harris County, Texas, and so on in rotation.

Sec. 3. The Judges of said Criminal District Court No. 4 of Harris County, and the Criminal District Court No. 5, of Harris County, shall be elected by the qualified voters of Harris County for a term of four (4) years, and shall hold his office until his successor shall have been elected and qualified. They shall each possess the same qualifications as are required of the Judge of the District Court, and shall receive the same salary and additional compensation as is now or may hereafter be paid to the District Judges, to be paid in like manner. They shall each have and exercise all the powers and duties now or hereafter to be vested in and exercised by District Judges of the Criminal District Court of Harris County and the Criminal District Court No. 2 of Harris County and the Criminal District Court No. 3 of Harris County. The Judge of each of said Courts may exchange with any District Judge, as provided by law in cases of District Judges, and, in case of disqualification or absence of the Judge, a Special Judge may be selected, elected or appointed as provided by law in cases of District Judges; provided that the Governor, under the authority now provided by law, upon this Act becoming effective, shall appoint a Judge of each of said Courts, who shall hold the office until the next general election, after the passage of this Act, and until his successor shall have been elected and qualified, the Judge of any one of said Criminal District Courts may, in his discretion, in the absence of the Judge of one of the other Criminal District Courts from his courtroom or from the County of Harris, Texas, try and dispose of

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any cause or causes that may be pending in such Criminal District Courts as fully as could such absent Judge were he personally present and presiding. And any one of said Judges may receive in open Court from the foreman of the Grand Jury any bill or bills of indictment in the Court to which such bill or bills of indictment may be returnable, entering the presentment of such bill or bills of indictment in the minutes of the proceedings of such Court, and may hear and receive from any empaneled petit jury any report, information or verdict, and make and cause to be entered any order or orders in reference thereto, or with reference to the continuation of the deliberation of such petit jury or their final discharge, as fully and completely as such absent District Judge could do if personally present and presiding over such Court; and may make any other order or orders in such Courts respecting the causes therein pending or the procedure pertaining thereto as the regular Judge of said Criminal Court could make if personally present and presiding.

Sec. 4. Said Court shall each have a seal of like design as the seal now provided by law for District Courts, except that the words "Criminal District Court No. 4 of Harris County" shall be engraved around the margin of one and "Criminal District Court No. 5 of Harris County" of the other thereof, which seals shall be used for all the purposes for which the seals of the District Courts are required to be used; and certified copies of the orders, proceedings, judgments and other official acts of said Court, under the hand of the Clerk and attested by the seal of either said Courts, shall be admissible in evidence in all the Courts of this State in like manner as similar certified copies from Courts of record are now or may hereafter be admissible.

Sec. 5. The Sheriff, District Attorney and the Clerk of the Criminal District Court of Harris County, as heretofore provided for by law, shall be the Sheriff, District Attorney and Clerk, respectively, of said Criminal District Court No. 4 of Harris County and Criminal District Court No. 5 of Harris County under the same rules and regulations as are now or may hereafter be prescribed by law for the government of Sheriffs, District Attorneys and Clerks of the District Courts of the State; and said Sheriff, District Attorney and Clerk shall respectively receive such fees as are now or may hereafter be prescribed by law for such officers in the District Courts of the State, to be paid in the same manner. The County Commissioners Court shall have authority to pay out of the Officers' Salary Fund or other general funds of the county for the services of such special deputy district Clerks as in their judgment shall be required, such special deputy or deputies to be appointed by the Clerk of the Criminal District Court, and to be removable at the will of the Clerk, and to be paid a salary not to exceed the compensation allowed by law to other deputy district Clerks, said salary shall be payable monthly. The District Attorney may appoint an assistant District Attorney in addition to those now provided by law to attend said Court. Said assistant shall have the authority and shall qualify as provided by law for assistant District Attorneys, and shall be removable at the will of the District Attorney, and shall receive a salary not to exceed the maximum salary allowed assistant District Attorneys; said salary to be payable monthly by said County by warrant drawn from the Officers' Salary Fund or other general funds thereof. The Judges of the Criminal District Court No. 4 of Harris County, and the Criminal District Court No. 5 of Harris County shall appoint an official court reporter for said Court as provided by law.

Sec. 6. Said Courts shall hold four (4) terms each year for the trial of causes and the disposition of business coming before it, one term beginning the first Monday in May, one term beginning on the first Monday of August, one term beginning on the first Monday in November, and one term beginning on the first Monday of February of each year. Each term shall continue until the business is disposed of. The trials and proceed-

ings in said Court shall be conducted according to the law governing the pleadings, practice and proceedings in criminal cases in District Courts. The District Judges of the Criminal District Courts of Harris County shall successively appoint Grand Jury commissioners and empanel Grand Juries; and they shall meet together and determine approximately the number of petit jurors that are reasonably necessary for jury service in the criminal District Courts of the County for each week during the said time said Courts may hold court during the year, and shall thereupon order the drawing of such number of jurors from the jury wheel of the County for each of said weeks, said jury to be known as the panel of jurors for service in the Criminal District Courts for the respective weeks for which they are designated to serve. The Judges of the said Criminal District Courts shall agree upon which one shall be authorized to act in carrying out the provisions of this Act as relating to the calling and qualifying of the jury panel; they may increase or diminish the number of jurors to be selected for any week, and shall order said jurors drawn for as many weeks in advance of service as they deem proper. From time to time they shall designate the Criminal District Judge to whom the panel of jurors shall report for duty, and said Judge, for such time as he is chosen to so act, shall organize said juries and have immediate supervision and control of them. The said jurors, after being regularly drawn from the wheel, shall be served by the Sheriff to appear and report for jury service before said Judge so designated, who shall hear excuses of said jurors and swear them in for service for the week that they are to serve to try all cases that may be submitted to them in any of said Criminal District Courts, and they may be used interchangeably in the Criminal District Courts. In the event of a deficiency of said jurors the Judge having control of said panel of jurors shall order such additional jurors to be drawn from the wheel as may be sufficient to meet such emergency, but such jurors shall act only as special jurors and shall be discharged as soon as their services are no further needed. The provisions of the Statutes commonly known as the "jury wheel law" shall remain in full force and effect, except as modified by this Act. Acts 1959, 56th Leg., p. 555, ch. 249.

Change of Names

Acts 1967, 60th Leg., p. 2073, ch. 774, §§ 1-4 changed the names of the Criminal Judicial Districts Nos. 4 and 5 of Harris County to the 178th and 179th Judicial Districts and the names of the Criminal District Courts Nos. 4 and 5 of Harris County to the 178th and 179th District Courts and are set out as notes under article 199 (174).

Historical Note

Renumbered from article 1926-34 to conform with the changes affected by Acts 1967, 60th Leg., p. 2073, ch. 774, §§ 1-4, set out as notes under art. 199(174).

180. — Harris

A. There is hereby created and established at the City of Houston, a new Criminal District Court to be known as the "Criminal District Court No. 6 of Harris County," which Court shall have and exercise concurrent jurisdiction with the Criminal District Court of Harris County, the Criminal District Court No. 2 of Harris County, the Criminal District Court No. 3 of Harris County, the Criminal District Court No. 4 of Harris County, and the Criminal District Court No. 5 of Harris County, under the Constitution and the laws of the State of Texas.

B. From and after the time this law shall take effect, the Criminal District Court of Harris County, the Criminal District Court No. 2 of Harris County, the Criminal District Court No. 3 of Harris County, the

For Annotations and Historical Notes, see V.A.T.S.

Criminal District Court No. 4 of Harris County, the Criminal District Court No. 5 of Harris County, and the Criminal District Court No. 6 of Harris County, shall have and exercise concurrent jurisdiction with each other in all felony causes, and in all matters and proceedings of which the said Criminal District Court of Harris County, the Criminal District Court No. 2 of Harris County, the Criminal District Court No. 3 of Harris County, the Criminal District Court No. 4 of Harris County, and the Criminal District Court No. 5 of Harris County now have jurisdiction; and the Judge of any one of said Criminal District Courts may in his discretion transfer any cause or causes that may at any time be pending in his court to one of the other Criminal District Courts by an order or orders entered upon the minutes of his court; and where such transfer or transfers are made the clerk of such Criminal District Court shall enter such cause or causes upon the docket to which such transfer or transfers are made, and, when so entered upon the docket, the judge of that court shall try and dispose of said causes in the same manner as if such causes were originally instituted in said court, provided no case shall be transferred without the consent of the judge of the court to which transferred. When this Act becomes effective, all felony cases having numbers ending with 1 or 6 pending on the dockets of the other Criminal District Courts of Harris County shall be at once transferred to and docketed in the Criminal District Court No. 6 of Harris County, and after the effective date of this Act, the Clerk of the Criminal District Courts shall file and docket felony cases in the Criminal District Court of Harris County, the Criminal District Court No. 2 of Harris County, the Criminal District Court No. 3 of Harris County, the Criminal District Court No. 4 of Harris County, the Criminal District Court No. 5 of Harris County, and the Criminal District Court No. 6 of Harris County in rotation in the order filed so that the first case or proceeding filed after the effective date of this Act and every sixth case or proceeding thereafter filed shall be docketed in the Criminal District Court of Harris County, and the second case or proceeding filed and every sixth case or proceeding thereafter filed shall be docketed in the Criminal District Court No. 2 of Harris County, and the third case or proceeding filed and every sixth case or proceeding thereafter filed shall be docketed in the Criminal District Court No. 3 of Harris County, and the fourth case or proceeding filed and every sixth case or proceeding thereafter filed shall be docketed in the Criminal District Court No. 4 of Harris County, Texas, and the fifth case or proceeding filed and every sixth case or proceeding thereafter filed shall be docketed in the Criminal District Court No. 5 of Harris County, Texas, and the sixth case or proceeding filed and every sixth case or proceeding thereafter filed shall be docketed in the Criminal District Court No. 6 of Harris County, Texas, and so on in rotation.

C. The Judges of said Criminal District Court No. 6 of Harris County, shall be elected by the qualified voters of Harris County for a term of four (4) years, and shall hold his office until his successor shall have been elected and qualified. They shall each possess the same qualifications as are required of the Judge of the District Court, and shall receive the same salary and additional compensation as is now or may hereafter be paid to the District Judges, to be paid in like manner. They shall each have and exercise all the powers and duties now or hereafter to be vested in and exercised by District Judges of the Criminal District Court of Harris County, the Criminal District Court No. 2 of Harris County, the Criminal District Court No. 3 of Harris County, the Criminal District Court No. 4 of Harris County, and the Criminal District Court No. 5 of Harris County. The judge of each of said courts may exchange with any District Judge, as provided by law in cases of District Judges, and, in case of disqualification or absence of the Judge, a Special Judge may be selected, elected or appointed as provided by law in cases of District Judges; provided that the Governor, under the authority now provided

by law, upon this Act becoming effective, shall appoint a judge of each of said courts, who shall hold the office until the next general election, after the passage of this Act, and until his successor shall have been elected and qualified, the Judge of any one of said Criminal District Courts may, in his discretion, in the absence of the Judge of one of the other Criminal District Courts from his courtroom or from the County of Harris, Texas, try and dispose of any cause or causes that may be pending in such Criminal District Courts as fully as could such absent judge were he personally present and presiding. And any one of said judges may receive in open court from the foreman of the grand jury any bill or bills of indictment in the court to which such bill or bills of indictment may be returnable, entering the presentment of such bill or bills of indictment in the minutes of the proceedings of such court, and may hear and receive from any empaneled petit jury any report, information or verdict, and make and cause to be entered any order or orders in reference thereto, or with reference to the continuation of the deliberation of such petit jury or their final discharge, as fully and completely as such absent District Judge could do if personally present and presiding over such court; and may make any other order or orders in such courts respecting the causes therein pending or the procedure pertaining thereto as the regular Judge of said Criminal Court could make if personally present and presiding.

D. Appropriation. A sum of \$16,000.00 for the fiscal year ending August 31, 1966, and a sum of \$16,000.00 for fiscal year ending August 31, 1967, is hereby appropriated from the General Revenue Fund for the salary of the Judge of the Criminal District Court No. 6 of Harris County. The salary shall be paid as provided by law.

E. Said court shall have a seal of like design as the seal now provided by law for District Courts, except that the words "Criminal District Court No. 6 of Harris County" shall be engraved around the margin which seal shall be used for all the purposes for which the seals of the District Courts are required to be used; and certified copies of the orders, proceedings, judgments and other official acts of said court, under the hand of the clerk and attested by the seal of either said courts, shall be admissible in evidence in all the courts of this state in like manner as similar certified copies from courts of record are now or may hereafter be admissible.

F. The Sheriff, District Attorney and the Clerk of the Criminal District Court of Harris County, as heretofore provided for by law, shall be the Sheriff, District Attorney and Clerk, respectively, of said Criminal District Court No. 6 of Harris County under the same rules and regulations as are now or may hereafter be prescribed by law for the government of Sheriffs, District Attorneys and Clerks of the District Courts of the state; and said Sheriff, District Attorney and Clerk shall respectively receive such fees as are now or may hereafter be prescribed by law for such officers in the District Courts of the state, to be paid in the same manner. The County Commissioners Court shall have authority to pay out of the Officers' Salary Fund or other general funds of the county for the services of such special deputy district clerks as in their judgment shall be required, such special deputy or deputies to be appointed by the Clerk of the Criminal District Court, and to be removable at the will of the clerk, and to be paid a salary not to exceed the compensation allowed by law to other deputy district clerks, said salary shall be payable monthly. The District Attorney may appoint an assistant District Attorney in addition to those now provided by law to attend said court. Said assistant shall have the authority and shall qualify as provided by law for assistant District Attorneys, and shall be removable at the will of the District Attorney, and shall receive a salary not to exceed the maximum salary allowed assistant District Attorneys; said salary to be pay-

For Annotations and Historical Notes, see V.A.T.S.

able monthly by said county by warrant drawn from the Officers' Salary Fund or other general funds thereof. The Judge of the Criminal District Court No. 6 of Harris County shall appoint an official court reporter for said court as provided by law.

G. Said court shall hold for four (4) terms each year for the trial of causes and the disposition of business coming before it, one term beginning the first Monday in May, one term beginning on the first Monday of August, one term beginning on the first Monday in November, and one term beginning on the first Monday of February of each year. Each term shall continue until the business is disposed of. The trials and proceedings in said court shall be conducted according to the law governing the pleadings, practice and proceedings in criminal cases in District Courts. The District Judges of the Criminal District Courts of Harris County shall successively appoint grand jury commissioners and empanel grand juries; and they shall meet together and determine approximately the number of petit jurors that are reasonably necessary for jury service in the Criminal District Courts of the County for each week during the said time said courts may hold court during the year, and shall thereupon order the drawing of such number of jurors from the jury wheel of the county for each of said weeks, said jury to be known as the panel of jurors for service in the Criminal District Courts for the respective weeks for which they are designated to serve. The Judges of the said Criminal District Courts shall agree upon which one shall be authorized to act in carrying out the provisions of this Act as relating to the calling and qualifying of the jury panel; they may increase or diminish the number of jurors to be selected for any week, and shall order said jurors drawn for as many weeks in advance of service as they deem proper. From time to time they shall designate the Criminal District Judge to whom the panel of jurors shall report for duty, and said Judge, for such time as he is chosen to so act, shall organize said juries and have immediate supervision and control of them. The said jurors, after being regularly drawn from the wheel, shall be served by the Sheriff to appear and report for jury service before said Judge so designated, who shall hear excuses of said jurors and swear them in for service for the week that they are to serve to try all cases that may be submitted to them in any of said Criminal District Courts, and they may be used interchangeably in the Criminal District Courts. In the event of a deficiency of said jurors the Judge having control of said panel of jurors shall order such additional jurors to be drawn from the wheel as may be sufficient to meet such emergency, but such jurors shall act only as special jurors and shall be discharged as soon as their services are no further needed. The provisions of the Statutes commonly known as the "jury wheel law" shall remain in full force and effect, except as modified by this Act. Acts 1965, 59th Leg., p. 895, ch. 442, § 10c, eff. Sept. 1, 1965.

Change of Name

Acts 1967, 60th Leg., p. 2073, ch. 774, §§ 1-4 changed the name of the Criminal Judicial District No. 6 of Harris County to the 180th Judicial District and the name of the Criminal District Court No. 6 of Harris County to the 180th District Court and are set out as notes under article 199(174).

Historical Note

Renumbered from article 1926-35 to conform with the changes affected by Acts 1967, 60th Leg., p. 2073, ch. 774, §§ 1-4, set out as notes under art. 199(174).

ADMINISTRATIVE JUDICIAL DISTRICTS

Art. 200a. Administrative Judicial Districts

* * * * *

Compensation for performing duties as presiding judge of administrative judicial districts

Sec. 11. (a) In addition to and cumulative of all other compensation, expenses, and perquisites authorized by law and this Act, Presiding Judges of Administrative Judicial Districts shall receive not to exceed \$2,000 per annum as compensation for performing duties as the Presiding Judge of an Administrative Judicial District. In each administrative judicial district the salary of the administrative judge shall be set biennially by the Texas Civil Judicial Council, heretofore created, as provided for in Chapter 19, Acts of the 41st Legislature, 1st Called Session, 1929, as amended (Article 2328a, Vernon's Texas Civil Statutes). Whether an administrative judge is active in administrative duties, performs part time, or is retired from the bench shall be considered in arriving at the salary. Each county comprising the Administrative Judicial District shall upon certification pay out of the officers salary fund or the general fund of the county the amount of salary fairly apportioned to it. The aforesaid salary, or compensation, and all other expenses incidental thereto, shall be paid annually by the said counties in each Administrative Judicial District to the Presiding Judge of each Administrative Judicial District, and by said Judge placed in an Administrative Fund, from which said salary, and other expenses incidental thereto, shall be paid. Said salary shall be paid in twelve equal monthly payments. Said salary shall be apportioned according to the population of each judicial district comprising the Administrative Judicial District and after so apportioned the amount apportioned to each judicial district shall be apportioned to each county comprising the judicial district according to the population of the county.

Sec. 11 added by Acts 1967, 60th Leg., p. 1167, ch. 520, § 1, emerg. eff. June 14, 1967.

Sections 2 and 3 of the amendatory act of 1967 provided:

"Sec. 2. All laws or parts of laws in conflict with provisions of this Act are hereby expressly repealed to the extent of such conflict.

"Sec. 3. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable."

TITLE 11A—ASSIGNMENTS, IN GENERAL

Art. 260—1. Repealed. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721, § 10—102. Eff. June 30, 1966

Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721, enacting the Uniform Commercial Code, repealed article 260—1 effective June 30, 1966. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721 was itself repealed by Acts 1967, 60th Leg., vol. 2, p. 2343, ch. 785, adopting the Business & Commerce Code effective September 1, 1967. However, the latter Act specifically provided that the repeal did not affect the prior operation of the 1965 Act or any prior action taken under it.

For text of the Business and Commerce Code, with Tables and Index, see page 1485.

TITLE 12—ASSIGNMENTS FOR CREDITORS

Arts. 261-274. Repealed. Acts 1967, 60th Leg., vol. 2, p. 2343, ch. 785, § 4. Eff. Sept. 1, 1967.

Acts 1967, 60th Leg., vol. 2, p. 2343, ch. 785, adopting the Business & Commerce Code, repealed articles 261-274 effective September 1, 1967.

For text of the Business and Commerce Code, with Tables and Index, see page 1485.

See, now, Business & Commerce Code, § 23.01 et seq.

TITLE 14—ATTORNEYS AT LAW

Art. 310. Fees

The fee for any examination given by the Board shall be fixed by the Supreme Court, not to exceed \$40 for each candidate, which shall be paid to the clerk of said court at the time the application for examination is made. The money thus obtained shall be used to pay all legitimate expenses incurred in holding the examination; and as compensation to the members of the Board, under such regulations as shall be agreed upon by the Board, or determined by the Supreme Court.

Article amended by Acts 1967, 60th Leg., p. 743, ch. 311, § 1, emerg. eff. May 27, 1967.

TITLE 15—ATTORNEYS—DISTRICT AND COUNTY

<p>1. DISTRICT ATTORNEYS</p> <p>Art. 326k—48a. Eighty-first Judicial District; employment and compensation of stenographer or clerk [New].</p> <p>326k—57. Twenty fifth Judicial District; supplemental salary of district attorney [New].</p> <p>326k—58. Criminal district attorney for Bowie County [New].</p> <p>326k—59. Criminal district attorney for Victoria County [New].</p> <p>326k—60. Eighty-eighth Judicial District; appointment and compensation of stenographer [New].</p>	<p>Art. 326k—61. Eighty-fifth Judicial District; creation of office [New].</p> <p>326k—62. Criminal district attorney for 42nd and 104th Judicial Districts [New].</p> <p>326l—2. Assistant district attorney for 9th Judicial District [New].</p> <p>2. COUNTY ATTORNEYS</p> <p>331f—1. Assistant county attorneys and secretaries in certain counties on Mexican border [New].</p> <p>331k. County attorney of Polk County [New].</p>
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1. DISTRICT ATTORNEYS

Art. 322. [339] [276] [241] Districts shall elect

Section 1. The following Judicial Districts in this state shall each respectively elect a District Attorney, viz.: 1st, 2nd, 3rd, 5th, 7th, 8th, 9th, 12th, 21st, 22nd, 23rd, 24th, 25th, 27th, 29th, 30th, 31st, 32nd, 33rd, 34th, 35th, 36th, 38th, 39th, 46th, 47th, 49th, 50th, 51st, 52nd, 53rd, 63rd, 64th, 69th, 70th, 72nd, 75th, 76th, 79th, 81st, 83rd, 90th, 100th, and 106th.

Sec. 2. There shall also be elected a Criminal District Attorney for Harris County, a Criminal District Attorney for Dallas County, a Criminal District Attorney for Tarrant County, one Criminal District Attorney for the Counties of Nueces, Kleberg, Kenedy, Willacy, and Cameron, and one Criminal District Attorney for the Counties of Callahan, Jones, and Taylor.

Amended by Acts 1963, 58th Leg., p. 1312, ch. 501, § 12, eff. Aug. 23, 1963; Acts 1967, 60th Leg., p. 1203, ch. 538, § 2, eff. Aug. 28, 1967.

Acts 1967, 60th Leg., p. 1201, ch. 538, § 1 (1-5) amended article 199(104); Acts 1967, 60th Leg., p. 1201, ch. 538, § 1(6) created the office of criminal district attorney for the 42nd and 104th Judicial Districts and is codified as article 326k—62; section 3 of

the act of 1967, inter alia, abolished the offices of district attorney for the 42nd and 104th Judicial Districts and abolished the office of county attorney of Taylor County effective January 1, 1969, and is set out as a note under art. 199(104).

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

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Sec. 2a. Repealed. Acts 1967, 60th Leg., p. 1207, ch. 542, § 2, emerg. eff. June 14, 1967.

Investigators and assistants for Criminal District Attorney of McLennan county; salaries

Sec. 2b. The salary of the investigators and assistants appointed by the Criminal District Attorney of McLennan County shall be fixed at a sum of not more than Ten Thousand Dollars (\$10,000) per annum nor less than Three Thousand Dollars (\$3,000) per annum.

Sec. 2b added by Acts 1959, 56th Leg., p. 564, ch. 255, § 1, eff. May 26, 1959. Amended by Acts 1967, 60th Leg., p. 179, ch. 93, § 1, emerg. eff. April 22, 1967.

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Acts 1967, 60th Leg., p. 1207, ch. 542, § 1 amended article 326k-40, § 1.

For Annotations and Historical Notes, see V.A.T.S.

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

Any district attorney in the State of Texas in a judicial district composed of two or more counties may employ a stenographer or clerk who may receive a salary not to exceed \$4,800 per year, to be fixed by the district attorney for such district subject to the approval of the commissioners courts of the counties composing the judicial district. The salary of such stenographer or clerk provided for in this Act shall be paid monthly by the commissioners court of each county composing the judicial district, prorated in proportion to the population of each county as determined by the last preceding Federal census.

Amended by Acts 1961, 57th Leg., p. 710, ch. 335, § 1, eff. June 16, 1961; Acts 1967, 60th Leg., p. 1239, ch. 562, § 1, emerg. eff. June 14, 1967.

Art. 326k—22. Criminal district attorney for Smith County

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Salary

Sec. 4. The Criminal District Attorney of Smith County, Texas, shall be commissioned by the Governor and shall receive a salary to be determined by the Commissioners Court and to be paid out of the officers salary fund of Smith County, if adequate; if inadequate, the Commissioners Court shall transfer the necessary funds from the general fund of the County to the officers salary fund.

Sec. 4 amended by Acts 1967, 60th Leg., p. 1184, ch. 529, § 2, emerg. eff. June 14, 1967.

Assistants; appointments and salaries

Sec. 5. The Criminal District Attorney of Smith County, for the purpose of conducting the affairs of his office, and with the approval of the Commissioners Court, shall be and is hereby authorized to appoint a First Assistant District Attorney and such other assistants, stenographers, and receptionists as may be necessary. The number of such positions in each class of employment, and the amount of salary that shall be paid to the person holding each position shall be determined by the Commissioners Court of Smith County. All of the salaries shall be paid from the officers salary fund of Smith County, if adequate; if inadequate, the Commissioners Court shall transfer the necessary funds from the General Fund of the County to the officers salary fund. All employees of the office of Criminal District Attorney of Smith County, whether assistants, stenographers, or receptionists, shall be removable at the will of the Criminal District Attorney.

Sec. 5 amended by Acts 1967, 60th Leg., p. 1184, ch. 529, § 3, emerg. eff. June 14, 1967.

Assistants; oath, duties and powers

Sec. 6. The Assistant Criminal District Attorneys of Smith County, when so appointed, shall take the constitutional oath of office and the Criminal District Attorney of Smith County and his assistants shall have the exclusive right and it shall be their duty to represent the State of Texas in all criminal cases pending in any and all of the courts of Smith County, Texas, except in the City Courts of the City of Tyler and the other incorporated cities and towns in Smith County. Said Assistant Criminal District Attorneys of Smith County are hereby authorized to administer oaths, file information, examine witnesses before the Grand Jury, and generally perform any duty devolving upon the Criminal District Attorney of Smith County and exercise any power, and perform any duty conferred by law upon the Criminal District Attorney of Smith County.

Sec. 6 amended by Acts 1967, 60th Leg., p. 1185, ch. 529, § 4, emerg. eff. June 14, 1967.

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Section 1 of the act of 1967 amended article 2338—8, § 5.

Art. 326k—24. One hundred and ninth district; compensation of district attorney

Compensation

Section 1. The district attorney of the 109th Judicial District is entitled to receive from the state the annual salary provided in the General Appropriations Act for district attorneys.

Supplemental salary

Sec. 2. The commissioners courts of the counties comprising the 109th Judicial District may pay the district attorney supplemental compensation from county funds in an amount not to exceed \$2,000 per year.

Pro rata basis for supplemental salary

Sec. 3. The supplemental compensation paid to the district attorney of the 109th Judicial District shall be paid by the several counties comprising the district in proportion to the population of each county at the last preceding federal census.

Amended by Acts 1967, 60th Leg. p. 863, ch. 368, § 1, emerg. eff. June 8, 1967.

Art. 326k—30a. One hundred and forty second judicial district of Midland county; stenographers; assistants; special investigators

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Salary of stenographers

Sec. 2. Each stenographer of the District Attorney in the 142nd Judicial District shall be paid a salary of not more than Seven Thousand Five Hundred Dollars (\$7,500) per annum as determined by the Commissioners Court of Midland County, to be paid in equal monthly installments out of the officers' salary fund, the general fund, or any other available fund of Midland County.

Sec. 2 amended by Acts 1967, 60th Leg., p. 1989, ch. 737, § 1, eff. Aug. 28, 1967.

Salary of assistants and investigators

Sec. 3. Each assistant of the District Attorney of the 142nd Judicial District shall be paid a salary of not more than Twelve Thousand Dollars (\$12,000) per annum as determined by the Commissioners Court of Midland County, to be paid in equal monthly installments out of the officers' salary fund, the general fund, or any other available fund of Midland County. Each investigator shall be paid a salary of not more than Nine Thousand Dollars (\$9,000) per annum as determined by the Commissioners Court of Midland County, to be paid in equal monthly installments out of the officers' salary fund, the general fund, or any other available fund of Midland County.

Sec. 3 amended by Acts 1967, 60th Leg., p. 1990, ch. 737, § 1, eff. Aug. 28, 1967.

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Compensation of district attorney; supplemental salary

Sec. 8. The District Attorney of the 142nd Judicial District shall be compensated for his services in such amount as may be fixed by the

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General Law relating to the salary to be paid to District Attorneys by the state, and in addition his salary may be supplemented by the Commissioners Court of Midland County in an amount which combined with his salary from the state does not exceed a total of Twenty Thousand Dollars (\$20,000) per annum. The Commissioners Court of Midland County in its discretion is authorized to pay the supplemental salary herein authorized in such amount as it may determine within the limit fixed by this Section. Acts 1959, 56th Leg., p. 868, ch. 394, eff. May 30, 1959. Sec. 8 amended by Acts 1967, 60th Leg., p. 1989, ch. 737, § 1, eff. Aug. 28, 1967.

Section 2 of the 1967 amendatory act repealed article 326k—35, § 2.

Art. 326k—32. Criminal district attorney for Cass County

Abolition of Office

Acts 1967, 60th Leg., p. 853, ch. 362, § 8 abolished the office of district attorney of the Fifth Judicial District, effective January 1, 1969. See article 326k—58, § 8.

Art. 326k—34. Repealed. Acts 1967, 60th Leg., p. 1832, ch. 709, § 4. Eff. Aug. 28, 1967

Acts 1967, 60th Leg., p. 1832, ch. 709, § 1 Attorney of Polk County is abolished." provided: "The office of Criminal District See, now, art. 331k.

Art. 326k—35. Seventieth Judicial District and Special Judicial District of Midland County; compensation of district attorney

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Sec. 2. Repealed. Acts 1967, 60th Leg., p. 1989, ch. 737, § 2, eff. Aug. 28, 1967.

Art. 326k—39. Repealed. Acts 1961, 57th Leg., p. 1026, ch. 452, § 1. Eff. Aug. 28, 1961

Abolition of Office of District Attorney

The offices of the district attorney for the 42nd and 104th Judicial Districts are abolished by Acts 1967, 60th Leg., p. 1201, ch. 538, § 3 effective January 1, 1969. See article 199(104) note and article 326k—62.

Art. 326k—40. Salaries of investigators and assistants of the district attorney of the 30th Judicial District

Section 1. From and after the effective date of this Act, the Commissioners Court of Wichita County, Texas, shall determine the salary of each investigator or assistant of the District Attorney of the 30th Judicial District. However, the salary of such an investigator or assistant may not exceed \$8,000 per annum.

Sec. 1 amended by Acts 1967, 60th Leg., p. 1207, ch. 542, § 1, emerg. eff. June 14, 1967.

Art. 326k—48. Eighty-first judicial district; supplemental salary of district attorney

The District Attorney of the 81st Judicial District shall be compensated for his services in such amount as may be fixed by the General Law relating to the salary paid to District Attorneys by the state, and in addition his salary may be supplemented by the Commissioners Courts of the counties comprising the 81st Judicial District, or any one or more

of such Commissioners Courts; providing, however, that the total salary of such District Attorney shall not be supplemented to exceed the sum of Thirteen Thousand Dollars (\$13,000) per annum. The Commissioners Courts of the counties comprising the 81st Judicial District or any one or more of them, are hereby authorized to pay the supplemental salary herein authorized, in such amount within the limit fixed above.

Acts 1963, 58th Leg., p. 419, ch. 143, § 1, eff. Aug. 23, 1963. Amended by Acts 1967, 60th Leg., p. 1010, ch. 440, § 1, eff. Aug. 28, 1967.

Art. 326k—48a. Eighty-first Judicial District; employment and compensation of stenographer or clerk

Section 1. The District Attorney of the 81st Judicial District of Texas is hereby authorized to employ a stenographer or clerk who may receive a salary not to exceed Four Thousand Five Hundred Dollars (\$4,500.00) per annum, to be fixed by the District Attorney of the said Judicial District and approved by the combined majority of the Commissioners Courts of the counties composing his Judicial District. The salary of such stenographer or clerk provided for in this Act shall be paid monthly by the Commissioners Court of each county composing the Judicial District, prorated apportionately to the population of the county.

Sec. 2. The Commissioners Court in each county of the Judicial District affected by this Act may enter an order so as to increase the compensation being paid by the county to such stenographer in an amount not to exceed thirty-five per cent (35%) of the sum being paid at the effective date of this Act.

Sec. 3. This Act shall be cumulative of all laws and parts of laws of this state upon the subject matter of this Act, when not in conflict with the provisions of this Act, and in case of any such conflict herewith, in whole or in part, the provisions of this Act shall be effective and shall take precedence and control.

Acts 1967, 60th Leg., p. 1009, ch. 439, eff. Aug. 28, 1967.

Title of Act: employ a stenographer or clerk; prescribing the compensation of such stenographer or clerk; providing that this Act shall be
An Act authorizing the District Attorney of the 81st Judicial District of Texas to

Art. 326k—56. 19th, 54th and 74th Judicial Districts; compensation of district attorneys

* * * * *

(c) The district attorney's total annual compensation is limited to a maximum of \$16,500.

Acts 1965, 59th Leg., p. 1663, ch. 716, § 1, eff. Aug. 30, 1965. Subsec. (c) amended by Acts 1967, 60th Leg., p. 178, ch. 92, § 1, emerg. eff. April 22, 1967.

Art. 326k—57. Twenty-fifth Judicial District; supplementary salary of district attorney

The District Attorney of the 25th Judicial District shall be compensated for his services in such amount as may be fixed by the general law relating to the salary paid to district attorneys by the state, and in addition his salary may be supplemented by the commissioners courts of the counties comprising the 25th Judicial District, or any one or more of such commissioners courts; providing, however, that the total salary of such district attorney shall not be supplemented to exceed the sum of \$11,000 per annum. The commissioners courts of the counties comprising the 25th Judicial District or any one or more of them, are

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hereby authorized to pay the supplemental salary herein authorized, in such amount within the fixed above.

Acts 1967, 60th Leg., p. 115, ch. 59, § 1, eff. Aug. 28, 1967.

Title of Act:

An Act supplementing salary of the District Attorney of the 25th Judicial District; and declaring an emergency. Acts 1967, 60th Leg., p. 115, ch. 59.

Art. 326k—58. Criminal district attorney for Bowie County

Creation of office

Section 1. The office of criminal district attorney of Bowie County is created, effective January 1, 1969.

Election; term of office

Sec. 2. A criminal district attorney shall be elected by the qualified electors of Bowie County in the general election of November 1968. The term of office of the first elected criminal district attorney expires on December 31, 1970.

Duties

Sec. 3. The criminal district attorney shall represent the state in all cases in the district and inferior courts of Bowie County, and he shall perform all other duties required of district and county attorneys by general law.

Applicability of general laws

Sec. 4. All general laws relating to county and district attorneys apply to the criminal district attorney of Bowie County.

Salary

Sec. 5. The criminal district attorney shall receive from the state as salary such amount as may be provided in the general appropriations act. The commissioners court shall supplement any salary paid by the state in the amount required to make his total salary \$12,500 a year. If the state fails to appropriate funds for the salary of the criminal district attorney the county shall pay the total salary of \$12,500 a year. The salary paid by the county shall be paid from the officers salary fund of the county in 12 equal monthly installments.

Assistants, investigators, etc.

Sec. 6. (a) The criminal district attorney of Bowie County, for the purpose of conducting the affairs of that office, may appoint assistant criminal district attorneys, investigators, court reporters, stenographers, secretaries, and other employees he deems adequate and necessary, subject to the approval of the commissioners court. All persons appointed under this section are entitled to be paid out of county funds the salaries, other compensation, and reimbursements approved by the criminal district attorney and the commissioners court of Bowie County.

(b) The assistant criminal district attorneys of Bowie County, and investigators, when appointed, shall take the constitutional oath of office, and the assistant criminal district attorneys shall exercise the powers and perform the duties conferred and imposed by law upon the criminal district attorney, under the supervision and direction of the criminal district attorney of Bowie County.

Office of county attorney abolished

Sec. 7. The office of county attorney of Bowie County is abolished, effective January 1, 1969.

Office of district attorney abolished

Sec. 8. The office of district attorney of the Fifth Judicial District is abolished, effective January 1, 1969.

Acts 1967, 60th Leg., p. 853, ch. 362, eff. Aug. 28, 1967.

Title of Act:

An Act creating the office of criminal district attorney of Bowie County, and prescribing his powers, duties, and compensation; abolishing the office of county attorney of Bowie County and the office of district attorney of the Fifth Judicial District; and declaring an emergency. Acts 1967, 60th Leg., p. 853, ch. 362.

Art. 326k—59. Criminal district attorney for Victoria County**Creation of office; qualifications; oath and bond**

Section 1. The constitutional office of Criminal District Attorney for Victoria County is hereby created and said Criminal District Attorney of Victoria County shall possess all the qualifications and take the oath of office and give the bond required by the Constitution and laws of this state of other district attorneys.

Appointment; election and term of office

Sec. 2. Upon the effective date of this Act, the Governor of Texas shall immediately appoint a Criminal District Attorney for Victoria County, Texas, who shall hold office until the next general election, and until his successor is duly elected and qualified. The Criminal District Attorney for Victoria County shall stand for election and be elected by the qualified electors of Victoria County at the general election in November, 1968, and every four years thereafter. The office of County Attorney of Victoria County is abolished from and after the effective date of this Act.

Duties; fees, commissions and perquisites

Sec. 3. It shall be the duty of the Criminal District Attorney of Victoria County or his assistants as herein provided to be in attendance upon each term and all sessions of the district courts of Victoria County and all of the sessions and terms of the inferior courts of Victoria County held for the transaction of criminal business, and to exclusively represent the State of Texas in all criminal matters pending before said courts and to represent Victoria County in all matters pending before such courts and any other court where Victoria County has pending business of any kind, matter or interest, and in addition to the specified powers given and the duties imposed upon him by this Act all such powers, duties, and privileges within Victoria County as are by law now conferred, or which may hereafter be conferred upon the district and county attorneys in the various counties and judicial districts of this state. He shall collect such fees, commissions, and perquisites as are now, or may hereafter be, provided by law for similar services rendered by district and county attorneys of this state.

Salary of criminal district attorney

Sec. 4. The criminal district attorney shall receive a salary not to exceed \$14,000 per year, to be fixed by the commissioners court and paid out of the officers' salary fund of Victoria County, if adequate; if inadequate, the commissioners court shall transfer the necessary funds from the general fund of the county to the officers' salary fund.

Assistant; stenographers; appointment and salary

Sec. 5. The Criminal District Attorney of Victoria County, for the purpose of conducting the affairs of his office, and with the approval of the commissioners court shall be and is hereby authorized to appoint one

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assistant and fix the salary as follows: Said assistant shall receive not less than \$4,800 per annum.

The Criminal District Attorney of Victoria County may employ two stenographers and fix their salaries at not less than \$3,000 per annum, and he may employ one chief clerk and fix her salary at not less than \$3,600 per annum. All of the salaries mentioned in this section shall be payable from the officers' salary fund, if adequate; if inadequate the commissioners court shall transfer the necessary funds from the general fund of the county to the officers' salary fund.

In addition to the salaries provided the criminal district attorney and his assistant, the Commissioners Court of Victoria County may allow such criminal district attorney, and his assistants, such necessary expenses as within the discretion of the court seems reasonable and said expenses shall be paid as provided by law for other such claims of expenses.

Additional assistants, clerks or stenographers

Sec. 6. Should the criminal district attorney be of the opinion that the number of assistants, stenographers, or clerks as provided above is not adequate for the proper investigation and prosecution of crime and the effective performance of the duties of his office, he may with the approval of the commissioners court appoint additional assistants, clerks, or stenographers and pay said employees such compensation as may be fixed by the Commissioners Court of Victoria County, Texas.

Oath of assistant; powers and duties

Sec. 7. The Assistant Criminal District Attorney of Victoria County, when so appointed shall take the constitutional oath of office, and said Criminal District Attorney of Victoria County and his assistant shall have the exclusive right and it shall be their duty to represent the State of Texas in all criminal cases pending in any and all of the courts of Victoria County, Texas, and any and all civil matters in any court anywhere involving interest, crime or right of Victoria County as well as perform the other statutory or constitutional duties of district and county attorneys.

District attorney of 24th Judicial District; jurisdiction

Sec. 8. Upon the effective date of this Act the District Attorney of the 24th Judicial District of Texas shall only represent the State of Texas in the counties of Jackson, Calhoun, DeWitt, Refugio, and Goliad.

The provisions of this Act shall not affect the office of district attorney or the duties and powers of such district attorney in the counties of Jackson, Calhoun, DeWitt, Refugio, and Goliad, and the District Attorney of the 24th Judicial District shall continue to perform his duties in the counties of Jackson, Calhoun, DeWitt, Refugio, and Goliad as before, and it is specifically understood that this bill applies only to Victoria County and not to the counties of Jackson, Calhoun, DeWitt, Refugio, and Goliad.

From the effective date of this bill the District Attorney of the 24th Judicial District shall continue to fulfill the duties of District Attorney in the counties of Jackson, Calhoun, DeWitt, Refugio, and Goliad, but his duties in the County of Victoria shall be divested from him and invested in the resident Criminal District Attorney of Victoria County, Texas, as created by this bill.

The District Attorney of the 24th Judicial District shall only stand for election and be elected from the counties of Jackson, Calhoun, DeWitt, Refugio, and Goliad at the next general election, and a District Attorney for the 24th Judicial District shall be elected every four years from the counties of Jackson, Calhoun, DeWitt, Refugio, and Goliad at the general election every four years thereafter, but it is specifically understood that

the present District Attorney of the 24th Judicial District shall continue in office as such District Attorney in the counties of Calhoun, Jackson, DeWitt, Refugio, and Goliad until the next general election and until his successor is elected and qualified.

Acts 1967, 60th Leg., p. 907, ch. 398, eff. Aug. 28, 1967.

Section 9 of the act of 1967 was a severability provision and section 10 thereof repealed conflicting laws and parts of laws to the extent of the conflict.

Title of Act:

An Act creating the constitutional office of Criminal District Attorney for Victoria County, Texas; providing the method of appointment and subsequent election of such criminal district attorney; abolishing the office of County Attorney of

Victoria County; providing for compensation for the criminal district attorney; providing an assistant, stenographers and a chief clerk, and providing for salaries and manner of payment; limiting the jurisdiction of the District Attorney for the 24th Judicial District; providing a repealing clause; providing a severance clause; and declaring an emergency. Acts 1967, 60th Leg., p. 907, ch. 398.

Art. 326k—60. Eighty-eighth Judicial District; appointment and compensation of stenographer

(a) The District Attorney of the 88th Judicial District of Texas is authorized to employ a stenographer or clerk who may receive a salary not to exceed Five Thousand, Two Hundred Dollars (\$5,200.00) per annum, to be fixed by the District Attorney and approved by the combined majority of the Commissioners Courts of Hardin and Tyler counties. The salary of such stenographer or clerk provided for in this Act shall be paid monthly by the Commissioners Courts of Hardin and Tyler counties, prorated apportionately to the population of the county.

(b) The Commissioners Courts of Hardin and Tyler counties may enter an order so as to increase the compensation being paid by the counties to such stenographer in an amount not to exceed twenty-five per cent (25%) of the sum being paid at the effective date of this Act.

Acts 1967, 60th Leg., p. 1200, ch. 537, § 1, emerg. eff. June 14, 1967.

Title of Act:

An Act relating to hiring and paying a stenographer or clerk for the 88th Judicial District; providing for an increase in the

salary of the stenographer or clerk for the 88th Judicial District; and declaring an emergency. Acts 1967, 60th Leg., p. 1200, ch. 537.

Art. 326k—61. Eighty-fifth Judicial District; creation of office

Section 1. The office of district attorney in the 85th Judicial District of Texas composed of Brazos County is created.

Sec. 2. The qualified electors of the 85th Judicial District shall elect a district attorney at the next general election after the effective date of this Act and at every second general election thereafter.

Sec. 3. The district attorney in the 85th Judicial District shall represent the state in all criminal cases in the 85th District Court and perform other duties as are or may be provided by law governing district attorneys.

Sec. 4. The district attorney is entitled to compensation for his services in an amount as may be fixed by the general law relating to the salary paid to district attorneys by the state.

Acts 1967, 60th Leg., p. 1794, ch. 683, eff. Aug. 28, 1967.

Title of Act:

An Act creating the office of district attorney in the 85th Judicial District composed of Brazos County; prescribing the duties of district attorney; providing for his compensation; providing for an election

of district attorney for the 85th Judicial District at the next general election after the effective date of this Act and at every second general election thereafter; and declaring an emergency. Acts 1967, 60th Leg., p. 1794, ch. 683.

Art. 326k—62. Criminal district attorney for 42nd and 104th Judicial Districts

(a) The office of criminal district attorney for the 42nd and 104th Judicial Districts is created.

For Annotations and Historical Notes, see V.A.T.S.

(b) The qualified electors of Callahan, Jones, and Taylor counties shall elect a criminal district attorney for the 42nd and 104th Judicial Districts at the general election in November 1968 for a two-year term. At the general election in November 1970, and every four years thereafter, the qualified electors of Callahan, Jones, and Taylor counties shall also elect a criminal district attorney.

(c) The criminal district attorney for the 42nd and 104th Judicial Districts must have the qualifications prescribed for district attorneys by general law. The criminal district attorney shall execute the bond required of district attorneys. A vacancy in the office of the criminal district attorney is filled in the same manner as a vacancy in the office of a district attorney.

(d) The criminal district attorney shall perform in the 42nd and 104th Judicial Districts all duties required of district attorneys by general law. He shall also perform the duties of county attorney in Taylor County.

(e) The Commissioners Court of Taylor County shall provide suitable office space for the criminal district attorney in the county courthouse. The criminal district attorney, with the prior approval of the commissioners court, may employ as many assistant criminal district attorneys, investigators, court reporters, stenographers, clerks, and other personnel as are necessary to carry out the duties of his office.

(f) The criminal district attorney is entitled to the compensation paid district attorneys by the state which is provided in the general appropriations act. The Commissioners Court of Taylor County shall supplement his state compensation in an amount not less than \$4,000 a year. The commissioners court shall also determine and pay the salaries of all employees of the criminal district attorney. The commissioners court may reimburse the criminal district attorney and his employees for their reasonable and necessary expenses incurred while performing the duties of the office. The Commissioners Courts of Jones and Callahan Counties shall reimburse Taylor County for a part of the salaries, office and travel expense as may be agreed upon by and between the commissioners courts. Acts 1967, 60th Leg., p. 1201, ch. 538, § 1(6), eff. Aug. 28, 1967.

Acts 1967, 60th Leg., p. 1201, ch. 538, § 1 (1-5) amended article 199(104); section 2 of the act of 1967 amended article 322 and section 3 thereof, inter alia, abolished the offices of district attorney for the 42nd

and the 104th Judicial Districts and abolished the office of county attorney of Taylor County and is set out as a note under article 199(104).

Art. 326l—2. Assistant district attorney for 9th Judicial District

Section 1. The appointment of an assistant district attorney for the 9th Judicial District is authorized.

Sec. 2. The assistant district attorney so appointed shall be authorized to represent the state in the 9th Judicial District and its court, and shall also be authorized to represent the state in any judicial district in the counties composing the 9th Judicial District. Where authorized by this Act to represent the state in the courts he shall also perform for the state and the several counties all duties imposed by law on the district attorney.

Sec. 3. The district attorney for the 9th Judicial District shall appoint to the office provided for by this Act a person who is duly and legally licensed to practice law in this state.

Sec. 4. The person appointed to the office is entitled to receive a salary of not more than \$7,500 per year, as determined by the district attorney for the 9th Judicial District subject to the approval of the Commissioners Courts of the counties composing such district. He shall make bond in the amount fixed by that district attorney.

Sec. 5. In addition to the salary provided by this Act, the assistant district attorney shall be allowed the actual and necessary travel expenses incurred in the proper discharge of the duties of the office, not to exceed

\$600 per year, and subject to the approval of all claims by the district attorney for the 9th Judicial District.

Sec. 6. All salaries and expenses provided for by this Act shall be borne by the counties composing the 9th Judicial District in proportion to the population of each at the last preceding federal census, and shall be paid from the officers' salary fund of each county, and if money is not in that fund in sufficient amount, from any other fund of the county available for county expenses. The salary shall be paid in 12 equal monthly installments. Expense claims shall be paid at the end of each month upon approval by the district attorney.

Acts 1967, 60th Leg., p. 1237, ch. 560, eff. Aug. 28, 1967.

Title of Act: An Act relating to the appointment, compensation, and expense allowance for an assistant district attorney for the 9th Judicial District who shall also represent the state in any judicial district in the counties composing the 9th Judicial District; and declaring an emergency. Acts 1967, 60th Leg., p. 1237, ch. 560.

Art. 331f—1. Assistant county attorneys and secretaries in certain counties on Mexican border

Section 1. In all counties of this state having a population of not less than 64,191, and not more than 100,000 inhabitants, according to the last preceding federal census, and which counties border on the International Boundary between the United States and the Republic of Mexico, the county attorneys of such counties may appoint, with the approval of the commissioners court of such counties, an assistant county attorney and a secretary. The application for such appointment must be sworn to and be in writing stating a need for an assistant county attorney and secretary, if such application includes the services of a secretary. The compensation to be paid must be a reasonable amount fixed at the discretion of the commissioners court of such counties, but shall not exceed \$8,000 per annum for the assistant county attorneys and \$4,800 per annum for the secretaries, to be paid out of the officers' salary funds of such counties in 12 equal monthly installments.

Sec. 2. The provisions of this Act are cumulative of Article 3902 of the Revised Civil Statutes of Texas of 1925, as amended, and in nowise shall be considered as a limitation on the other powers and authority of the commissioners court therein prescribed.

Acts 1967, 60th Leg., p. 1236, ch. 559, eff. Aug. 28, 1967.

Title of Act: An Act relating to the appointment and compensation of assistant county attorneys and secretaries in certain counties; and declaring an emergency. Acts 1967, 60th Leg., p. 1237, ch. 559.

Art. 331k. County attorney of Polk County

Abolishment of office of criminal district attorney

Section 1. The office of Criminal District Attorney of Polk County is abolished.

Election of county attorney

Sec. 2. (a) At the general election in November 1968, and every four years thereafter, the qualified electors of Polk County shall elect a County Attorney of Polk County.

(b) On the effective date of this Act the Commissioners Court of Polk County shall appoint a County Attorney to serve until the County Attorney elected in November 1968, has taken office in January 1969.

Powers, duties and functions of county and district attorneys

Sec. 3. (a) On the effective date of this Act, the County Attorney of Polk County is invested with the powers, duties, and functions that were invested in that office before the office was abolished by the Act that created the office of Criminal District Attorney of Polk County.

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(b) On the effective date of this Act, the District Attorney of the Ninth Judicial District is invested with the powers, duties, and functions that he exercised in Polk County before the Act creating the office of Criminal District Attorney of Polk County was effective.

Repealer

Sec. 4. Chapter 381, Acts of the 54th Legislature, 1955 (Article 326k—34, Vernon's Texas Civil Statutes) is repealed.

Acts 1967, 60th Leg., p. 1832, ch. 709, eff. Aug. 28, 1967.

Title of Act:

An Act relating to abolishing the office of Criminal District Attorney in Polk County; restoring the office of County Attorney of Polk County; providing for the division of functions between the District

Attorney of the Ninth Judicial District and the County Attorney; repealing Chapter 381, Acts of the 54th Legislature, 1955 (Article 326k—34, Vernon's Texas Civil Statutes); and declaring an emergency. Acts 1967, 60th Leg., p. 1832, ch. 709.

TITLE 16—BANKS AND BANKING**TEXAS BANKING CODE OF 1943****CHAPTER ONE—SCOPE OF ACT, DEFINITIONS, FINANCE
COMMISSION AND STATE BANKING BOARD****Art. 342—104. Finance Commission—Sections—Qualifications of Mem-
bers**

Four (4) members of the Banking Section shall be active bankers who shall have had not less than five (5) years executive experience next preceding their appointment in a state bank in a capacity not lower than cashier. Two (2) members of the Building and Loan Section shall be practical building and loan executives who shall have had not less than five (5) years full time employment experience in a State Building and Loan or Federal Savings and Loan Association in a capacity not lower than secretary next preceding their appointment. Provided that experience as Commissioner, Deputy Commissioner, Departmental Examiner, or Examiner shall be deemed banking experience, and experience as Building and Loan Supervisor or Building and Loan Examiner shall be deemed building and loan experience, within the meaning of this Article. Further provided, that the Banking Section shall at all times consist of one (1) member, who is an officer in a state bank which, at the time of his appointment, had a capital and certified surplus not exceeding One Hundred Thousand Dollars (\$100,000); two (2) members, each of whom is an officer of a state bank which, at the time of their appointment, had a capital and certified surplus exceeding One Hundred Thousand Dollars (\$100,000) but not exceeding Four Hundred Thousand Dollars (\$400,000); and one (1) member, who is an officer in a state bank, which, at the time of his appointment, had a capital and certified surplus exceeding Four Hundred Thousand Dollars (\$400,000). The Building and Loan Section shall at all times consist of one (1) member who is a full time employed executive in a state association which, at the time of his appointment, had gross assets not exceeding Twenty Million Dollars (\$20,000,000), and one (1) member who is a full time employed executive in a state association which, at the time of his appointment, had gross assets exceeding Twenty Million Dollars (\$20,000,000). Two (2) members of the Banking Section and one (1) member of the Building and Loan Section shall be selected by the Governor upon the basis of recognized business ability. Amended by Acts 1961, 57th Leg., p. 1004, ch. 437, § 1, eff. Aug. 28, 1961; Acts 1967, 60th Leg., p. 743, ch. 312, § 1, eff. Aug. 28, 1967.

**CHAPTER THREE—INCORPORATION, MERGER, REORGANIZA-
TION, PURCHASE OF ASSETS OF ANOTHER BANK, DISBURS-
ING AGENT, AMENDMENT OF ARTICLES OF ASSOCIATION OF
STATE BANKS, AND CONVERSION**

Art.
342—315. Change of domicile [New].

**Art. 342—312. Amendment of Articles of Association—Rights of Stock-
holders upon Increase in Capital—Stock Option Plans**

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

If the owners of record of two-thirds of the capital stock, at any regular meeting of stockholders, or any special meeting called for that pur-

For Annotations and Historical Notes, see V.A.T.S.

pose, vote to amend the charter, the board of directors shall prepare, execute in the manner provided for the execution of articles of association, and file with the Commissioner an amendment to the articles of association. If the Commissioner finds that the amendment is not violative of law and does not prejudice the interest of depositors and creditors or the public, he shall approve such amendment and deliver to the bank a certified copy thereof, and said amendment shall thereupon become effective; provided, however, that if a state bank does not have the power to receive demand deposits, no amendments of its articles of association adopting any power provided under Subsections (a), (b), (c), (d), or (f) of Article 1 of this Chapter² and no amendment changing the domicile of any state bank shall be effective until approved by the State Banking Board in the manner provided for the approval of an original application for charter. Any state bank may amend its articles of association to extend its corporate existence for a perpetual period or for any period of years.

Each stockholder of a state bank shall be entitled to his proportionate part of any increase of stock effected out of surplus funds or undivided profits, and shall be entitled to subscribe for his proportionate share of any capital increase to be paid in cash; provided, however, that each stockholder or his assignee, in event he elects to assign such rights of subscription, shall subscribe for and pay the amount of such subscription to the corporation within ten (10) days after the stockholders have adopted such amendment, otherwise the board of directors may allocate the unsubscribed or unpaid portion of the increase among the other stockholders or otherwise as they deem to be the best interest of the bank.

With prior approval of the owners of records of two-thirds of the capital stock, shares of stock in a bank may be allocated to or purchased by the bank out of its surplus which is not certified or out of its undivided profits to be held in trust by the bank for fulfilling the requirements of an officer or employee stock option plan, whereby officers or employees, or both, of the bank are given options to purchase shares of the bank's capital stock at a specified price. Stock held by the bank for such purpose shall be deemed treasury stock, and the number of shares so held shall not, at any time, exceed five per cent (5%) of the total number of shares outstanding in the hands of other stockholders. Stock options authorized under this Article may not extend beyond a period of ten years from the date of issuance and shall otherwise qualify as restricted stock options under Section 421 of the Internal Revenue Code of 1954, as it may be amended from time to time. No officer or employee who owns or controls more than five per cent (5%) of the bank's capital stock shall be eligible to participate or to continue participation in a stock option plan as authorized by this Article.

Amended by Acts 1967, 60th Leg., p. 1772, ch. 673, § 1, emerg. eff. June 17, 1967.

¹ Articles 342—101 to 342—911.

² Article 342—301.

Amendment of article 342—312 by Acts 1967, 60th Leg., p. 1853, ch. 722, § 1, see art. 342—312, post.

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

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

If the owners of record of two-thirds of the capital stock, at any regular meeting of stockholders, or any special meeting called for that purpose, vote to amend the charter, the board of directors shall prepare, execute in the manner provided for the execution of articles of association, and file with the Commissioner an amendment to the articles of association. If the Commissioner finds that the amendment is not violative of law

and does not prejudice the interest of depositors and creditors or the public, he shall approve such amendment and deliver to the bank a certified copy thereof, and said amendment shall thereupon become effective; provided, however, that if a state bank does not have the power to receive demand deposits, no amendments of its articles of association adopting any power provided under Subsections (a), (b), (c), (d), or (f) of Article 1 of this Chapter and no amendment changing the domicile of any state bank to another city or town shall be effective until approved by the State Banking Board in the manner provided for the approval of an original application for charter. Any state bank may amend its articles of association to extend its corporate existence for a perpetual period or for any period of years.

Each stockholder of a state bank shall be entitled to his proportionate part of any increase of stock effected out of surplus funds or undivided profits, and shall be entitled to subscribe for his proportionate share of any capital increase to be paid in cash; provided, however, that each stockholder or his assignee, in event he elects to assign such rights of subscription, shall subscribe for and pay the amount of such subscription to the corporation within ten (10) days after the stockholders have adopted such amendment, otherwise the board of directors may allocate the unsubscribed or unpaid portion of the increase among the other stockholders or otherwise as they deem to be the best interest of the bank.

With prior approval of the owners of record of two-thirds of the capital stock, shares of stock in a bank may be allocated to or purchased by the bank out of its surplus which is not certified or out of its undivided profits to be held in trust by the bank for fulfilling the requirements of an officer or employee stock option plan, whereby officers or employees, or both, of the bank are given options to purchase shares of the bank's capital stock at a specified price. Stock held by the bank for such purpose shall be deemed treasury stock, and the number of shares so held shall not, at any time, exceed five per cent (5%) of the total number of shares outstanding in the hands of other stockholders. Stock options authorized under this Article may not extend beyond a period of ten (10) years from the date of issuance and shall otherwise qualify as restricted stock options under Section 421 of the Internal Revenue Code of 1954, as it may be amended from time to time. No officer or employee who owns or controls more than five per cent (5%) of the bank's capital stock shall be eligible to participate or to continue participation in a stock option plan as authorized by this Article.

Amended by Acts 1967, 60th Leg., p. 1854, ch. 722, § 1, emerg. eff. June 18, 1967.

Amendment of article 342—312 by Acts 1967, 60th Leg., p. 1772, ch. 673, § 1, see article 342—312, ante.

Acts 1967, 60th Leg., p. 1772, ch. 673, § 2 added article 342—315; sections 3-5 are set out as notes under article 342—315.

Acts 1967, 60th Leg., p. 1853, ch. 722, §§ 2-6 amended articles 342—401, 342—406, 342—504, 342—505 and 4591d; section 7 of the 1967 act transferred the provisions of article 4591d to article 342—910a; sections 8 and 9 thereof provided:

"Sec. 8. If any provision, Section, sentence, clause or part of this Act or the ap-

plication thereof to any person or circumstance is held invalid, such holding shall not affect other provisions or applications of this Act which can be given effect without the invalid provision or application and to this end the provisions of this Act are declared to be severable.

"Sec. 9. All laws or parts of laws which are in conflict with this Act are hereby repealed or modified to the extent of such conflict only."

Art. 342—315. Change of domicile

No state bank shall hereafter change its domicile without first having received approval for such change from the State Banking Board in the manner provided for the approval of an original application for a charter.

For Annotations and Historical Notes, see V.A.T.S.

Added by Acts 1967, 60th Leg., p. 1773, ch. 673, § 2, emerg. eff. June 17, 1967.

Section 1 of Acts 1967, 60th Leg., p. 1772, ch. 673 amended article 342—312; sections 3-5 of the act of 1967 provided:

"Sec. 3. This Act shall have no application to any change of domicile of a state bank for which an application for approval of such change was filed with the Federal Deposit Insurance Corporation prior to April 6, 1967.

"Sec. 4. If any provision, Section, sentence, clause or part of this Act or the

application thereof to any person or circumstance is held invalid, such holding shall not affect other provisions or applications of this Act which can be given effect without the invalid provision or application and to this end the provisions of this Act are declared to be severable.

"Sec. 5. All laws or parts of laws which are in conflict with this Act are hereby repealed or modified to the extent of such conflict only."

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

Art. 342—401. Transfer of Stock—Notice to Commissioner

Shares of stock in a state bank shall be personal property and transferable only upon its books, and it shall be the duty of the officers of a state bank to transfer such stock upon its books at the request of the transferee, supported by a transfer in writing or other legally effective transfer.

If title to more than ten per cent (10%) of the total number of shares of stock outstanding is transferred, the transferor shall, within three (3) days thereafter, give the Commissioner written notice of the date of the transfer, the number of shares transferred and the consideration therefor, and the names and addresses of the persons or corporations from whom and to whom the stock was transferred. Where the title to the stock so transferred is to be held by the transferee in the capacity of agent or trustee, the transferee shall, within three (3) days after title to the stock is transferred, give the Commissioner written notice of the name and address of each principal or each beneficiary having an interest therein. Information obtained hereunder by the Commissioner shall be confidential and shall not be disclosed by the Commissioner or any officer or employee of the Banking Department, except that the Commissioner may, in his discretion, if he deems it necessary or proper to the enforcement of the laws of this state or the United States, and to the best interest of the public, divulge such information to any department of the state or national government, or any agency or instrumentality thereof.

Any transferor or transferee who willfully and knowingly fails or refuses to give the Commissioner notice as required by this Article, shall, upon conviction, be fined in an amount not exceeding One Thousand Dollars (\$1,000), or be confined in jail for a period not to exceed six (6) months, or both.

Amended by Acts 1967, 60th Leg., p. 1855, ch. 722, § 2, emerg. eff. June 18, 1967.

Acts 1967, 60th Leg., p. 1853, ch. 722, §§ 1, 3-6 amended articles 342—312, 342—406, 342—504, 342—505 and 4591d; section 7 of the 1967 act transferred the provisions of

article 4591d to article 342—310a and sections 8 and 9 thereof, severability and repealer clauses, are set out as notes under article 342—312.

Art. 342—406. Directors' Election—Term—Failure to Elect—Vacancy —Failure to Fill Vacancy—Addition of Directors

Each state bank shall, at its regular annual meeting of stockholders, or at some adjournment thereof, or at a special meeting of stockholders called for such purpose, elect directors who shall serve until the next regular annual meeting of stockholders and until their successors have been elected and have qualified. If any state bank fails to elect directors within (60) days after its regular annual meeting, the Commissioner may, after ten (10) days notice by mail, call a meeting of stockholders for the pur-

pose of electing directors, and if the stockholders do not elect directors at the meeting so called, the Commissioner may close the bank and liquidate it pursuant to the provisions of Chapter VIII of this Code.¹

Any vacancy on the board of directors may be filled by a majority vote of the remaining directors, and any director so appointed shall hold his office until the next election; provided if the vacancy reduces the number of directors to less than that required by Article 4 of this Chapter,² it shall be filled within thirty (30) days from the date it occurs and upon the failure to fill such vacancy within the above prescribed time limit, the Commissioner may close the bank and liquidate it pursuant to the provisions of Chapter VIII of this Code.

A majority of the full board of directors of a state bank, when authorized by resolution adopted at any regular meeting of stockholders or at any special meeting of stockholders called for such purpose, may at any time increase the number of directors of a state bank and appoint persons to fill the resulting positions and the persons so appointed shall serve until the next regular annual meeting of stockholders; provided, however, that the board of directors shall not increase the number of directors by more than two (2) during any one year and the total number of directors shall never exceed the maximum number now or that may hereafter be authorized by law. The resolution of the stockholders, as herein provided, and any action of the board of directors pursuant thereto, shall be spread upon the minutes of the stockholders or directors meeting, as the case may be, and a certified copy shall be filed with the Commissioner, for which filing no fee shall be charged. This provision shall be cumulative of all existing laws relating to increasing the number of directors of a state bank and the filling of the positions thereby created.

Amended by Acts 1959, 56th Leg., p. 894, ch. 412, § 6, eff. May 30, 1959; Acts 1967, 60th Leg., p. 1855, ch. 722, § 3, emerg. eff. June 18, 1967.

Acts 1967, 60th Leg., p. 1853, ch. 722, provisions of article 4591d to article 342—
 §§ 1, 2, 4-6 amended articles 342—312, 910a and sections 8 and 9 thereof, severabil-
 342—401, 342—504, 342—505 and 4591d; sec- ity and repealer clauses, are set out as
 tion 7 of the 1967 act transferred the notes under article 342—312.

CHAPTER FIVE—LOANS AND INVESTMENTS

Art. 342—504. Real Estate Loans—Limitations—Exceptions

Except as provided in Sections 4 through 8 of this Article, no state bank shall make a loan upon security of real estate or invest its funds in obligations secured by real estate unless:

2. The total net balance owing upon the indebtedness secured by such lien:

* * * * *

(c) does not exceed eighty per cent (80%) of the appraised value of such real estate when such real estate consists of "residential real estate" and such loan provides for repayment in equal monthly installments in such amounts as to retire the same in its entirety, both as to principal and interest, in not more than three hundred (300) months from the date thereof and further provides for equal monthly deposits during the term thereof in amounts sufficient to pay as they accrue the premiums on fire and tornado insurance and all taxes assessed against the security. The aggregate of loans and investments of the class provided for in this Subsection (c) of Section 2 made by any state bank shall never, without the written consent of the Commissioner, exceed the certified surplus and capital of such bank.

The term "residential real estate" as used in this Subsection (c) of Section 2 shall mean land on which is situated a dwelling of not more than four (4) family units the primary use of which is occupancy as a home.

For Annotations and Historical Notes, see V.A.T.S.

The term "net balance" as used in this Section 2 shall mean the balance obtained after deducting from any loan or obligation the portion thereof guaranteed by the Administrator of Veterans Affairs under Title III of the Serviceman's Readjustment Act of 1944, as amended from time to time.

Sec. 2, subsec. (c) amended by Acts 1967, 60th Leg., p. 1856, ch. 722, § 4, emerg. eff. June 18, 1967.

Art. 342—505. Building and Loan Shares and Savings Accounts—Lawful Investment

A state bank may invest in, or lend on the security of, shares of stock or savings accounts insured by the Federal Savings and Loan Insurance Corporation which are issued by any building and loan association or savings and loan association domiciled in this state.

Amended by Acts 1967, 60th Leg., p. 1856, ch. 722, § 5, emerg. eff. June 18, 1967.

Acts 1967, 60th Leg., p. 1853, ch. 722, §§ 1-4, 6 amended articles 342—312, 342—401, 342—406, 342—504 and 4591d; section 7 of the 1967 act transferred the provisions of article 4591d to article 342—910a and sections 8 and 9 thereof, severability and repealer clauses, are set out as notes under article 342—312.

CHAPTER SIX—SURPLUS, DIVIDENDS, LIABILITIES, UNINVESTED TRUST FUNDS, PREFERENCES, RESERVES, DEBENTURES AND WITHDRAWALS

Art. 342—606. Cash Reserve—Reserve Depositaries—Amount Carried

Every State bank having a capital stock of less than Twenty-five Thousand Dollars (\$25,000) shall at all times maintain a reserve of not less than twenty per cent (20%) of the aggregate amount of its demand deposits and five per cent (5%) of all other deposits, and every State bank having Twenty-five Thousand Dollars (\$25,000) or more capital shall at all times maintain a reserve of not less than fifteen per cent (15%) of its aggregate demand deposits and five per cent (5%) of all other deposits, provided that any member of the Federal Reserve System which maintains the reserves required by that System shall not be deemed to have violated the provisions of this Article. Such reserve shall be kept in the vaults of the bank or on deposit with Federal Reserve banks or with banks incorporated by any state or the United States with not less than Fifty Thousand Dollars (\$50,000) capital approved as reserve depositaries by the Commissioner. Items in the process of clearing through a clearing house association shall be considered as reserves on deposit with an approved reserve depositary within the meaning of this Article. No State bank shall deposit an amount in excess of twenty per cent (20%) of its capital, certified surplus and deposits in any one reserve depositary.

Amended by Acts 1959, 56th Leg., p. 894, ch. 412, § 11, eff. May 30, 1959; Acts 1967, 60th Leg., p. 2047, ch. 756, § 1, eff. Aug. 28, 1967.

CHAPTER SEVEN—DEFINITIONS, COLLECTIONS, DEPOSITORY CONTRACTS

Arts. 342—701 to 342—706. Repealed. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721, § 10—102. Eff. June 30, 1966

Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721, enacting the Uniform Commercial Code, repealed articles 342—701 to 342—706 effective June 30, 1966. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721 was itself repealed by Acts 1967, 60th Leg., vol. 2, p. 2348, ch. 785, adopting the

Business & Commerce Code effective September 1, 1967. However, the latter Act specifically provided that the repeal did not affect the prior operation of the 1965 Act or any prior action taken under it.

For text of the Business and Commerce Code, with Tables and Index, see page 1485.

Arts. 342—711, 342—712. Repealed. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721, § 10—102. Eff. June 30, 1966

Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721, enacting the Uniform Commercial Code, repealed articles 342—711, 342—712 effective June 30, 1966. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721 was itself repealed by Acts 1967, 60th Leg., vol. 2, p. 2343, ch. 785, adopting the Business & Commerce Code effective September 1, 1967. However, the latter Act specifically provided that the repeal did not affect the prior operation of the 1965 Act or any prior action taken under it.

For text of the Business and Commerce Code, with Tables and Index, see page 1485.

CHAPTER NINE—GENERAL PROVISIONS

<p>Art. 342—910a. Closing of banks and trust companies for general banking purposes on Saturday or other</p>	<p>designated weekday and limited banking services on such days; legal holidays for banking purposes.</p>
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Art. 342—910a. Closing of banks and trust companies for general banking purposes on Saturday or other designated weekday and limited banking services on such days; legal holidays for banking purposes

* * * * *

1c. Notwithstanding any existing provisions of law relative to negotiable or non-negotiable instruments, but subject to the provisions of Section 1a of this Act, only the following enumerated dates are declared to be legal holidays for banking purposes on which each bank and trust company in Texas shall remain closed. The dates referred to are Sundays, January 1 (New Year's Day), April 21 (San Jacinto Day), July 4 (Independence Day), the first Monday in September (Labor Day), the fourth Thursday in November (Thanksgiving Day), and December 25 (Christmas Day), and when the dates January 1, April 21, July 4 or December 25 fall upon Sunday, then the Monday next following such Sunday shall be a legal holiday for banking purposes on which each bank and trust company in Texas shall remain closed. All such days (and the weekday on which a bank or trust company may elect to close for general banking purposes as provided in Section 1a of this Act) shall be treated as Sunday for all purposes and not a business day and any act authorized, required or permitted to be performed at or by any bank or trust company on such day may be performed on the next succeeding business day and no liability or loss of rights of any kind shall result therefrom. Subject to the provisions of Section 1a, any day on which an election is being held shall not be considered or construed as a bank legal holiday.

Acts 1947, 50th Leg., p. 424, ch. 230, § 1. Article amended by Acts 1955, 54th Leg., p. 19, ch. 16, § 1. Sec. 1c amended by Acts 1957, 55th Leg., p. 428, ch. 205, § 2; Acts 1967, 60th Leg., p. 1857, ch. 722, § 6, emerg. eff. June 18, 1967.

Transferred from article 4591d. Acts 1967, 60th Leg., p. 1853, ch. 722, § 7 provided: "Acts 1955, 54th Legislature, Chapter 16, page 16, as amended, codified as Article 4591d, Vernon's Texas Civil Statutes, is in its entirety and as amended by this Act, hereby transferred to and made a part of Chapter IX of the Texas Banking Code of

1943 and designated as Article 10a of said Chapter IX."

Acts 1967, 60th Leg., p. 1853, ch. 722, §§ 1-6 amended articles 342—312, 342—401, 342—404, 342—406, 342—504 and 4591d; sections 8 and 9 thereof, severability and repealer provisions, are set out as notes under article 342—312.

MISCELLANEOUS LAWS

PREPAID FUNERAL SERVICES OR MERCHANDISE

Art. 548b. Sale of prepaid funeral services or funeral merchandise

Permit from State Banking Department authorizing transaction of business

Section 1. Any individual, firm, partnership, corporation, or association (hereinafter called "organization" or "seller") desiring to sell prearranged or prepaid funeral services or funeral merchandise (including caskets, grave vaults, and all other articles of merchandise incidental to a funeral service, but excluding grave lots, grave spaces, grave markers, monuments, tombstones, crypts, niches, and mausoleums), or accepting funds for such services or merchandise, in this state, under any contract, expressed or implied, providing for prepaid burial or funeral benefits or merchandise (hereinafter called "prepaid funeral benefits"), or who shall solicit the designations by an individual of the items of funeral merchandise or services which he desires to be provided out of any fund, investment, security, or contract to be created or purchased by such individual at the suggestion or solicitation of the organization shall obtain a permit from the State Banking Department (hereinafter called Department) of this state authorizing the transaction of this type of business, before conducting such business. Seller shall not be entitled to enforce a contract made in violation of this Act, but the purchaser or his heirs, or legal representative, shall be entitled to recover all amounts paid to the seller under any contract made in violation thereof, and all amounts paid whether or not paid seller, to any fund or for any investment, security, or contract where the seller has violated the provisions of this Act. Delivery of funeral merchandise prior to death shall not constitute performance or fulfillment, either wholly or in part, of any prepaid funeral benefits contract entered into after the effective date of this amendatory Act.

Provided, however, that grave lots, grave spaces, grave markers, monuments, tombstones, crypts, niches, and mausoleums shall not be excluded from the provisions of this Section when these items and articles are sold in contemplation of trade or barter for services and articles designated as included by the provisions of this Section.

Sec. 1 amended by Acts 1963, 58th Leg., p. 1304, ch. 496, § 1, eff. July 15, 1963.

Solicitation of designation of funeral services or merchandise without approval of fund, investment, security or contract

Sec. 1a. No organization covered by this Act shall solicit by any means whatsoever the designation by an individual of funeral services or merchandise which he desires to be provided to be paid out of any fund, investment, security, or contract, to be created or purchased by or for such an individual at the suggestion or solicitation of the organization, unless such a fund is to be created by a contract of insurance with an insurance company licensed in Texas, or unless such fund, investment, security, or contract shall have been approved by the Department as safeguarding the right and interests of the individual, his heirs and assigns, to substantially the same or greater degree as is provided with respect to funds regulated by Section 5 hereof. Provided, however, that the Department may require evidence of payment of premiums on any contract of insurance used to create a fund to guarantee prepaid funeral benefits. Any seller failing to provide such evidence to the Department after being so requested by written notice shall be subject to cancellation of its permit under the provisions of Section 4 of this Act.

Acts 1963, 58th Leg., p. 1304, ch. 496, § 2, eff. July 15, 1963.

Administration of Act by Banking Department; rules and regulations; contracts

Sec. 2. This law shall be administered by the State Banking Department. The Department is authorized to prescribe reasonable rules and regulations concerning the keeping and inspection of records, the filing of contracts and reports, and all other matters incidental to the orderly administration of this law; and the Department may approve forms for sales contracts for prepaid funeral benefits. All such contracts must be in writing and no contract form shall be used without prior approval of the Department. All such contracts shall state the name of the funeral home or other organization primarily responsible for providing the funeral services or merchandise specified in such contracts. In the event the seller is not the funeral home designated to provide the specified funeral services or merchandise, such contract shall not be valid unless the funeral home so designated is a party to the contract and therein agrees and obligates itself to provide such specified funeral services or merchandise. It is further provided, that all prearranged or prepaid funeral contracts shall set forth the particulars of the funeral merchandise, including a description and specifications of the material used in the caskets or grave vaults to be furnished, and such contracts shall set forth the particulars of the professional services to be performed and the funeral home facilities to be provided.

Application for and issuance of permit; filing fees; duration of permit

Sec. 3. Each organization desiring to sell prepaid funeral benefits shall file an application for a permit with the Department and shall pay a filing fee of \$25. The Banking Commissioner may issue a permit upon receipt of the application and payment of the filing fee. Permits shall expire on March 1st each year, but may be renewed for a period of one year upon payment of a fee of \$20. on or before March 1st.

Sec. 3 amended by Acts 1963, 58th Leg., p. 1304, ch. 496, § 3, eff. July 15, 1963.

Cancellation of permit; refusal to renew; appeal

Sec. 4. The Department may cancel a permit or refuse to renew a permit for failure to comply with any provision of this Act or any valid rule or regulation which the Department has prescribed, after reasonable notice to the permittee and after a hearing if the permittee requests a hearing.

No organization shall be entitled to a new permit for a period of one year after cancellation or refusal by the Department to renew its permit, but shall thereafter be entitled to a new permit upon satisfactory proof of compliance with this law.

Any person aggrieved by the action of the Department may appeal therefrom to a District Court in Travis County, Texas.

Handling of funds paid or collected under contract

Sec. 5. All sums heretofore or hereafter paid or collected on contracts for prepaid funeral benefits entered into prior to the effective date of this Act shall be handled in accordance with the manner in which they have heretofore been handled. All sums paid or collected on such contracts entered into after the effective date of this Act (with the exception of those paid where a contract of insurance is created or those approved by the Department, as both are provided for in Section 1a of this Act) shall be handled in the following manner:

(1) The funeral home (or other entity collecting said funds) may retain as its own money, for the purpose of covering its selling expenses, servicing costs, and general overhead, an amount not to exceed one-half

of all funds so collected or paid until it has received for its use and benefit an amount not to exceed ten percent of the total amount agreed to be paid by the purchaser of said prepaid funeral benefits as such total amount is reflected in the contract. No charges or assessments, except premiums collected on an insurance policy guaranteeing the payments on a prepaid funeral contract or the unpaid balance thereof, shall be collected from the purchaser other than those included in the total amount of said contract.

(2) All amounts paid or collected, with the exception of those permitted to be retained as set forth above, shall, within thirty days after such collection, be (a) deposited in a savings and loan association in this state, or (b) deposited in a state or national bank in this state, or (c) placed with the trust department in a state or national bank in this state to be invested by such trust department in accordance with the terms and provisions of the Texas Trust Act. Such deposits or trust accounts shall be carried in the name of the funeral home or other entity to whom the purchaser makes payment, but accounting records shall be maintained showing the amount deposited or invested with respect to any particular purchaser's contract.

(3) The date of death of the purchaser of such contract (or other individual who may be designated in the contract as the person for whose funeral such funds may be used) shall be the maturity date of the contract, and as soon as conveniently practicable after such maturity date and upon presentation of a certified copy of the death certificate of such person together with proper affidavits as may be required by the Department, such funds shall be released in fulfillment of the contract, and the funeral home (or other entity to the contract which has collected the funds) shall, if the amount so withdrawn does not equal one hundred percent of the total amount paid under such contract, make up the difference so that the amount available for funeral benefits shall equal one hundred percent of the total amount paid in under such contract. Any amounts accumulated at maturity on any particular contract in excess of one hundred percent of the amount paid in on such contract shall be available to the funeral home (or other entity collecting said funds) in making up the difference on any particular contract which at maturity did not have funds available equal to one hundred percent of the amount paid under such contract.

The seller may withdraw at any time funds out of accrued interest or income of the deposit accounts or trust accounts for the purpose of paying reasonable and necessary charges made by a savings and loan association, or bank, or trust department of a bank, and trustee's fees made by a savings and loan association, or bank, or trust department of a bank, with respect to such accounts, or for the purpose of paying any taxes caused or created by reason of the existence of such deposit accounts or trust accounts.

Upon the maturity date of a contract as above provided and only after the funeral home has fully performed its obligations under said contract with the purchaser, or at the time of cancellation prior to maturity as provided in Subsection (4) herein, the seller may additionally withdraw from said deposit account (whether a trust or other funded account) any enhanced value, accrued interest, or accrued income of said contract. Such withdrawal shall be the proportionate part of the total enhanced value, accrued interest or accrued income, that the amount deposited under said contract bears to the total amount deposited from all unmaturing contracts.

(4) In the event a purchaser under a contract should desire to cancel the contract prior to maturity, such cancellation may be accomplished by the purchaser giving fifteen days notice in writing to the Department and to the seller of the contract, and thereafter, upon written authorization from the Department, such purchaser may withdraw the funds in such depository being held for his use and benefit; provided, however, such

purchaser shall be entitled to withdraw and receive only the actual amounts paid in by him less the amounts permitted to be retained as provided in Subsection (1) hereof. Purchaser may make no partial cancellations or withdrawals.

Sec. 5 amended by Acts 1963, 58th Leg., p. 1304, ch. 496, § 4, eff. July 15, 1963.

**Agents responsible for funds collected; designation;
violation a misdemeanor**

Sec. 6. Each organization subject to this Act shall designate an agent or agents, either by names of the individuals or by titles of their offices or positions, who shall be responsible for deposit of funds collected under contracts for prepaid funeral benefits. The organization shall notify the Department of such designation within 10 days after it becomes subject to this Act, and shall also notify the Department of any change in such designation within 10 days after such change occurs. If any person acting on behalf of the seller collects any money under such a contract and fails to deliver it, within 30 days after collection, to a designated agent, or if any designated agent fails to deposit the money within 30 days after he receives it, he shall be guilty of a misdemeanor and a violation of this Act and shall be punished by those means prescribed in Section 9 of this Act.

Annual report

Sec. 7. The Department may require an annual report from any permit holder in such form as the Department may require. Any organization which has discontinued the sale of prepaid funeral benefits but which still has outstanding contracts shall not be required to obtain a renewal of its permit, but the Department may require annual reports of said organization until all such contracts have been fully discharged. If any officer of any organization fails or refuses to file an annual report or to cause it to be filed within 30 days after he has been notified of the requirement by the Department, he shall be guilty of a misdemeanor and a violation of this Act and shall be punished by those means prescribed in Section 9 of this Act.

Records required; examination by Banking Department

Sec. 8. Each organization which has outstanding contracts for prepaid funeral benefits shall maintain within this state such records as the Department may require to enable it to determine whether the organization is complying with the provisions of this Act. Such records shall be subject to annual examination by the Department or its agent and to such additional examinations as it deems necessary. The organization shall pay for the cost of examination, including the salary and traveling expenses paid to the person making the examination during the time spent in making the examination and in traveling to and returning from the point where the records are kept, and all other expenses necessarily incurred in the examination; but the cost to the organization shall not be less than \$15. per day nor more than \$40. per day, or more than a total cost of \$200. for each examination.

Violation of Act; punishment

Sec. 9. Any officer, director, agent, or employee of any organization subject to the terms of this Act who makes or attempts to make any contract in violation of this Act, or who refuses to allow an inspection of the organization's records, or who violates any other provision of this Act, shall be punished by a fine of not less than \$100. and not more than \$500., or by imprisonment in the county jail for not less than one month and not more than six months, or by both such fine and imprisonment. Each violation of any provision of this Act shall be deemed a separate offense and prosecuted individually.

For Annotations and Historical Notes, see V.A.T.S.

The Department may bring each such violation of this Act to the attention of the Attorney General of this state and it shall be the duty of the Attorney General to institute suit in the name of the State of Texas against such violator in any county in this state where such violation might occur.

In addition to the misdemeanor penalties prescribed above, the Attorney General shall have the power and authority to institute quo warranto proceedings in a District Court of Travis County, Texas to forfeit the charter and right to do business of a corporation whose officer, director, agent or employee refuses or fails to correct a violation of this Act after such violation has been called to the attention of said officer, director, agent or employee by the Department or the Attorney General. A period of 30 days shall be considered sufficient time to correct such violation after notice from the Department or Attorney General.

Fees, penalties and revenues; disposition

Sec. 10. All fees, penalties and revenues collected by the department shall be paid to the State Treasury, placed in the prepaid funeral account fund and shall be expended as authorized by legislative appropriation.

Insurance Code not affected

Sec. 10a. Nothing in this Act shall alter or affect any provisions of the Insurance Code of the State of Texas.

Article amended by Acts 1967, 60th Leg., p. 1941, ch. 726, § 1, eff. Aug. 28, 1967.

Secs. 11, 12 [Omitted in 1967].

Section 1a of this article, as enacted by Acts 1955, 54th Leg., p. 1292, ch. 512, was repealed by Acts 1963, 58th Leg., p. 1304, ch. 496, § 2 and the present section 1a was added in lieu thereof. The section was subsequently amended in 1967.

TITLE 17—BEES

Art.
565a. Apiary equipment brands [New].

Art. 565a. Apiary equipment brands

System of registration; serial numbers; application for brand; fee

Section 1. (a) The Texas Department of Agriculture shall establish and maintain a system of registration of apiary equipment serial numbers, hereafter referred to as brands, to identify equipment used by beekeepers in their apiaries.

(b) A brand consists of three numbers separated by hyphens: the first number signifies that it is a state-registered brand; the second number identifies the registrant's county of residence; the third number identifies the registrant.

(c) The Texas Department of Agriculture shall issue a brand to any person who applies for a brand and pays the recording fee of 50 cents.

Affixing brand

Sec. 2. The beekeeper shall affix the brand to his apiary equipment by burning or pressing the number, in figures at least one inch high, into the wood or other material in such manner as to show identification. The location of the brand on all hives shall be on either or both ends, even with the handhold; other equipment, such as frames, intercovers, tops, bottoms, and planks may be branded with the same brand in any place.

Transfer of brands; sale of equipment

Sec. 3. A brand may be transferred only with the permission of the Texas Department of Agriculture and then only if the transferor is selling all his bees and equipment to the person to whom the brand is transferred. The seller shall give a bill of sale for all bees and equipment, setting forth the brand number in the bill of sale. Sale of separate branded equipment is permissible, but the brand itself is not transferable except as provided for in this section. If the buyer of the branded equipment has his own brand number, he shall place his brand below the brand of the prior owner.

Tampering with registered brand; penalty

Sec. 4. No unauthorized person may tamper with a registered apiary equipment brand. A person who violates this prohibition is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$200 or by imprisonment in the county jail for not more than 30 days or both. Unauthorized possession of equipment on which the brand has been tampered with, possession of branded equipment without a bill of sale or written proof of ownership, or the use of a registered brand not issued to the one using it is prima facie evidence that the possessor or user has violated the prohibition of this section.

Acts 1967, 60th Leg., p. 459, ch. 209, eff. Aug. 28, 1967.

Title of Act:

An Act relating to the registration and use of apiary equipment brands; providing a penalty for tampering with brands and a prima facie rule; and declaring an emergency. Acts 1967, 60th Leg., p. 459, ch. 209.

TITLE 18—BILLS AND NOTES

Arts. 567 to 571. Repealed. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721, § 10—102. Eff. June 30, 1966

Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721, enacting the Uniform Commercial Code, repealed articles 567 to 571 effective June 30, 1966. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721 was itself repealed by Acts 1967, 60th Leg., vol. 2, p. 2343, ch. 785, adopting the Business & Commerce Code effective September 1, 1967. However, the latter Act specifically provided that the repeal did not affect the prior operation of the 1965 Act or any prior action taken under it.

For text of the Business and Commerce Code, with Tables and Index, see page 1485.

Arts. 575, 576. Repealed. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721, § 10—102. Eff. June 30, 1966

Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721, enacting the Uniform Commercial Code, repealed articles 575, 576 effective June 30, 1966. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721 was itself repealed by Acts 1967, 60th Leg., vol. 2, p. 2343, ch. 785, adopting the Business & Commerce Code effective September 1, 1967. However, the latter Act specifically provided that the repeal did not affect the prior operation of the 1965 Act or any prior action taken under it.

For text of the Business and Commerce Code, with Tables and Index, see page 1485.

Arts. 577, 578. Repealed. Acts 1967, 60th Leg., vol. 2, p. 2343, ch. 785, § 4. Eff. Sept. 1, 1967.

Acts 1967, 60th Leg., vol. 2, p. 2343, ch. 785, adopting the Business & Commerce Code, repealed articles 577, 578 effective September 1, 1967.

For text of the Business and Commerce Code, with Tables and Index, see page 1485.

See, now, V.A.T.C. Bus. & C. §§ 35.39, 35.40.

TITLE 19—BLUE SKY LAW—SECURITIES

Saved from Repeal

The Uniform Commercial Code, enacted by Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721, provided that the Act did not repeal or diminish articles 581—1 through 581—39, and further provided that if in any respect there was any inconsistency between those articles and the Commercial Code, the provisions of those articles should control. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721, was itself repealed by Acts 1967, 60th Leg., vol. 2, p. 2343, ch. 785, adopting the Business & Commerce Code effective September 1, 1967. However, the latter Act specifically provided that the repeal did not affect the prior operation of the 1965 Act or any prior action taken under it.

Art. 582—1. Repealed. Acts 1967, 60th Leg., vol. 2, p. 2343, ch. 785, § 4.
Eff. Sept. 1, 1967.

Acts 1967, 60th Leg., vol. 2, p. 2343, ch. 785, adopting the Business & Commerce Code, repealed article 582—1 effective September 1, 1967.

For text of the Business and Commerce Code, with Tables and Index, see page 1485.

See, now, V.A.T.C. Bus. & C., § 33.01 et seq.

TITLE 20—BOARD OF CONTROL

CHAPTER THREE—PURCHASING DIVISION

Art. 635. Bidder's affidavit

A bidder offering to sell materials, equipment, or supplies to the state shall file with his bid list application to the Board of Control an affidavit stating that neither the affiant nor the firm, corporation, partnership, or institution represented by the affiant, or anyone acting for such firm, corporation, or institution, has within twelve months past violated any law of this state relating to trusts or monopolies. This affidavit must be renewed by the first day of September of each year as a requirement for remaining on the qualified bid list maintained by the Board of Control. The Attorney General shall prepare the form of such affidavit which shall embrace each phase of the statutes of Texas forbidding trusts and monopolies, and shall also provide that neither the affiant nor the firm, corporation, or partnership represented by him has communicated directly or indirectly the bid made by such person, firm, or corporation bidding, to any competitor bidding on said contract, or any person engaged in such line of business or any other person.
Amended by Acts 1967, 60th Leg., p. 30, ch. 12, § 1, emerg. eff. March 7, 1967.

Art. 655. Invoice; certificate

The contractor or seller shall in all cases certify that the invoice is correct and that it corresponds in every particular with supplies and/or services contracted for, which certification shall be in a form prepared by the Attorney General of Texas.
Amended by Acts 1967, 60th Leg., p. 29, ch. 11, § 1, emerg. eff. March 7, 1967.

**CHAPTER FOUR—PUBLIC BUILDINGS AND
GROUNDS DIVISION**

Art. 666. Salvage and Surplus Act of 1957

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**Sale of surplus and salvage; offer to sell to Texas Partners
of the Alliance**

Sec. 6a. When a state agency reports to the Board of Control that it has surplus or salvage equipment or material, the Board of Control shall inform other state agencies of the existence, kind, number, location, and condition of the equipment or material. If no state agency negotiates an interagency transfer of the equipment or material within 30 days from the date of the notice from the Board of Control, and if the Board of Control determines that the equipment or material will not satisfy a state need, the Board shall offer the equipment or material to the organization now known as the Texas Partners of the Alliance, a registered agency with the Advisory Committee on Voluntary Foreign Aid, with approval of the Partners of the Alliance office of the Agency for International Development. The equipment or material shall be offered at its fair market value as determined by mutual agreement between the Board of Control and the Texas Partners of the Alliance. If the Texas Partners of the Alliance do not accept the offer within 60 days, the Board of Control shall

sell or dispose of the equipment or material as otherwise provided by this Act.

Sec. 6a added by Acts 1967, 60th Leg., p. 1211, ch. 546, § 1, eff. Aug. 28, 1967.

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Art. 666b. Rental space for government agencies or departments, obtaining

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Sec. 2. The State Board of Control, upon receipt of such request, and if the money has been made available to pay the rental thereon, and if, in the discretion of the Board such space is needed, shall forthwith advertise in a newspaper, which has been regularly published and circulated in the city, or town, where such rental space is sought, for bids on such rental space, for the uses indicated and for a period of not to exceed four years. All such leases shall be contingent upon the availability of funds to cover the terms of the lease. It is further provided that monthly rentals may be paid in advance when required by the lease agreement and mutually agreed upon by the lessor and the lessee. After such bids have been received by the State Board of Control at its principal office in Austin, Texas, and publicly opened, the award for such rental contract will be made to the lowest and best bidder, and upon such other terms as may be agreed upon. The terms of the contract, together with the notice of the award of the State Board of Control will be submitted to the Attorney General of Texas, who will cause to be prepared and executed in accordance with the terms of the agreement, such contract in quadruplicate; one of which will be kept by each party thereto, one by the State Board of Control, and one by the Attorney General of Texas. The parties to such contract will be the department or agency of the government using the space as lessee and the party renting the space as lessor.

Sec. 2 amended by Acts 1967, 60th Leg., p. 434, ch. 198, § 1, eff. Aug. 28, 1967.

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Art. 678e. Protection and policing of state buildings and grounds

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Firearms

Sec. 7a. Such officers shall not have the authority to carry firearms except after approval by the Director of the Department of Public Safety as provided for in Section 7 hereof and unless directed to carry firearms by the Chief of the Capitol Security Force.

Sec. 7a amended by Acts 1967, 60th Leg., p. 1228, ch. 556, § 1, emerg. eff. June 14, 1967.

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**TITLE 20A. BOARD AND DEPARTMENT OF
PUBLIC WELFARE**

695j—1. Medical Assistance Act of 1967
[New].

Art. 695c. Public Welfare Act of 1941

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Blind persons; assistance to

Sec. 12. Assistance shall be given under the provisions of this Act to any needy blind person who:

- (1) Is over the age of eighteen (18) years; and
- (2) Whose vision, with correctional glasses, is insufficient for use in an occupation for which sight is essential; and
- (3) Who has resided in the State of Texas continuously for one (1) year immediately preceding the date of application; and
- (4) Who is not publicly soliciting alms in any part of this state. The term "publicly soliciting" shall be construed to mean the wearing, carrying, or exhibiting the signs denoting blindness, or the carrying of receptacles for the reception of alms, or the doing of the same by proxy, or by begging from house to house or on any public street, road, or thoroughfare within the state; and
- (5) Who has not sufficient income or other resources to provide a reasonable subsistence compatible with decency and health; and
- (6) Who is a citizen of the United States.

Sec. 12 amended by Acts 1967, 60th Leg., p. 822, ch. 348, § 1, eff. Aug. 28, 1967.

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**Permanently and totally disabled persons; eligibility for assistance;
definitions; amount of assistance**

Sec. 16-B. (1) Assistance to the permanently and totally disabled shall be given under the provisions of this Act to any needy person:

1. Who is permanently and totally disabled as hereinafter defined; and
2. Who is eighteen (18) years of age or older but less than sixty-five (65) years of age; and
3. Who is a citizen of the United States; and
4. Who has resided in the State of Texas continuously for one (1) year immediately preceding the date of application; and
5. Who is in need as hereinafter defined; and
6. Who is not receiving Old Age Assistance, Aid to the Blind, or Aid to Dependent Children; and
7. Who has not disposed of property, either personal or real, for the purpose of qualifying or increasing need for assistance, provided that the property, if still available, would affect either eligibility or the amount of the assistance payment.

No application for assistance under the provisions of this Act shall be approved until it has been established in accordance with the rules and regulations promulgated by the State Department of Public Welfare that the applicant is permanently and totally disabled by reason of a mental or physical impairment or a combination of both.

(2) The term "permanently and totally disabled," as used in this Act, means that the individual has a permanent physical or mental impairment, disease, or loss, or a combination of such which is verifiable by medical findings, which is irreversible, or progressive, and not amenable to treatment, or requires treatment that is continuous, extremely hazard-

ous, or of questionable benefit, and renders the individual totally disabled, as demonstrated by the fact that he is restricted in his performance of usual activities of daily living to the extent that he requires services, or the presence of another person in performing these activities, and which permanently precludes the applicant from engaging in a useful occupation as a homemaker or as a wage earner.

"Permanent and total disability," as defined herein, shall be established on the basis of a currently applicable medical report of examination by a physician legally licensed to practice medicine in the State of Texas and who has been approved by the State Department of Public Welfare to make such examinations. The examining physician shall certify in writing, upon forms prescribed by the State Department, such information as the Department may require for proper diagnosis, prognosis, and recommendations as to medical and surgical treatment. Said reports shall be reviewed by a physician legally licensed to practice medicine in the State of Texas and employed by the State Department of Public Welfare, who shall approve or disapprove the medical evidence to substantiate the finding of "permanent and total disability." Said reviewing physician shall also determine the feasibility of referring said applicant for vocational rehabilitation. The State Department of Public Welfare shall adopt a reasonable fee schedule for examinations, when examinations are considered necessary by the State Department of Public Welfare for the purpose of determining eligibility for assistance of individuals who are permanently and totally disabled under the provisions of this Act, and the Department of Public Welfare is hereby authorized to pay for such examinations out of the funds appropriated to the State Department for the purpose of assistance to the permanently and totally disabled persons under the provisions of this Act or for administrative expense. The State Department of Public Welfare is hereby authorized to incur claims for medical examinations which may be paid later out of subsequent appropriations for medical expenses when the current appropriation is inadequate to pay for such medical examinations.

Each recipient of assistance who is permanently and totally disabled shall submit to a re-examination whenever such re-examination is deemed necessary by the State Department of Public Welfare for the continuance of the assistance grant.

(3) The Department of Public Welfare is authorized to provide through employment of properly qualified personnel such medical, social and related services as are found necessary for proper administration of this Act, and for most effective use of other resources for rehabilitation and restoration to health and independence. The Department of Public Welfare shall refer recipients who can be benefited thereby to the appropriate public and private resources for rehabilitation through re-training, restorative services, or treatment and therapy.

(4) In determining "need," the State Department of Public Welfare shall adopt reasonable rules and regulations for the purpose of determining eligibility, and shall take into consideration all of the resources and income available to the individual from any source. Assistance may not be granted if such individual has available resources which are sufficient to provide a reasonable subsistence compatible with health and decency; provided that in consideration of income and resources actually available to an applicant, the State Department shall take into consideration the income and resources which may be available to the relatives of an applicant or a recipient who, under rules and regulations promulgated by the Department pursuant to Federal rules and regulations, are responsible for his support.

The State Department of Public Welfare shall adopt reasonable rules and regulations for determining the amounts of assistance given to an applicant. The amount of assistance given shall be determined by the State Department of Public Welfare through its District or County

Agents in the County or District in which the needy person resides. The amount granted shall provide such person with a reasonable subsistence compatible with health and decency and within the limitations and provisions of the Constitution of the State of Texas, as is now provided or may hereafter be provided. The amount of such assistance out of state funds to each person assisted shall never exceed the amount so expended out of Federal funds. The method of investigation and the determination of the amount of assistance granted shall comply with the limitations and provisions of the Federal Social Security Act as is now provided or may hereafter be provided.

Sec. 16-B amended by Acts 1965, 59th Leg., p. 1619, ch. 693, § 1, eff. Aug. 31, 1965; Acts 1967, 60th Leg., p. 823, ch. 348, § 2, eff. Aug. 28, 1967.

* * * * *

Aid to families with dependent children

Sec. 17. Aid to Families with Dependent Children shall be given under the provisions of this Act with respect to any dependent child. "Dependent Child" is any needy child:

- (1) Who is a citizen of the United States; and
- (2) Who has resided in this state for a period of at least one (1) year immediately preceding the date of application for assistance; or was born within the state within one (1) year immediately preceding the date of application and whose mother or other relative with whom the child is living has resided in the state for a period of at least one (1) year immediately preceding the birth of such child; and
- (3) Who is under the age of eighteen (18), or under the age of twenty-one (21) and (as determined by the Department in accordance with standards prescribed by the Department) a student regularly attending a school, college, or university, or regularly attending a course of vocational or technical training designed to fit him for gainful employment; and
- (4) Who has been deprived of parental support or care by reason of the death, continued absence from the home, or physical or mental incapacity of a parent; and
- (5) Who is living with his father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew, or niece, in a place of residence maintained by one or more of such relatives as his or their own home; and
- (6) Who has not sufficient income or other resources to provide a reasonable subsistence compatible with decency and health. In determining need, the State Department of Public Welfare shall take into consideration any other income and resources of any child or relative claiming Aid to Families with Dependent Children, as well as any expenses reasonably attributable to the earning of any such income; except that, in making such determination, the State Department may, subject to limitations prescribed by the Department, permit all or any portion of the earned or other income to be set aside for the future identifiable needs of the dependent child.

Sec. 17 amended by Acts 1967, 60th Leg., p. 825, ch. 348, § 3, eff. Aug. 28, 1967.

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Assistance to needy family with dependent children living with relatives

Sec. 19. When the investigation discloses that a family with children in whose behalf application for assistance has been made is a needy family with dependent children as defined in this Act, and that such needy dependent child meets the other provisions of this Act and

that such child is living, or will live, with one or more of the relatives prescribed in this Act, assistance and/or services may be allowed for the support of such needy family with dependent children. It is expressly provided that the Department shall:

(1) Formulate policies for studying and improving the home conditions and specific needs of the child,

(2) Make plans for services for the protection of children especially in relation to specific needs of children such as health and educational opportunities. The State Department shall require that each dependent child between the ages of eighteen (18) and twenty-one (21) years to whose family or relatives or others assistance or services are allowed for the support of such dependent child shall remain enrolled in the regular term of school in the community in which the child resides, unless the State Department finds that good cause exists for the nonattendance of the child at school. Failure to comply with this requirement shall, under applicable rules and regulations of the State Department, constitute good cause for a termination of such assistance or services,

(3) Develop a mutual plan of co-ordination between the Aid to Needy Families with Dependent Children and the Child Welfare Services Programs in order to carry out its responsibilities for the protection and care of children as provided in this Act.

Sec. 19 amended by Acts 1967, 60th Leg., p. 825, ch. 348, § 4, eff. Aug. 28, 1967.

* * * * *

Old age assistance; persons eligible

Sec. 20. Old age assistance shall be given under the provisions of this Act to any needy person:

(1) Who has attained the age of sixty-five (65) years; and

(2) Who is a citizen of the United States or who is a noncitizen and has resided within the boundaries of the United States for at least twenty-five (25) years; and

(3) Who has resided in the State of Texas for five (5) years or more within the last nine (9) years preceding the date of his application for assistance and has resided in the State of Texas continuously for one (1) year immediately preceding the application; and

(4) Who is not at the time of receiving assistance an inmate of a public institution; and

(5) Who has not sufficient income or other resources to provide a reasonable subsistence compatible with health and decency. Provided that in consideration of income and resources actually available to applicant the State Agency shall not evaluate income and resources which may be available only to relatives of applicant. Income and resources to be taken into consideration shall be known to exist and shall be available to the applicant. An applicant for old age assistance shall not be denied assistance because of the existence of a child or other relative, except husband or wife, who is able to contribute to the applicant's support, and no inquiry shall be made into the financial ability of said child or other relative, except husband or wife, in determining applicant's eligibility. The applicant's child or other relative, except husband or wife, is to be treated by the State Department in the same way as any person not related to the applicant; any aid or contributions to the applicant from such child or other relative, except husband or wife, must actually exist in fact, or with reasonable certainty, be available in the future to constitute a resource to the applicant.

(6) An applicant for old age assistance shall not be denied assistance because of the ownership of a resident homestead, as the term "resident

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homestead" is defined in the Constitution and Laws of the State of Texas. Sec. 20 amended by Acts 1967, 60th Leg., p. 137, ch. 71, § 1, eff. Aug. 28, 1967.

Amendment of section 20 of this article by Acts 1967, 60th Leg., p. 822, ch. 348, § 5, see section 20, post.

Old age assistance; persons eligible

Sec. 20. Old Age Assistance shall be given under the provisions of this Act to any needy person:

- (1) Who has attained the age of sixty-five (65) years; and
- (2) Who is a citizen of the United States or who is a noncitizen and has resided within the boundaries of the United States for at least twenty-five (25) years; and
- (3) Who has resided in the State of Texas continuously for one (1) year immediately preceding the date of application; and
- (4) Who has not sufficient income or other resources to provide a reasonable subsistence compatible with health and decency. Provided that in consideration of income and resources actually available to applicant the State Agency shall not evaluate income and resources which may be available only to relatives of applicant. Income and resources to be taken into consideration shall be known to exist and shall be available to the applicant. An applicant for old age assistance shall not be denied assistance because of the existence of a child or other relative, except husband or wife, who is able to contribute to the applicant's support, and no inquiry shall be made into the financial ability of said child or other relative, except husband or wife, in determining applicant's eligibility. The applicant's child or other relative, except husband or wife, is to be treated by the State Department in the same way as any person not related to the applicant; any aid or contributions to the applicant from such child or other relative, except husband or wife, must actually exist in fact, or with reasonable certainty, be available in the future to constitute a resource to the applicant.
- (5) An applicant for old age assistance shall not be denied assistance because of the ownership of a resident homestead, as the term "resident homestead" is defined in the Constitution and Laws of the State of Texas.

Sec. 20 amended by Acts 1967, 60th Leg., p. 826, ch. 348, § 5, eff. Aug. 28, 1967.

Amendment of section 20 of this article by Acts 1967, 60th Leg., p. 137, ch. 71, § 1, see section 20, ante.

* * * * *

Separate accounts of State Department of Public Welfare Fund; special funds; transfer of funds; accounting system; custodian of moneys

Sec. 27. (1) For the purposes of carrying out the provisions of this Act, the "Old Age Assistance Fund," the "Blind Assistance Fund," and the "Children Assistance Fund" as provided for in House Bill No. 8, Acts of the Forty-seventh Legislature, Regular Session, 1941,¹ as amended; the "Disabled Assistance Fund" as created by House Bill No. 78, Acts of the Fifty-fifth Legislature, Regular Session, 1957,² as amended; and the "Medical Assistance Fund" as created by Senate Bill No. 79, Acts of the Fifty-seventh Legislature, Regular Session, 1961,³ as amended, are hereby made separate accounts of the "State Department of Public Welfare Fund." Provided, that all moneys in the separate accounts of the "State Department of Public Welfare Fund" shall be expended for the purposes of carrying out the provisions of this Act, and for the purposes for which said separate accounts were created or appropriated, and for such other purposes as the Legislature by statutory enactment may direct.

The State Comptroller of Public Accounts shall establish two (2) special funds in the State Treasury to be known as the "Department of Public Welfare Administration Operating Fund" and the "Department of Public Welfare Assistance Operating Fund."

The State Comptroller, after appropriate allocations, transfers, and credits to and from the various funds involved, is hereby authorized to transfer funds appropriated for the operation of the Department into the "Department of Public Welfare Administration Operating Fund" and/or the "Department of Public Welfare Assistance Operating Fund" and all other current revenues (including but not limited to grants, earnings, allotments, refunds and reimbursements) and balances on hand, such amounts as are designated and authorized by the Department of Public Welfare. The State Comptroller shall transfer between the "Department of Public Welfare Administration Operating Fund" and the "Department of Public Welfare Assistance Operating Fund" such amounts as are designated and authorized by the Department of Public Welfare.

The State Department of Public Welfare with the approval of the State Auditor shall establish an internal accounting system, and the expenditures of the State Department of Public Welfare shall be allocated to the various funds in accordance with such internal accounting system. At the close of each fiscal year of the biennium, any remaining unencumbered balance in the "Department of Public Welfare Administration Operating Fund" and/or the "Department of Public Welfare Assistance Operating Fund" shall be reported to the State Comptroller by funds to which it belongs as determined and designated by the Department of Public Welfare. Unencumbered balances thus identified with fund balances which revert to the General Revenue Fund under Legislative Acts, shall be returned to the appropriate funds as determined and designated by the Department of Public Welfare.

The revenues to, the balances in, and the appropriations out of the "Social Security Fund," the "Social Security Administration Fund," the "Commodity Distribution Fund" (including the "Food Stamp Fund"), and the "Donated Commodity Distribution Fund" are excluded from the two (2) special Public Welfare operating funds established herein.

(2) Should the State Department of Public Welfare determine that a transfer among appropriated State funds is needed to match Federal Medical Assistance funds then, upon written authorization of the State Department of Public Welfare, the State Comptroller of Public Accounts is hereby authorized to transfer moneys allocated and appropriated for payments for Old Age Assistance, Blind Assistance, Children's Assistance, and/or Disabled Assistance out of the respective special assistance funds into the "Medical Assistance Fund," and the State Department is authorized to pay Medical Assistance out of said funds so transferred and appropriated so as to provide Assistance and Medical Assistance to the greatest extent possible within Federal and State Laws, and within the limitations of the Texas Constitution and within the limits of total appropriated funds.

(3) The State Treasurer is hereby designated as the custodian of any and all moneys which may be received by the State of Texas (which the State Department of Public Welfare is authorized to administer), from any appropriations made by the Congress of the United States, for the purpose of cooperating with the several provisions of the Federal Social Security Act, or as it may hereafter be amended, and all moneys received from any other source; and the State Treasurer is hereby authorized to receive such moneys, pay such moneys into the proper fund or the proper account of the General Fund of the State Treasury, provide for the proper custody thereof, and to make disbursements therefrom upon the order of

the State Department and upon warrant of the State Comptroller of Public Accounts.

Sec. 27 amended by Acts 1967, 60th Leg., p. 1108, ch. 490, § 1, eff. Aug. 31, 1967.

¹ Article 7083a, § 2(2).

² Article 7083a, § 2(6).

³ Article 7083a, § 2(7).

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Savings clause; assistance grants to individuals in institutions;
alternate care arrangements

Sec. 38. (1) None of the provisions of this Act shall change, amend, alter or impair any of the provisions of House Bill No. 1059, Acts of the 47th Legislature, Regular Session.¹

(2) Notwithstanding any other provisions contained in the Law, Old Age Assistance, Aid to the Blind, Aid to the Permanently and Totally Disabled, or Aid to Families with Dependent Children assistance grants may be paid to any individual who is in an institution, provided such individual would be eligible outside the institution and provided such payments are made in accordance with rules and regulations promulgated by the State Department of Public Welfare and in conformity with the Federal Laws and rules and regulations as they now are or as they may hereafter be amended.

(3) The State Department of Public Welfare, the designated single State Agency responsible for the administration of the Medical Assistance Program in the State of Texas, is hereby authorized to enter into any and all necessary agreements with the Department of Mental Health and Mental Retardation, the State Department of Health, and all other appropriate State Agencies affected by this Act which will enable the State Department of Public Welfare to implement Title XIX² so as to provide Medical Assistance in behalf of individuals in institutions or in alternate care arrangements, and said agreements shall be in compliance with the Federal Law and the rules and regulations promulgated pursuant thereto as such laws now provide or as they may hereafter be amended; provided further, that the State Department of Public Welfare is hereby authorized to make Medical Assistance payments in accordance with such agreements and such agreements shall not be subject to or controlled by "The Interagency Cooperation Act," being Article 4413(32), Vernon's Texas Civil Statutes.

The Department of Mental Health and Mental Retardation, the State Department of Health, and any other State Departments or Agencies responsible for the administration of, or supervision of, facilities in which Medical Assistance payments may be made or are required in order for the State Department of Public Welfare to conform with Title XIX of the Federal Social Security Act² or any other Federal Law providing for Medical Assistance in behalf of such individuals are hereby required to enter into such agreements with the State Department of Public Welfare and to maintain compliance on a continuing basis in accordance with such agreements and as may be required to enable the State Department of Public Welfare to maintain its Medical Assistance program so as to receive Federal matching funds.

The State Department of Public Welfare is authorized to pay Medical Assistance in such other facilities as are required under Federal Law, rules and regulations as such laws, rules and regulations now read or as they may hereafter be amended.

Sec. 38 amended by Acts 1967, 60th Leg., p. 827, ch. 348, § 6, eff. Aug. 28, 1967.

¹ Acts 1941, 47th Leg., p. 815, ch. 505. See Historical Note in main volume.

² 42 U.S.C.A. § 1396 et seq.

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Recipient moving out of state; payments to vendors of medical assistance

Sec. 41. Any person who is receiving assistance under the provisions of this Act and who moves out of and does not reside in the state shall, by virtue of that fact, be deemed ineligible to receive assistance in this state except that temporary absence from the state for such periods of time, and for such reasons as the State Department shall approve, shall not be deemed to interrupt the residence of the recipient.

Any person who is receiving Public Assistance as the term is defined in Senate Bill No. 79, Acts of the 57th Legislature, Regular Session, 1961, and being codified in Vernon's Texas Civil Statutes as Article 695j, or any amendments thereto, shall be eligible for Medical Assistance as the term is defined in Senate Bill No. 79, or any amendments thereto, so long as such recipient continues to be eligible to receive Assistance; and payments to vendors of Medical Assistance on behalf of such recipients, while temporarily visiting outside of the state, may be made on behalf of such recipients on a temporary basis for such periods of time and in accordance with the rules and regulations promulgated by the State Department of Public Welfare so long as said person remains eligible to receive Assistance from this state.

Sec. 41 amended by Acts 1967, 60th Leg., p. 827, ch. 348, § 7, eff. Aug. 28, 1967.

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Section 1 of Acts 1967, 60th Leg., p. 137, ch. 71 amended section 20 of this article. Sections 2-4 of chapter 71 provided:

"Sec. 2. The effective date of this Act for the purpose of paying assistance grants shall be September 1, 1967.

"Sec. 3. All laws or parts of laws in conflict herewith are hereby repealed to the extent of the conflict only.

"Sec. 4. If any Section, subsection, paragraph, sentence, clause, phrase, or word in this Act or application thereof to any person or circumstance is held invalid, such holding shall not affect the validity of the remaining portions of this Act, and the Legislature hereby declares it would have passed such remaining portions despite such invalidity."

Acts 1967, 60th Leg., p. 822, ch. 348, §§ 1-7 amended sections 12, 16-B, 17, 19, 20, 38 and 41; sections 8-10 of chapter 348 provided:

"Sec. 8. The effective date of this Act for the purpose of paying assistance grants in accordance with the amendments contained herein shall be September 1, 1967.

"Sec. 9. All laws or parts of laws in conflict herewith are hereby repealed to the extent of the conflict only, and Subsection (4) of Section 12, Subitem 5 of Subsection (1) and Subsection (5) of Section 16-B, and Subsection (4) of Section 20 shall be and are hereby repealed.

"Sec. 10. If any Section, subsection, paragraph, sentence, clause, phrase, or word in this Act or application thereof to any person or circumstance is held invalid, such holding shall not affect the validity of the remaining portions of this Act, and the Legislature hereby declares it would have passed such remaining portions despite such invalidity."

Acts 1967, 60th Leg., p. 822, ch. 348, §§ 1 and 9 repealed former subsection (4) of section 12 of this article and renumbered the

remaining subsections in conformity therewith.

Acts 1967, 60th Leg., p. 822, ch. 348, §§ 2 and 9 repealed former subitem 5 of subsection (1) and subsection (5) of section 16-B and renumbered the remaining subsections in conformity therewith. Prior to repeal, subitem 5 of subsection (1) and subsection (5) of section 16-B provided:

"Sec. 16-B. (1) Assistance to the permanently and totally disabled shall be given under the provisions of this Act to any needy person:

"5. Who is not at the time of receiving assistance an inmate in a public institution (except as a patient in a medical institution) or is not a patient in an institution for tuberculosis or mental disease, or who has not been diagnosed as having tuberculosis or psychosis and is a patient in a medical institution as a result thereof;

"(5) No provision of this Act is intended to release the Federal or State institutions in this State from the specific responsibility which is currently borne by them in the care of those persons currently residing in either Federal or State hospitals or institutions for the care or treatment of mentally retarded or mentally ill persons or for the treatment of tuberculosis, or those who may hereafter be eligible for or entitled to care or treatment in such institutions. It is further provided that none of the moneys appropriated for assistance to or on behalf of the permanently and totally disabled shall be used for the payment of assistance grants or for providing services to or on behalf of persons who are so hospitalized or whose mental or physical condition is such that his welfare and that of the general public would best be served by care and treatment in such public institution and such public institutional care is available."

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Acts 1967, 60th Leg., p. 822, ch. 348, §§ 5 and 9 repealed subsection (4) of section 20 of this article and renumbered the remaining subsections in conformity therewith.

Acts 1967, 60th Leg., p. 1108, ch. 490, which amended section 27 of this article, provided in sections 2-4 thereof:

"Sec. 2. The effective date of this Act shall be August 31, 1967.

"Sec. 3. All laws or parts of laws in conflict herewith are hereby repealed to the extent of the conflict only.

"Sec. 4. The purpose of this Act is to authorize the State Department of Public Welfare to expend State and Federal funds allocated and appropriated to the Department for the purpose of providing Assistance, Medical Assistance, and such other services as may be required by Law, to needy individuals who meet the eligibility requirements for Assistance and/or Medical Assistance. In order to enable the State Department of Public Welfare to

expend the funds in such a manner so as not to jeopardize the receipt of Federal funds provided for these purposes, the State Department is granted the latitude of expending the funds as provided herein so as to meet the needs of those individuals who are eligible for Assistance and/or Medical Assistance to the fullest extent possible as provided by Federal and State Laws, in accordance with rules and regulations promulgated pursuant thereto, within the constitutional limitations, and within the limits of total appropriated funds; therefore, if any Section or provision of this Act shall for any reason be held unconstitutional or invalid in whole or in part, then, and in that event, this Act shall be invalidated and of no force or effect in respect to such unconstitutional provisions only, and the Sections or parts of Laws found to be amended or modified by the provision or Section found to be unconstitutional shall remain in full force and effect."

Art. 695j. Medical assistance to recipients of public assistance

* * * * *

Saved from Repeal

The Medical Assistance Act of 1967, enacted by Acts 1967, 60th Leg., p. 310, ch. 151, codified as article 695j—1, provides in section 22 that this article is retained in the law and shall remain operable insofar as it is not in conflict with article 695j—1 so as to enable the State Department of Public Welfare to promulgate rules and regulations and to enter into agreements with the Federal Government to implement article 695j—1.

Art. 695j—1. Medical Assistance Act of 1967

Title

Section 1. This Act shall be known and may be cited as "The Medical Assistance Act of 1967."

Legislative intent; medical assistance defined; liberal construction of act

Sec. 2. It is the intent of the Legislature to make statutory provision which will enable the State of Texas to provide Medical Assistance on behalf of needy individuals of this state and to enable the state to obtain all benefits provided by the Federal Social Security Act as it now reads or as it may hereafter be amended, or by any other Federal Act now in effect or which may hereafter be enacted within the limits of funds available for such purposes. Wherever used in this Act the term "Medical Assistance" shall include all of the health care, services, assistance and benefits authorized or provided for in such Federal legislation.

This Act shall be liberally construed and applied in relation to Federal Laws and regulations so as to make adequate and high quality health care available to all children and adults who are in need of such care, but who are not financially able to pay for it. If by reason of any conflict between any Section, portion, clause, or part of this Act and the Federal Social Security Act, as it now reads or as it may hereafter be amended, or any other Federal Act now in effect or which may hereafter be enacted, the State Plan is rendered out of conformity with the Federal Law to the extent that Federal matching money is not available to the state, then

and in that event, the conflicting Section, portion, clause, or part of this Act is declared inoperative to the extent that it is in conflict, and such finding or determination shall not affect the remainder of this Act.

State Department of Public Welfare; administrative responsibilities

Sec. 3. The State Department of Public Welfare is hereby designated as the State Department to administer "The Medical Assistance Act of 1967" and any amendments thereto.

In fulfillment of its administrative responsibilities, the State Department shall:

(1) Cooperate with the Department of Health, Education, and Welfare or any other Federal Agencies which may hereafter be designated by Federal Statute to administer Medical Assistance on behalf of needy individuals, in any reasonable manner which may be necessary to qualify for Federal funds for Medical Assistance on behalf of individuals who are entitled to such Medical Assistance under the provisions of the Federal Social Security Act, as it now reads or as it may hereafter be amended, or any other Federal Act now in effect or which may hereafter be enacted, including the making of such reports, in such form and containing such information as the Department of Health, Education, and Welfare or any other proper agencies of the Federal Government may require from time to time, and to comply with such requirements as that agency, or any other agencies hereafter designated, may from time to time find necessary and in conformity with the provisions of this Act;

(2) Enter into agreements with the Department of Health, Education, and Welfare or any other Federal Agencies which may be designated by Federal Statute to administer Medical Assistance on behalf of needy individuals so as to provide Medical Assistance on behalf of all recipients of public assistance and/or such other needy individuals as the State Department may determine in compliance with agreements with the Federal Government and within the limits of appropriated funds available;

(3) Accept money from the Federal Government for purposes coming within the scope of this Act and expend such sums as may be received from the Federal Government for such purposes in the manner prescribed in this Act, or as otherwise provided by law, and in accordance with such agreements as may be appropriate and necessary between the Federal Government and the State of Texas;

(4) Administer and expend state funds in accordance with rules and regulations promulgated by the State Department and within the limitations and restrictions of this Act and within the limits of appropriated funds for such purposes;

(5) Appoint a Medical Care Advisory Committee and such other advisory committees as the State Department may deem necessary and appropriate;

(6) Establish and provide such methods of administration as may be necessary for the proper and efficient operation of the program;

(7) Enter into such cooperative agreements with other state agencies and departments as may be required by law or as may be deemed expedient by the State Department;

(8) Promulgate reasonable rules and regulations for making Medical Assistance available on behalf of all recipients of public assistance and/or such other needy individuals as the State Department may determine in compliance with agreements with the Federal Government;

(9) Define and determine the scope, duration, and amount of Medical Assistance which may be provided in accordance with this Act or as it may hereafter be amended and establish priorities therefor;

(10) Provide opportunities for fair hearings before the State Department;

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- (11) Provide safeguards for preserving the confidentiality of records;
- (12) Adopt rules and regulations for subrogation;
- (13) Adopt rules and regulations for detecting and processing cases of fraud; and
- (14) Adopt such other policies, rules, and regulations which will insure compliance with Federal Laws and rules and regulations necessary to implement Medical Assistance as contemplated by this Act or as it may hereafter be amended.

Scope of services; duration of medical assistance; recipients of public assistance; Federal matching funds; extension of medical assistance; optional medical services

Sec. 4. The State Department is hereby authorized and empowered to determine the scope of the services to be covered, the amounts to be paid, and the duration of Medical Assistance to be furnished; provided, however, that the State Department shall provide Medical Assistance on behalf of all recipients of public assistance and such other related groups as are mandatory under Federal Laws and rules and regulations, as they now are or as they may hereafter be amended, in order to obtain Federal matching funds for such purposes.

Medical Assistance provided for these groups shall not be not less in scope, duration, or amount than is currently furnished such groups, and in addition, shall include at least the minimum services required under Federal Laws and rules and regulations to obtain Federal matching funds for such purposes.

The State Department is authorized and empowered, at such times as the State Department may determine feasible and within the limits of appropriated funds, to extend the scope, duration, and amount of Medical Assistance on behalf of these groups of public assistance recipients and related groups as are mandatory so as to include, in whole or in part, the optional medical services authorized under Federal Laws and rules and regulations, and the State Department shall have the authority to establish and maintain the priorities to be given such optional medical services; provided, however, that Medical Assistance shall be provided to at least such groups and in such scope, duration, and amount as are required to obtain Federal matching funds, but in no event shall Medical Assistance be furnished on behalf of any groups or in any scope, duration, or amount for which Federal matching funds cannot be obtained.

Extension of medical assistance to needy individuals; minimum services; optional medical services; priorities; selection of provider of medical assistance

Sec. 5. In accordance with rules and regulations adopted by the State Department, Medical Assistance may be extended on behalf of such other groups as are found to be financially unable to meet the cost of medical services, and the State Department shall determine eligibility of such individuals.

As Medical Assistance is extended to such groups, the State Department shall include at least the minimum services required under Federal Laws and rules and regulations necessary to obtain Federal matching funds.

In addition to these minimum services required under Federal Laws and rules and regulations, the State Department is authorized and empowered, at such times as the State Department may determine feasible and within the limits of appropriated funds, to extend the scope, duration, and amount of medical services on behalf of these groups so as to include, in whole or in part, the optional medical services authorized under Federal Laws and rules and regulations, and the State Department shall have the authority to establish and maintain the priorities to be given such op-

tional medical services; provided, however, that no groups and no medical services may be included for which Federal matching funds are not available.

No recipient of Medical Assistance shall be denied freedom of choice in his selection of a provider of Medical Assistance that is authorized by the State Department of Public Welfare.

Fees, charges and rates; method of payment of claims

Sec. 6. The State Department is hereby authorized and empowered to determine under reasonable rules, regulations, and standards the reasonable fees, charges, and rates to which Medical Assistance Funds will be applied and paid as follows:

A. Reasonable fees, charges, and rates for professional fees or services shall be the usual and customary fees, charges, and rates prevailing in the community.

B. Reasonable fees, charges, and rates, paid for other Medical Assistance shall be the usual and customary fees, charges, and rates, provided, however, that if such payments are otherwise limited by Federal Law, such payments shall be as near the usual and customary fees, charges, and rates as may be permitted by law.

The State Department is hereby authorized and empowered to determine the method of payment of claims for Medical Assistance by establishing a direct vendor payment program administered by the State Department or by an insurance plan or hospital service plan, and/or a medical service plan, or any other health service plan authorized to do business in Texas or by any other fiscal intermediary or method of payment or a combination of such plans and/or methods which the State Department finds to be the most satisfactory and economical method of paying costs and/or processing claims, and said State Department may make whatever amendments or changes as it finds necessary from time to time in order to provide Medical Assistance in an economical and equitable manner consistent with simplicity of administration and in the best interest of the recipients.

If the State Department elects as part of its plan and/or methods to make payments directly to vendors of Medical Assistance as authorized in this Act, then such vendor payments provided for under the terms of this Act shall be paid by vouchers or warrants drawn by the State Comptroller on the proper accounts of a "State Department of Public Welfare Fund"; for the purpose of permitting the State Comptroller to properly draw and issue such vouchers or warrants, the State Department of Public Welfare shall furnish the Comptroller with a list of or roll of those entitled to such vendor payments from time to time, together with the amount to which each vendor is entitled. When such vouchers or warrants have been drawn they shall be delivered to the Commissioner of the State Department of Public Welfare, who in turn shall supervise the delivery of same to the vendors entitled thereto.

The amount of such Medical Assistance out of state funds on behalf of any individual shall not exceed the amount that is matchable out of Federal funds and provided further, that the total amount of Medical Assistance payments out of state funds on behalf of such eligible individuals shall not exceed the amount that is matchable out of Federal funds.

Transfer as assignment of assistance or funds; exemption from legal process

Sec. 7. Neither Medical Assistance nor amounts payable to vendors out of public assistance funds are transferable or assignable, at law or in equity, and none of the money paid or payable under the provisions of this Act shall be subject to execution, levy, attachment, garnishment, or other legal process, or to the operation of any insolvency law.

Eligibility of recipients of public assistance grants for medical assistance

Sec. 8. All individuals who are receiving public assistance grants shall be automatically eligible for Medical Assistance as provided in this Act and an application for Old Age Assistance, Aid to the Blind, Aid to the Permanently and Totally Disabled, or Aid to Families with Dependent Children shall constitute an application for Medical Assistance as provided herein.

For any groups for which Medical Assistance is provided who are not recipients of public assistance, the State Department shall prescribe the necessary forms and shall adopt reasonable rules and regulations for accepting and processing applications for Medical Assistance.

Appeal

Sec. 9. Any individual whose application for Medical Assistance is denied or is not acted upon with reasonable promptness shall have the right to appeal to the State Department for a fair hearing. The provisions in the Public Welfare Act of 1941, as amended, or as it may hereafter be amended (codified as Article 695c, Section 25, Vernon's Texas Civil Statutes), granting the right of appeal to applicants and recipients of public assistance, shall be applied in relation to appeals for Medical Assistance insofar as applicable and the same rights and procedures shall be granted to applicants for and recipients of Medical Assistance.

**Disclosure of information concerning applicants or recipients;
 records, papers and files**

Sec. 10. The State Department shall provide safeguards which restrict the use and/or disclosure of information concerning applicants or recipients of Medical Assistance to purposes directly connected with the administration of the Program.

It shall be unlawful, except for purposes directly connected with the administration of general assistance, old age assistance, aid to the blind, aid to families with dependent children, aid to the permanently and totally disabled, or Medical Assistance, and in accordance with the rules and regulations of the State Department, for any person or persons to solicit, disclose, receive, make use of, or to authorize, knowingly permit, participate in, or acquiesce in the use of, any list of, or names of, or any information concerning, persons applying for or receiving such public assistance or Medical Assistance, directly or indirectly derived from the records, papers, files, or communications of the State Department or subdivisions or agencies thereof, or acquired in the course of the performance of official duties.

The rule-making power of the State Department shall include the power to establish and enforce reasonable rules and regulations governing the custody, use, and preservation of the records, papers, files, and communications of the State Department and its local offices. Wherever, under provisions of law, names and addresses of recipients of public assistance or Medical Assistance are furnished to or held by any other agency or department of government, such agency or department or government shall be required to adopt regulations necessary to prevent the publication of lists thereof or their use for purposes not directly connected with the administration of public assistance or Medical Assistance.

Subrogation

Sec. 11. The State Department or any person, firm, or institution which has furnished service shall be subrogated to any applicant's or recipient's right of recovery from personal insurance or other sources or the right of recovery for personal injuries occasioned by the negli-

gence or wrong of another to the extent of the cost of medical care services paid for by the State Department or to the extent of the services rendered by such person, firm, or institution which has furnished service. The State Department is authorized to adopt reasonable rules and regulations for the enforcement of its right of subrogation and the Commissioner of Public Welfare may, in his discretion, waive this right of subrogation to the extent that the Commissioner finds that the enforcement thereof would tend to defeat the purpose of the public assistance laws. The fact that an applicant for or a recipient of Medical Assistance has a claim for damages for personal injuries shall not be grounds for denying or discontinuing Medical Assistance.

Rules and regulations to minimize fraud; fraudulent representations; penalties

Sec. 12. The State Department shall adopt reasonable rules and regulations for minimizing the opportunity for fraud; for establishing and maintaining methods of detecting and identifying situations in which a question of fraud in the program may exist; and for referring cases where fraud appears to exist to the appropriate law enforcement agencies for prosecution.

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

(1) Medical Assistance, services, or treatment to which he is not entitled;

(2) Medical Assistance, services, or treatment greater than that to which he is justly entitled;

(3) Or, with intent to defraud, aids or abets in buying, or in any way disposing of the property of a recipient of assistance or Medical Assistance without the consent of the State Department, or whoever violates Section 10 of this Act, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined any sum not more than One Hundred Dollars (\$100) or be imprisoned for not less than six (6) months, nor more than two (2) years, or be both so fined and imprisoned. If any of the acts defined and punishable as a misdemeanor under this Act shall also constitute some other offense punishable under the laws of the State of Texas, the offender shall be amenable to prosecution, at the state's election, either under this Act, or for such other offense as may have been committed by him.

Rules and regulations to administer medical assistance program; personnel and administrative expenses

Sec. 13. The State Department is authorized to adopt reasonable rules and regulations for administering the Medical Assistance Program and is authorized to use such funds as may be appropriated for the administrative costs of the operation of the Medical Assistance Program including, but not limited to, the payment of salaries, travel expense, rent, bond premiums, postage, telephone and telegraph, freight, express, drayage, stationery, printed forms, office supplies, equipment, repairs, examining fees, medical services, maintenance, and miscellaneous and contingent expense (includes Merit System).

The personnel and other administrative expenses provided for in this Section shall constitute additional staff and additional administrative expenses of the State Department of Public Welfare, and said State Department is hereby authorized to establish position classifications, and such additional personnel and administrative expenses shall be integrated with the present staff and other costs of administration for the purpose of administering the Public Assistance and Medical Assistance Programs, and shall in no way lessen the authority or the power of the

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Commissioner of Public Welfare to allocate and reallocate functions, duties, and responsibilities of the employees as provided in Section 5 of Senate Bill No. 36, Acts of the 46th Legislature, Regular Session, 1939, as amended by House Bill No. 611, Chapter 562, Page 914, Acts of the 47th Legislature, Regular Session, 1941, as amended.¹

¹ Article 695c.

Comprehensive staff development program

Sec. 14. In order to increase the effectiveness and efficiency of the administration of the Public Assistance and Medical Assistance Programs which will result in improved services to the needy of the State of Texas, it is necessary to assist employees to obtain the technical and professional education required in the administration of these Programs. The State Department is authorized and empowered under rules and regulations promulgated by the State Department and in conformity with the Plan of Administration with the Department of Health, Education, and Welfare, to establish personnel plans and policies which will enable the State Department to formulate a comprehensive Staff Development Program which shall include, among other things, a provision for granting paid educational leave to selected employees and to make payments in the form of grants, stipends, or other methods selected by the State Department out of Federal and State funds within the limits of appropriated funds.

Research and demonstration projects

Sec. 15. The State Department is authorized independently or in cooperation with any public or private agency or department to set up research and demonstration projects which in the judgment of the Commissioner of Public Welfare are likely to assist in promoting the objectives of Title I, Old Age Assistance; Title IV, Aid to Families with Dependent Children; Title X, Aid to the Blind; Title XIV, Aid to the Permanently and Totally Disabled; or Title XIX, Medical Assistance, as they now read or as they may hereafter be amended, or any other Federal Act now in effect or which may hereafter be enacted. Federal funds made available for assistance payments and/or Medical Assistance, and/or Federal funds made available for research and demonstration projects may be used in paying the costs of such research and demonstration projects. The State Department is also authorized to use any state funds appropriated for such purposes in conducting such research and demonstration projects.

The State Department may conduct such research and demonstration projects and use funds available for any purpose which in the judgment of the Commissioner of Public Welfare would be beneficial to the programs administered by the State Department and which is not contrary to or inconsistent with Federal and State Laws making such funds available.

Medical care advisory committee

Sec. 16. The Commissioner of Public Welfare shall establish a Medical Care Advisory Committee, which Committee shall be of such size, membership, and experience as may be determined by the Commissioner of Public Welfare to be essential for the accomplishment of the purposes of this Act and in compliance with the requirements of the Department of Health, Education, and Welfare or any other Federal Agencies or Departments responsible for the administration of the Medical Assistance Program.

The State Department shall adopt reasonable rules and regulations for establishing membership on the Committee which will provide for rotation, stability, continuity, efficiency of operation, and representa-

tion of the various professions and disciplines authorized to provide Medical Assistance.

The members of the Medical Care Advisory Committee shall receive no compensation for their services except that they may receive their actual expenses while engaged in the performance of their duties.

As requested by the Commissioner of Public Welfare from time to time in the furtherance of the objectives of the Program, the Medical Care Advisory Committee shall cooperate with and advise the State Department in developing and maintaining the Medical Assistance Program and provide professional advice on immediate and long-range plans with the view of reaching the overall objectives and goals in providing high quality comprehensive medical and health services to needy individuals in the state.

The Commissioner of Public Welfare also is authorized to appoint regional and local medical care advisory committees and is authorized to appoint any other state or local advisory committees as may be considered appropriate and necessary in the administration of public welfare.

Medical assistance fund; expenditures; transfer of monies

Sec. 17. At such time as appropriations are authorized by the Legislature for the purposes of carrying out the provisions of this Act, there shall be continued in the Treasury a special fund to be known as the "Medical Assistance Fund" created by Senate Bill No. 79, Acts of the 57th Legislature, Regular Session, 1961,¹ which constitutes a separate account of the "State Department of Public Welfare Fund," and shall be expended only for the purpose of carrying out the provisions of this Act or any amendments thereto, and for the purposes for which said separate account was created; provided, however, that the amount of Medical Assistance on behalf of such individuals qualifying for Medical Assistance out of state funds shall not exceed the amount that is matchable out of Federal funds.

Medical Assistance on a limited basis is currently provided for recipients of public assistance and with the implementation of Title XIX of the Federal Social Security Act, as it now reads or as it may hereafter be amended, or any other Federal Act now in effect or which may hereafter be enacted, it is imperative that Medical Assistance be extended, the cost of which is unpredictable and the assistance grants currently include, insofar as possible, amounts to meet medical needs within the limits of appropriated funds. Under Title XIX, some medical needs of recipients which were formerly included in assistance grants will be paid on a vendor basis; therefore, some of the funds allocated and appropriated for the purpose of paying assistance grants may be required for Medical Assistance payments.

If the necessity arises, the State Department by rules and regulations and as authorized in the Appropriations Act, may request the transfer of monies appropriated for the payment of assistance grants out of the Assistance Funds into the "Medical Assistance Fund" and is empowered and authorized to use such funds for the purpose of paying Medical Assistance in addition to the funds specifically appropriated out of the "Medical Assistance Fund" for such purposes.

¹ Article 695j.

Sec. 18. [Amended Art. 7083, § 2 subsec. 7].

Infringement on health programs; cooperative arrangements

Sec. 19. It is not the intention of this Act to preempt or dilute or in any way infringe upon the health programs for which any State Agency or Department is or may be responsible, and it is the intention of this Act that the state plan for Medical Assistance provide for entering into cooperative arrangements with other State Agencies and De-

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partments responsible for administering or supervising the administration of health services in the state looking toward maximum utilization of such services in the provision of Medical Assistance under this plan.

Conflict with Federal statutes; money for medical assistance for needy persons

Sec. 20. If any portion of this Act or amendments thereto are found to be in conflict with the provisions of appropriate Federal Statutes as they now are or as they may be amended, then and in that event, the State Department is specifically authorized and empowered to prescribe in its rules and regulations such limitations and restrictions as may be necessary in order that money will be available for Medical Assistance for or on behalf of needy persons.

Effective date; implementation of plans for administration of program

Sec. 21. If this Act meets the Constitutional requirements for becoming effective upon being signed by the Governor, the State Department shall immediately implement plans for administering the Program, but the payments for Medical Assistance under the provisions of this Act shall be effective September 1, 1967.

Repealer

Sec. 22. All laws or parts of laws in conflict with this Act are hereby repealed to the extent of such conflict only and it is specifically provided that the Medical Assistance Act, being Senate Bill No. 79, Acts of the 57th Legislature, Regular Session, 1961, as amended by Senate Bill No. 405, Acts of the 59th Legislature, Regular Session, 1965, and being codified as Article 695j, Vernon's Texas Civil Statutes, is retained in the law and shall remain operable insofar as it is not in conflict with this Act so as to enable the State Department to promulgate rules and regulations and to enter into agreements with the Federal Government to implement this Act, and to assure continuity of Medical Assistance to the individuals receiving Medical Assistance under provisions of that Act until such time as plans can be implemented and approved, and funds, both State and Federal, made available for carrying out the provisions of this Act.

Partial invalidity

Sec. 23. If any Section, subsection, paragraph, sentence, clause, phrase, or word in this Act, or application thereof to any person or circumstance is held invalid, such holding shall not affect the validity of the remaining portions of this Act, and the Legislature hereby declares it would have passed such remaining portions despite such invalidity. Acts 1967, 60th Leg., p. 310, ch. 151, §§ 1-17, 19-23, eff. Aug. 28, 1967.

Title of Act:

An Act to be known as "The Medical Assistance Act of 1967" for the purpose of providing Medical Assistance on behalf of needy individuals in the State of Texas; expressing the Legislative intent; designating the State Department of Public Welfare as the State Department to administer such Act; providing for the cooperation of the State Department with the Department of Health, Education, and Welfare and/or any other Federal Agencies or Departments authorized to provide Medical Assistance on behalf of needy individuals; authorizing the acceptance and the expenditure of Federal funds for the purpose of carrying out the provisions of this Act; authorizing the State Department to administer and expend

state funds allocated and appropriated for such purposes; authorizing the transfer of assistance funds to the "Medical Assistance Fund"; providing for the appointment of a Medical Care Advisory Committee and other advisory committees as necessary; providing for such methods of administration as may be necessary for the proper and efficient operation of the program; authorizing paid educational leave to employees; authorizing research and demonstration projects; authorizing the State Department to enter into cooperative agreements with other State Agencies; authorizing the State Department to promulgate reasonable rules and regulations for the purpose of carrying out the provisions of this Act; making Medical Assistance

available on behalf of needy individuals and providing for the payment of same; authorizing the State Department to determine the scope, duration, and amount of Medical Assistance to be made available on behalf of needy individuals; providing for appeals; providing for the confidentiality of records of individuals; providing for the right of subrogation; providing for the processing of fraud cases and penalties

therefor; amending Section 2 of Article XX of Chapter 184, Acts of the 47th Legislature, Regular Session, 1941, as amended, by amending Subsection (7); fixing the effective dates of the provisions of this Act; providing a repealing clause with specific reference to inconsistent legislation, a savings clause; and declaring an emergency. Acts 1967, 60th Leg., p. 310, ch. 151.

TITLE 22. BONDS—COUNTY, MUNICIPAL, ETC.

CHAPTER ONE—GENERAL PROVISIONS AND REGULATIONS

<p>Art. 717k—1. Public securities; issuance by state, county, municipality or political subdivision; denomination [New].</p>	<p>Art. 717o. Texas Industrial Development Act [New].</p>
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Art. 717j—1. Texas Uniform Facsimile Signature of Public Officials Act

Definitions

Section 1. As used in this Act:

(a) "Public security" means a bond, note, certificate of indebtedness, or other obligation for the payment of money, issued by this state, its political subdivisions, or by any department, agency, or other instrumentality of this state or its political subdivisions.

(b) "Instrument of payment" means a check, draft, warrant, or order for the payment, delivery, or transfer of funds.

(c) "Certificate of assessment" means any certificate or instrument, evidencing a special assessment, issued by any agency or political subdivision of this state which is authorized by law to levy such assessments.

(d) "Authorized officer" means any official of this state, its political subdivisions, or any department, agency, or other instrumentality of this state or its political subdivisions whose signature to a public security, instrument of payment or certificate of assessment is required or permitted.

(e) "Facsimile signature" means a reproduction by engraving, imprinting, lithographing, stamping, or other means of the manual signature of an authorized officer.

Facsimile Signature

Sec. 2. If the use of a facsimile signature is authorized by the board, body, or officer empowered by law to authorize the issuance of the public securities, instruments of payment or certificates of assessment, any authorized officer may execute, authenticate, certify, or endorse, or cause to be executed, authenticated, certified, or endorsed with a facsimile signature in lieu of his manual signature:

(a) Any public security, provided that at least one signature required or permitted to be placed thereon shall be manually subscribed; and

(b) Any instrument of payment; and

(c) Any certificate of assessment. In any suit or legal action instituted against the officer whose name is affixed under the provisions of this Act, it shall not be a defense that such name was affixed to any public security, instrument of payment or certificate of assessment, as herein defined, without his authority or consent. Upon compliance with this Act by the authorized officer, his facsimile signature has the same legal effect as his manual signature.

However, as to a public security required to be registered by the Comptroller of Public Accounts of the State of Texas, only his signature or that of a deputy designated in writing to act for the Comptroller is required to be manually subscribed to such public security or to a certificate thereon.

Facsimile Seal

Sec. 3. When the seal of this state, its political subdivisions, or any department, agency, or other instrumentality of this state or its political

subdivisions is required in the execution, authentication, certification, or endorsement of a public security, instrument of payment or certificate of assessment, the authorized officer may cause the seal to be printed, engraved, lithographed, stamped, or otherwise placed in facsimile thereon. The facsimile seal has the same legal effect as the impression of the seal.

Penalty

Sec. 4. Any person who with intent to defraud uses on a public security an instrument of payment or a certificate of assessment:

(a) A facsimile signature, or any reproduction of it, of any authorized officer; or

(b) Any facsimile seal, or any reproduction of it, of this state, its political subdivisions, or any department, agency, or other instrumentality of this state or its political subdivisions shall upon conviction be confined in the penitentiary not less than two nor more than seven years.

Secs. 1-4 amended by Acts 1967, 60th Leg., p. 701, ch. 290, § 1, emerg. eff. May 25, 1967.

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Art. 717k—1. Public securities; issuance by state, county, municipality or political subdivision; denominations

Section 1. The term "public securities" as used herein shall mean bonds, notes, or other obligations for the payment of money which may hereafter be issued by this state, or by any department, agency, or other instrumentality of this state, or by any county, municipality, taxing district, or other political district or subdivision (whether included within one county or more than one county) which are now or may hereafter be authorized by law to borrow money and to issue bonds, notes, or other evidences of indebtedness.

Sec. 2. All public securities authorized under the laws of this state may hereafter be issued in any denomination fixed and determined in the order, resolution, or ordinance authorizing the issuance of such securities, by the board, body, or officer empowered by law to authorize the issuance of such securities.

Sec. 3. The provisions of the Act shall be cumulative of all existing laws pertaining to the issuance of public securities, but the provisions hereof concerning the denominations in which public securities may be issued shall apply to all public securities, despite any provision in any earlier law to the contrary.

Acts 1967, 60th Leg., p. 2043, ch. 752, emerg. eff. June 18, 1967.

Title of Act:

An Act defining the term "public securities" as used herein; authorizing the issuance of public securities in any denomination as determined and fixed by the board, body, or officer empowered by law to authorize the issuance of such securities in the order, resolution, or ordinance au-

thorizing issuance of such securities; declaring the law to be cumulative; providing that the provisions hereof shall apply to all public securities despite any provision in any earlier law to the contrary; and declaring an emergency. Acts 1967, 60th Leg., p. 2043, ch. 752.

Art. 717o. Texas Industrial Development Act

Title

Section 1. This Act may be cited as the "Texas Industrial Development Act."

Definitions

Sec. 2. In this Act, unless the context requires a different definition, (1) "city" means a city, town, or village incorporated under general or special law or home-rule charter;

For Annotations and Historical Notes, see V.A.T.S.

(2) "navigation district" means any navigation district established under the authority of Article III, Section 52, or Article XVI, Section 59, Constitution of the State of Texas;

(3) "project" means any land, any building or other improvement, and all real and personal properties deemed necessary in connection therewith, whether or not now in existence, which shall be suitable for use for manufacturing or industrial enterprises, as defined in Manufacturing division of the Standard Industrial Classification Manual of the U. S. Bureau of the Budget;

(4) "governing body" means the board or body in which the general legislative powers of the city, county, or navigation district are vested; and

(5) "mortgage" means a mortgage or a mortgage and deed of trust, or other security device.

Powers of cities, counties and navigation districts

Sec. 3. (a) In addition to any other powers which it may now have, each city and each county and each navigation district shall have without any other authority the following powers:

(1) to acquire, whether by construction, purchase, devise, gift, or lease, or any one or more of such methods, one or more projects, which shall be located within this state, and may be located within, without, partially within, or partially without the city or county or navigation district; but limited to the county or counties contiguous to the authorizing county or if authorized by a city or navigation district governing body the limits shall be within the county in which the city is located or in contiguous counties;

(2) to lease to others any or all of its projects for such rentals and upon such terms and conditions as the governing body may deem advisable and as shall not conflict with the provisions of this Act;

(3) to issue revenue bonds for the purpose of defraying the cost of acquiring or improving any project or projects, and to secure the payment of such bonds as provided in this Act, which revenue bonds may be issued in two or more series or issues where deemed advisable, and each such series or issue may contain different maturity dates, interest rates, priorities on revenues available for payment of such bonds and priorities on securities available for guaranteeing payment thereof, and such other differing terms and conditions as are deemed necessary and are not in conflict with the provisions of this Act; and

(4) to sell and convey any real or personal property acquired as provided by Subdivision (a) of this section, and make such order respecting the same as may be deemed conducive to the best interest of the city or county or navigation district; provided, that such sale or conveyance shall be subject to the terms of any lease but shall be free and clear of any other encumbrance; and

(5) to do any of the things authorized under Subdivisions (1), (2), (3), and (4) of this section jointly with any city or county or navigation district of this state.

(b) This Act does not confer any power on a subdivision or a part of a city or county which is less than the entire city or county, nor on any district which is a political subdivision of the state other than a county or navigation district.

(c) No city or county or navigation district shall have the power to operate any project, referred to in this section, as a business or in any manner except as the lessor thereof, nor shall they have any power to acquire any such project, or any part thereof, by condemnation.

Resolution of intent to issue bonds; publication; protest; election

Sec. 4. (a) Before issuing any bonds hereunder the governing body of any city or county or navigation district which proposes to issue the

bonds shall adopt a resolution declaring its intention to do so, stating the amount of bonds proposed to be issued, the purpose for which the bonds are to be issued, and the date upon which the governing body proposes to direct the issuance of such bonds. Such resolution shall be published once a week for at least three consecutive weeks in at least one newspaper of general circulation published in the county proposing through its governing body to issue the bonds. The first publication of such resolution shall be made not less than 21 days prior to the date fixed in such resolution for the issuance of the bonds and the last publication shall be made not more than seven days prior to such date. If no newspaper be published in such county, then such notice shall be given by publishing the resolution for the required time in some newspaper having a general circulation in such county, and, in addition, by posting a copy of such resolution for at least 21 days next preceding the date fixed therein at three public places in such city or county or navigation district. If 10 percent of the qualified electors of the city or county or navigation district shall file a written protest against the issuance of such bonds on or before the date specified in such resolution, then an election on the question of the issuance of such bonds shall be called and held as herein provided. If no such protest be filed, then such bonds may be issued without an election on the question of the issuance thereof, at any time within a period of two years after the date specified in the above mentioned resolution; provided, however, that the governing body of such city or county or navigation district, in its discretion, may nevertheless call an election on such question, in which event it shall not be necessary to publish the resolution declaring its intention to issue bonds as herein provided.

(b) Where an election is to be called as provided in the preceding section, notice of such election shall be signed by the clerk of the governing body of the city or county or navigation district, and shall be published once a week for at least three consecutive weeks, in at least one newspaper of general circulation published in such county. The first publication of such notice shall be made not less than 21 days prior to the date fixed for such election and the last publication shall be made not more than seven days prior to such date. If no newspaper is published in such county, then such notice shall be given by publishing the same for the required time in some newspaper having a general circulation in such city or county or navigation district, and, in addition, by posting a copy of such notice for at least 21 days next preceding such election at three public places in such city or county or navigation district.

(c) Such election shall be held, as far as is practicable, in the same manner as other elections are held in the city or county or navigation district. At such election, all qualified electors of such city or county or navigation district may vote, and the ballots used shall have printed thereon a brief statement of the amount and purpose of the proposed bond issue and the words "FOR THE BOND ISSUE" and "AGAINST THE BOND ISSUE," and the voter shall vote by placing a cross (x) or check mark () opposite his choice on the proposition.

(d) When the results of the election on the question of the issuance of such bonds shall have been canvassed by the election commissioners of such city or county or navigation district and certified by them to the governing body of the city or county or navigation district, it shall be the duty of such governing body to determine and adjudicate whether or not a majority of the qualified electors who voted thereon in such election voted in favor of the issuance of such bonds, and unless a majority of the qualified electors who voted thereon in such election shall have voted in favor of the issuance of such bonds, then such bonds shall not be issued. Should a majority of the qualified electors who vote thereon in such election vote in favor of the issuance of such bonds, then the governing body of the city or county or navigation district may issue such bonds, either in whole or in part, within two years from the date of such election, or

within two years after the final favorable termination of any litigation affecting the issuance of such bonds, as such governing body shall deem best.

Bonds as limited obligations; execution and delivery of bonds; approval; construction as negotiable instruments

Sec. 5. (a) All bonds issued by a city or county or navigation district under the authority of this Act shall be limited obligations of the city or county or navigation district. Bonds and interest coupons, issued under the authority of this Act, shall not constitute nor give rise to a pecuniary liability of the city or county or navigation district or a charge against its general credit or taxing powers. Such limitation shall be plainly stated upon the face of each of such bonds.

(b) The bonds, referred to in Subsection (a) of this section, may (1) be executed and delivered at any time and from time to time, (2) be in such form and denominations, (3) be of such tenor, (4) be in registered or bearer form either as to principal or interest or both, (5) be payable in such installments and at such time or times not exceeding 30 years from their date, (6) be payable at such place or places, (7) bear interest at such rate or rates, payable at such place or places, and evidenced in such manner, (8) be redeemable prior to maturity, with or without premium, and (9) contain such provisions not inconsistent herewith, as shall be deemed for the best interest of the city or county or navigation district and provided for in the proceedings of the governing body whereunder the bonds shall be authorized to be issued.

(c) The bonds must be approved by the Attorney General before they may be issued, a copy of any lease on property acquired with the proceeds of the bonds must be filed with the Attorney General, and the bonds must also be registered with the Comptroller of Public Accounts.

(d) Any bonds, issued under the authority of this Act, may be sold at public or private sale in such manner and at such time or times as may be determined by the governing body to be most advantageous. The city or county or navigation district may pay all expenses, premiums, and commissions which the governing body may deem necessary or advantageous in connection with the authorization, sale, and issuance thereof from the proceeds of the sale of said bonds or from the revenues of the projects.

(e) All bonds, issued under the authority of this Act, and all interest coupons applicable thereto shall be construed to be negotiable instruments, despite the fact that they are payable solely from a specified source.

Pledge of revenues; agreements and provisions securing bonds; default in payments

Sec. 6. (a) The principal of and interest on any bonds issued under the authority of this Act (1) shall be secured by a pledge of the revenues out of which such bonds shall be made payable, (2) may be secured by a mortgage covering all or any part of the project, and (3) may be secured by a pledge of the lease of such project, or (4) may be secured by such other security device as may be deemed most advantageous by the issuing authority.

(b) The proceedings, under which the bonds are authorized to be issued under the provisions of this Act, and any mortgage given to secure the same may contain any agreements and provisions customarily contained in instruments securing bonds, including, without limiting the generality of the foregoing, provisions respecting (1) the fixing and collection of rents for any project covered by such proceedings or mortgage, (2) the terms to be incorporated in the lease of such project, (3) the maintenance and insurance of such project, (4) the creation and maintenance of special funds from the revenues of such project, and (5) the rights and remedies available in the event of a default to the bond-

holders or to the trustee under a mortgage, all as the governing body shall deem advisable and as shall not be in conflict with the provisions of this Act. Provided, that in making any such agreements or provisions a city or county or navigation district shall not have the power to obligate itself except with respect to the project and the application of the revenues therefrom, and shall not have the power to incur a pecuniary liability or a charge upon its general credit or against its taxing powers.

(c) The proceedings authorizing any bonds under the provisions of this Act and any mortgage securing such bonds may provide that, in the event of a default in the payment of the principal of or the interest on such bonds or in the performance of any agreement contained in such proceedings or mortgage, such payment and performance may be enforced by mandamus or by the appointment of a receiver in equity with power to charge and collect rents and to apply the revenues from the project in accordance with such proceedings or the provisions of such mortgage.

(d) Any mortgage, made under the provisions of this Act, to secure bonds issued thereunder, may also provide that, in the event of a default in the payment thereof or the violation of any agreement contained in the mortgage, the mortgage may be foreclosed and sold under proceedings in equity or in any other manner now or hereafter permitted by law. Such mortgage may also provide that any trustee under such mortgage or the holder of any of the bonds secured thereby may become the purchaser at any foreclosure sale if the highest bidder therefor. No breach of any such agreement shall impose any pecuniary liability upon a municipality or county or navigation district or any charge upon their general credit or against their taxing powers.

Determinations and findings of governing bodies

Sec. 7. (a) Prior to the leasing of any project, the governing body must determine and find the following: The amount necessary to pay the principal of and the interest on the bonds proposed to be issued to finance such project; the amount necessary to be paid into any reserve funds which the governing body may deem it advisable to establish in connection with the retirement of the proposed bonds and the maintenance of the project including taxes; and, unless the terms under which the project is to be leased provide that the lessee shall maintain the project and carry all proper insurance with respect thereto, the estimated cost of maintaining the project in good repair and keeping it properly insured.

(b) The determinations and findings of the governing body, required to be made by Subsection (a) of this section, shall be set forth in the proceedings under which the proposed bonds are to be issued. Prior to the issuance of the bonds authorized by this Act, the city or county or navigation district shall lease the project to a lessee or lessees under an agreement conditioned upon completion of the project and providing for payment to the city or county or navigation district of such rentals as, upon the basis of such determinations and findings, will be sufficient (1) to pay the principal of and interest on the bonds issued to finance the project, (2) to pay the taxes on the project, (3) to build up and maintain any reserves deemed by the governing body to be advisable in connection therewith, and (4) unless the agreement of lease obligates the lessees to pay for the maintenance and insurance of the project, to pay the costs of maintaining the project in good repair and keeping it properly insured. Subject to the limitations of this Act, the lease or extensions or modifications thereof may contain such other terms and conditions as may be mutually acceptable to the parties, and notwithstanding any other provisions of law relating to the sale of property owned by the cities and counties and navigation districts, such lease may contain an option for the lessees to purchase the project on such terms and conditions as may be mutually acceptable to the parties.

Refunding bonds

Sec. 8. Any bonds issued under the provisions of this Act and at any time outstanding may at any time and from time to time be refunded by a city or county or navigation district by the issuance of its refunding bonds in such amount as the governing body may deem necessary but not exceeding an amount sufficient to refund the principal of the bonds to be so refunded, together with any unpaid interest thereon and any premiums and commissions necessary to be paid in connection therewith; provided, that an issue of refunding bonds may be combined with an issue of additional revenue bonds on any project when the combined total meets the requirements of Subsection (a) of Section 7 of this Act. Any such refunding may be effected whether the bonds to be refunded shall have then matured or shall thereafter mature, either by sale of the refunding bonds and the application of the proceeds thereof or by exchange of the refunding bonds for the bonds to be refunded thereby. Provided, that the holders of any bonds to be so refunded shall not be compelled without their consent to surrender their bonds for payment or exchange prior to the date on which they are payable by maturing date, option to redeem, or otherwise or, if they are called for redemption, prior to the date on which they are by their terms subject to redemption by option or otherwise. Any refunding bonds issued under the authority of this Act shall be subject to the provisions contained in Section 5 of this Act and may be secured in accordance with the provisions of Section 6 of this Act.

Application of proceeds from sale of bonds

Sec. 9. The proceeds from the sale of any bonds issued under authority of this Act shall be applied only for the purpose for which the bonds were issued; provided, that any accrued interest and premium received in any such sale shall be applied to the payment of the principal of or the interest on the bonds sold; and provided further, that if for any reason any portion of such proceeds shall not be needed for the purpose for which the bonds were issued, then such unneeded portion of said proceeds shall be applied to the payment of the principal of or the interest on said bonds. The cost of acquiring or improving any project shall be deemed to include the following: The actual cost of acquiring or improving real estate for any project; the actual cost of construction of all or any part of a project which may be constructed, including architects' and engineers' fees; fixed machinery and equipment on the premises; all expenses in connection with the authorization, sale and issuance of the bonds to finance such acquisition or improvement; and the interest on such bonds for a reasonable time prior to construction, during construction, and for not exceeding six months after completion of construction.

Taxation of projects

Sec. 10. Notwithstanding that title to a project may be in a city or county or navigation district, such projects shall be subject to taxation to the same extent, in the same manner, and under the same procedures as privately-owned property in similar circumstances, if such projects are leased to or held by private interests on both the assessment date and the date the levy is made in any year; provided, that where personal property owned by a city or county or navigation district is taxed under this section and such personal property taxes are delinquent, levy by distress warrant for collection of such delinquent taxes may only be made on personal property against which such taxes were levied.

**Powers of cities, counties or navigation districts; restrictions
or limitations**

Sec. 11. Neither this Act nor anything herein contained shall be construed as a restriction or limitation upon any powers which a city or county or navigation district might otherwise have under any laws of this state, but shall be construed as cumulative.

Approval of lease on projects; removal of business from existing facilities

Sec. 12. No bonds may be issued under authority of the Act unless the lease on the project acquired or to be acquired from the proceeds of the bonds has been approved by the Texas Industrial Commission. The Texas Industrial Commission has authority to establish criteria for an acceptable lease based on the economic feasibility of the project and the ability of the lessee to meet the contract commitments.

No city or county or navigation district may acquire or construct any project for any individual, firm, partnership, or corporation, or make any lease to any individual, firm, partnership, or corporation where the effect of such lease shall be to remove lessee's business from existing facilities within the State of Texas.

Legal investments

Sec. 13. Bonds issued under the provisions of this Act shall be legal investments for savings and loan associations, banks, and insurance companies organized under the laws of this state.

Constitutional amendment

Sec. 14. This Act takes effect only if and when the constitutional amendment proposed by S.J.R. No. 14, 60th Legislature, is adopted by the qualified electors of this state.

Acts 1967, 60th Leg., p. 342, ch. 166, eff. Aug. 28, 1967.

Conditional Enactment

Acts 1967, 60th Leg., p. 342, ch. 166, enacting the provisions set out in article 717o provides in section 14 that the act takes effect only if and when the constitutional amendment proposed by Acts 1967, 60th Leg., p. 2970, S.J.R. No. 14 is adopted by the qualified electors of Texas. S.J.R. No. 14 proposes to amend Const. art. 3, by the addition of section 52a to be submitted at an election to be held on November 5, 1968.

Title of Act:

An Act relating to the authority of cities and counties and navigation districts to issue revenue bonds for the purpose of acquiring property for industrial develop-

ment purposes, and to lease such property; providing that the property is taxable; and declaring an emergency. Acts 1967, 60th Leg., p. 342, ch. 166.

**CHAPTER FIVE—FUNDING, REFUNDING
AND COMPROMISES**

Art. 802h. Refunding bonds adjudicated to be valid by federal court or issued pursuant to plan of composition under bankruptcy laws

Eligible cities

Section 1. This Act shall be applicable to any city which has outstanding refunding bonds adjudicated to be valid by a decree of the Federal Court, or issued pursuant to a plan of composition confirmed by a United States District Court under the National Bankruptcy Laws, where the ordinance authorizing the issuance of such refunding bonds

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provides that not less than a fixed rate of tax therein specified shall be levied, assessed and collected each year so long as any of such bonds or interest thereon are outstanding. Such bonds are herein called "Original Refunding Bonds."

Sec. 1 amended by Acts 1967, 60th Leg., p. 307, ch. 149, § 1, eff. Aug. 28, 1967.

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CHAPTER SEVEN—MUNICIPAL BONDS

Art. 835k—1. Bonds for public recreation tower structure; validation [New].	Art. 835p. Cities of 600,000 or more; limitation on bonded indebtedness [New].
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Art. 835k—1. Bonds for public recreation tower structure; validation

Section 1. All bonds payable from ad valorem taxes heretofore issued, sold, and delivered by any city for the purpose of making improvements for public recreation purposes, to wit: the construction and equipment of a tower structure, to include observation, dining, concession, and other facilities, are hereby validated in all respects.

Sec. 2. All elections heretofore held or attempted to be held at which the issuance of all such bonds shall have been authorized or attempted to be authorized for said purpose are hereby validated in all respects.

Sec. 3. All proceedings, ordinances, and other acts or attempted acts of the governing body of any city pertaining to the authorization, issuance, sale, and delivery of all such bonds and the election authorizing same or attempting to authorize same are hereby validated in all respects.

Sec. 4. This Act shall not validate any proceeding which may have been nullified by a final judgment of a court of competent jurisdiction.

Acts 1967, 60th Leg., p. 1198, ch. 535, eff. Aug. 28, 1967.

Section 5 of the act of 1967 provided: "If any word, phrase, clause, sentence, paragraph, section or other part of this Act or the application thereof to any person or circumstance shall ever be held to be invalid or unconstitutional by a court of competent jurisdiction, the remainder of this Act, and the application of such word, phrase, clause, sentence, paragraph, section or other part of this Act to other persons or circumstances, shall not be affected thereby."

Title of Act:

An Act validating ad valorem tax bonds heretofore issued, sold, and delivered by any city for public recreation tower structure purposes; validating all elections, proceedings, ordinances, and other acts pertaining to all such bonds; providing this Act shall not validate any proceeding which may have been nullified by a final judgment of a court of competent jurisdiction; and declaring an emergency. Acts 1967, 60th Leg., p. 1198, ch. 535.

Art. 835p. Cities of 600,000 or more; limitation on bonded indebtedness

Section 1. This Act shall be applicable to all cities having a population of six hundred thousand (600,000) or more according to the then last preceding Federal Census.

Sec. 2. Any such city shall be authorized to incur total bonded indebtedness by the issuance of tax-supported bonds, whether voted prior to or after the effective date of this Act, in an amount not exceeding ten (10%) per cent of the total assessed valuation of property shown by the last assessment roll of such city, notwithstanding that the limit of total bonded indebtedness fixed in dollars by the city charter is a lesser amount. Acts 1967, 60th Leg., p. 38, ch. 18, emerg. eff. March 17, 1967.

Title of Act:

An Act authorizing cities with a population of six hundred thousand (600,000) or more according to the then last preceding Federal Census to incur total bonded indebtedness in an amount not exceeding ten (10%) per cent of the total assessed valua-

tion of property shown by the last assessment roll of such a city, notwithstanding the limit of total bonded indebtedness fixed in dollars by the city charter is a lesser amount; and declaring an emergency. Acts 1967, 60th Leg., p. 38, ch. 18.

TITLE 23—BRANDS AND TRADE MARKS

Art. 843. Repealed. Acts 1967, 60th Leg., vol. 2, p. 2343, ch. 785, § 4.
Eff. Sept. 1, 1967

Acts 1967, 60th Leg., vol. 2, p. 2343, ch. 785, adopting the Business & Commerce Code, repealed article 843 effective September 1, 1967.

For text of the Business and Commerce Code, with Tables and Index, see page 1485.

See, now, V.A.T.C. Bus. & C., § 17.29.

Art. 851—C. Repealed. Acts 1967, 60th Leg., vol. 2, p. 2343, ch. 785, § 4. Eff. Sept. 1, 1967

Acts 1967, 60th Leg., vol. 2, p. 2343, ch. 785, adopting the Business & Commerce Code, repealed article 851—C effective September 1, 1967.

For text of the Business and Commerce Code, with Tables and Index, see page 1485.

See, now, V.A.T.C. Bus. & C., § 16.01 et seq.

TITLE 25—CARRIERS

2. BILLS OF LADING

§§ 890 to 898. Repealed. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721, § 10—102. Eff. June 30, 1966

Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721, enacting the Uniform Commercial Code, repealed articles 890 to 898 effective June 30, 1966. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721 was itself repealed by Acts 1967, 60th Leg., vol. 2, p. 2343, ch. 785, adopting the Business & Commerce Code effective September 1, 1967. However, the latter Act specifically provided that the repeal did not affect the prior operation of the 1965 Act or any prior action taken under it.

For text of the Business and Commerce Code, with Tables and Index, see page 1485.

Art. 899. Repealed. Acts 1967, 60th Leg., vol. 2, p. 2343, ch. 785, § 4.
Eff. Sept. 1, 1967

Acts 1967, 60th Leg., vol. 2, p. 2343, ch. 785, adopting the Business & Commerce Code, repealed article 899 effective September 1, 1967.

For text of the Business and Commerce Code, with Tables and Index, see page 1485.

See, now, V.A.T.C. Bus. & C., § 35.15.

TITLE 26—CEMETERIES

Art. 912a—24. Location of cemetery

(a) It shall be unlawful for any person, company, corporation, or association to establish or use for burial purposes any graveyard or cemetery, or any mausoleum and/or cemetery except in a cemetery heretofore established and operating, located within, or within less than one (1) mile from, the incorporated line of any city of not less than five thousand (5,000) nor more than twenty-five thousand (25,000) inhabitants according to the last preceding Federal Census, or within, or within less than two (2) miles from, the incorporated line of any city of not less than twenty-five thousand (25,000) nor more than fifty thousand (50,000) inhabitants according to the last preceding Federal Census, or within, or within less than three (3) miles from, the incorporated line of any city of not less than fifty thousand (50,000) nor more than one hundred thousand (100,000) inhabitants according to the last preceding Federal Census, or within, or within less than four (4) miles from, the incorporated line of any city of not less than one hundred thousand (100,000) nor more than two hundred thousand (200,000) inhabitants, according to the last preceding Federal Census, or within, or within less than five (5) miles from, the incorporated line of any city of not less than two hundred thousand (200,000) inhabitants, according to the last preceding Federal Census; provided that where cemeteries have heretofore been used and maintained within the limits hereinabove set forth, and additional lands are required for cemetery purposes, land adjacent to said cemetery may be acquired by the cemetery association operating such cemetery, to be used as an addition to such cemetery, and the use of said additional land for such purposes shall be exempt from the provisions of this Section; and further provided that the establishment or use of a columbarium by any organized religious society or sect as a part of or attached to the principal church building owned by such religious society or sect, and within the limits hereinabove set forth, shall not be unlawful, and shall be exempt from the provisions of this Section.

(b) Notwithstanding the provisions of subsection (a) of this Section, it shall be lawful for any person, company, corporation or association to establish or use for burial purposes any graveyard or cemetery, or any mausoleum within one (1) mile of the incorporated line of any city located in any county having a population of not less than 16,799 nor more than 16,850 inhabitants, according to the last preceding Federal Census; provided that such graveyard, cemetery or mausoleum is established within two years from the effective date of this Act.

Amended by Acts 1967, 60th Leg., p. 2065, ch. 767, § 1, eff. Aug. 28, 1967.

TITLE 28—CITIES, TOWNS AND VILLAGES

CHAPTER ONE—CITIES AND TOWNS

Art. 969c—1. Termination of perpetual trust funds for cemeteries of municipalities in certain counties [New].

974c—7. Validation of annexation of entire territory of water control and improvement district [New].

Art. 974d—12. Validation of incorporation; boundary lines; governmental proceedings; exceptions; home rule cities and towns of 6,900 to 7,100 [New].

974f—1. Annexation of streets, highways and alleys by cities of 14,200 to 14,600 inhabitants [New].

Art. 969c—1. Termination of perpetual trust funds for cemeteries of municipalities in certain counties

Section 1. This Act shall apply to all municipalities whether created by general law, special act, or under the home-rule charter, in counties having a population of not less than 120,000 and not more than 186,000, according to the last preceding federal census.

Sec. 2. The governing body of said municipalities may abolish and terminate perpetual trust funds for their cemeteries and to use all moneys therein, both principal and interest, on permanent improvements for their cemeteries.

Acts 1967, 60th Leg., p. 1824, ch. 703, eff. Aug. 28, 1967.

Title of Act:

An Act permitting the termination of perpetual trust funds for cemeteries of municipalities in counties with a popula-

tion of not less than 120,000 and not more than 186,000; and declaring an emergency. Acts 1967, 60th Leg., p. 1824, ch. 703.

Art. 974c—7. Validation of annexation of entire territory of water control and improvement district

Section 1. In each instance where an incorporated city, after a public hearing, has annexed or attempted to annex the entire territory of a water control and improvement district pursuant to the annexation provisions of The Municipal Annexation Act, Chapter 160, Acts of the 58th Legislature, Regular Session¹, each and all of said annexations are hereby in all respects validated as of the date of the ordinance annexing or attempting to annex said territory, and the ordinance annexing or attempting to annex such territory or the proceedings in connection with said annexation or attempted annexation shall not be held void or invalid by reason of the fact that the proceedings may not have been in accordance with law.

Sec. 2. The boundary lines of all such cities including the territory of annexed areas or areas attempted to be annexed which include the territory of an entire water control and improvement district are in all things validated as of the date of the ordinance annexing or attempting to annex said territory.

Sec. 3. The provisions of this Act shall not apply to any city or town now involved in litigation questioning the legality of the incorporation or extension of boundaries or any of the acts or proceedings hereby validated if such litigation is ultimately determined against the legality thereof.

Acts 1967, 60th Leg., p. 1300, ch. 577, emerg. eff. June 16, 1967.

¹ Article 970a.

Section 4 of the act of 1967 provided: "If any word, phrase, clause, sentence, or part of this Act shall be held by any court of competent jurisdiction to be invalid or unconstitutional, or for other reasons void or unconstitutional, it shall not affect any other word, phrase, clause, sentence or part of

this Act, and such remaining portions shall remain in full force and effect."

Title of Act:

An Act validating the proceedings and ordinances by incorporated cities annexing or attempting to annex areas that include

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the entire territory of a water control and improvement district where a public hearing has been held; validating the boundaries of such city after such annexation or attempted annexation; providing certain

limitations as to the application of the Act; providing a savings clause; and declaring an emergency. Acts 1967, 60th Leg., p. 1300, ch. 577.

Art. 974d—12. Validation of incorporation; boundary lines; governmental proceedings; exceptions; home rule cities and towns of 6,900 to 7,100

Section 1. The incorporation proceedings of all home-rule cities and towns having a population of 6,900 to 7,100 and all cities and towns in this state heretofore incorporated or attempted to be incorporated under the general laws of the State of Texas, whether under the aldermanic or commission form of government, and which have functioned or attempted to function as incorporated cities or towns since the date of such incorporation or attempted incorporation, are hereby in all respects validated as of the date of such incorporation or attempted incorporation; and the incorporation of such cities and towns shall not be held invalid by reason of the fact that the election proceedings or incorporation proceedings may not have been in accordance with law.

Sec. 2. The boundary lines of all such cities and towns, including both the boundary lines covered by the original incorporation proceedings and any subsequent extensions thereof, are hereby in all things validated. No boundary extension of any kind shall be deemed invalid by failure to comply with requirements of publication, whether such requirements are imposed by statute, general law or charter, and such extensions are hereby in all things validated. In the event of multiple annexations covering the same territory, the proceedings prior in time shall prevail despite any irregularities hereby validated.

Sec. 3. All governmental proceedings performed by the governing bodies of all such cities and towns and all officers thereof since their incorporation or attempted incorporation are hereby in all respects validated as of the date of such proceedings.

Sec. 4. The provisions of this Act shall not apply to any city or town now involved in litigation questioning the legality of the incorporation or extension of boundaries or any of the acts or proceedings hereby validated if such litigation is ultimately determined against the legality thereof; nor shall this Act be construed as validating any proceeding which may have been nullified by a final judgment of a court of competent jurisdiction.

Acts 1967, 60th Leg., p. 2023, ch. 747, emerg. eff. June 18, 1967.

Section 5 of the act of 1967 provided: "If any word, phrase, clause, sentence, or part of this Act shall be held by any court of competent jurisdiction to be invalid or unconstitutional, or for other reasons void or unconstitutional, it shall not affect any other word, phrase, clause, sentence or part of this Act, and such remaining portions shall remain in full force and effect."

Title of Act:

An Act validating the incorporation of home-rule cities and towns having a population of 6,900 to 7,100 and all cities and towns heretofore incorporated or attempted

to be incorporated under the general laws of Texas; validating the boundary lines thereof, covered by the original incorporation proceedings and any subsequent extensions; providing that in certain multiple annexations, proceedings prior in time shall prevail despite irregularities validated; validating governmental proceedings; providing certain limitations as to the application of the Act; providing a saving clause; and declaring an emergency. Acts 1967, 60th Leg., p. 2023, ch. 747.

Art. 974f—1. Annexation of streets, highways and alleys by cities of 14,200 to 14,600 inhabitants

Section 1. Any city incorporated and operating under the general laws of this state, having not less than 14,200 inhabitants nor more than 14,600 inhabitants according to the last preceding federal census may, by ordinance duly passed and enacted by its governing body, annex streets, high-

ways, and alleys contiguous and adjacent to the city limits, and incorporate such streets, highways, and alleys within the corporate limits of the city.

Sec. 2. Before the governing body of a city may pass and enact the ordinance described in Section 1 of this Act, the governing body must advertise the ordinance as provided by Article 1013, Revised Civil Statutes of Texas, 1925, as amended.

Acts 1967, 60th Leg., p. 107, ch. 51, eff. Aug. 28, 1967.

Title of Act:

An Act authorizing the annexation of streets, highways, and alleys by the governing bodies of certain cities; prescribing the method for such annexation; and declaring an emergency. Acts 1967, 60th Leg., p. 107, ch. 51.

CHAPTER TWO—OFFICERS AND THEIR ELECTIONS

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| <p>Art.
978b. Joint elections in cities and school districts [New].</p> | <p>Art.
980b. Election of aldermen by place system in cities and towns not divided into wards [New].</p> |
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Art. 978. [785] [388] [345] Election

An election shall be held annually in each ward of said city on the first Saturday in April, at such places as the city council may direct, and of which twenty days' notice shall be given. Such election shall be ordered and notice thereof given, and the election officers and watchers appointed, as provided by the general laws pertaining to elections. The election officers must be qualified voters in the city. The city council shall provide for their compensation.

Amended by Acts 1967, 60th Leg., p. 1930, ch. 723, § 73, eff. Aug. 28, 1967.

Synopsis of Changes—1967

<p>Arts. 978, 1144 and 1158 are amended to change the date for election of city officers from the first Tuesday in April to the first Saturday in April, to correspond with the date on which most school districts hold their elections for school trustees. Art.</p>	<p>978a, which permitted home rule cities to combine their elections for choosing officers with school trustee elections held on the same day, is amended to extend to all cities and towns.</p>
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<p>Acts 1967, 60th Leg., p. 1858, ch. 723, §§ 1-68, amended, revised and added various articles to V.A.T.S. Election Code; sections 69-72 of the 1967 act amended various articles of the Penal Code; sections 73-76 amended and added various articles to the</p>	<p>Civil Statutes and sections 77 and 78 thereof, repealing various articles of the Election Code, Penal Code and Civil Statutes and providing for the applicability of the act to certain elections, are set out as notes under V.A.T.S. Election Code, art. 1.01a.</p>
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Art. 978b. Joint elections in cities and school districts

Whenever an election of members of the board of school trustees of any school district, all or part of which is located within all or part of the territory of any home rule city or general law city, is to be held on the same day as an election of city officers of such city, the various officers, boards or bodies charged with the duty of appointing the election officers, providing the supplies, canvassing the returns, and paying the expenses of such elections may agree to hold the elections jointly and may agree upon the method for allocating the expenses for the joint election. Resolutions reciting the terms of the agreement shall be adopted by each of the participating boards or bodies. The agreement may provide for use of a single ballot form at each polling place, to contain all the offices to be voted on at that polling place, or for separate ballot forms, provided that all the offices and candidates for each city shall appear on the same ballot and all the offices and candidates for each school district shall ap-

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pear on the same ballot; provided further, that no voter shall be given a ballot containing the name of any candidate for whom the voter is ineligible to vote. One set of election officers may be appointed to conduct the joint election, and any person otherwise qualified who is a resident of either the city or school district concerned shall be eligible to serve as an election officer. Poll lists, tally sheets, and return forms for the various elections may be combined in any manner convenient and adequate to record and report the results of each election, and one set of ballot boxes and one stub box may be used for receiving all ballots and ballot stubs for the joint election. Returns on joint or separate forms may be made to, and the canvass made by, each officer, board or body designated by law to receive and canvass the returns of each election, or one of such officers, boards or bodies may be designated to receive and canvass the returns for the joint election and to report the results of each election to the proper authority. Where the counted ballots for two or more of the elections are deposited in a single ballot box, the box containing the counted ballots shall be returned to the officer or board designated in the agreement, which shall be an officer or board designated by law to receive and preserve the counted ballots for one of the elections constituting a part of the joint election.

Renumbered from art. 978a, § 2 and amended by Acts 1967, 60th Leg., p. 1931, ch. 723, § 74, eff. Aug. 28, 1967.

The provisions of this article were formerly codified as article 978a, § 2 and were officially designated as article 978b by Acts 1967, 60th Leg., p. 1858, ch. 723, § 74. See article 978a and notes thereunder.

Art. 980b. Election of aldermen by place system in cities and towns not divided into wards

In any city or town not divided into wards and incorporated under the general laws, and which city or town elects its aldermen from the city at large, at least sixty (60) days prior to any regular city election the city council may by ordinance provide that aldermen shall be elected by the place system. As soon as possible after the enactment of such ordinance, the city council shall assign place numbers to the offices of aldermen then held by the incumbent members thereof. Thereafter, as terms of incumbent aldermen expire, any candidate for the office of alderman in any city election in such city or town shall file his application for a specific place on the council, such as, "Alderman, Place No. 1", "Alderman, Place No. 2", "Alderman, Place No. 3", "Alderman, Place No. 4", or "Alderman, Place No. 5." In such election the ballot shall show each office of alderman as a separate office by place number, with the name of each candidate printed thereon under the specific office for which he is a candidate.

Acts 1967, 60th Leg., p. 293, ch. 138, § 1, eff. Aug. 28, 1967.

Title of Act: not divided into wards and operating under the general laws; and declaring an emergency. Acts 1967, 60th Leg., p. 293, ch. 138.

An Act providing for election by the place system of aldermen in cities and towns

CHAPTER THREE—DUTIES AND POWERS OF OFFICERS

Art. 998. [808] Police officers

The city or town council in any city or town in this State, incorporated under the provisions of this title may, by ordinance, provide for the appointment, term of office and qualifications of such police officers as may be deemed necessary. Such police officers so appointed shall receive a salary or fees of office, or both, as shall be fixed by the city council. Such council may, by ordinance, provide that such police officers shall hold their office at the pleasure of the city council, and for such term as

the city council directs. Such police officers shall give bond for the faithful performance of their duties, as the city council may require. Such officers shall have like powers, rights, authority and jurisdiction as are by said title vested in city marshals. Such police officers may serve all process issuing out of a corporation court anywhere in the county in which the city, town or village is situated. If the city, town or village is situated in more than one county, such officers may serve the process throughout those counties.

Amended by Acts 1967, 60th Leg., p. 1171, ch. 523, § 2, eff. Aug. 28, 1967.

Acts 1967, 60th Leg., p. 1171, ch. 523, § 1 section 3 of the act of 1967 amended art. amended Vernon's Ann.C.C.P. art. 45.04; 999.

Art. 999. [809] [407] [363] Marshal, duties, etc.

The marshal of the city shall be ex officio chief of police, and may appoint one or more deputies which appointment shall only be valid upon the approval of the city council. Said marshal shall, in person or by deputy, attend upon the corporation court while in session, and shall promptly and faithfully execute all writs and process issued from said court. For the purpose of executing all writs and process issued from the corporation court, the jurisdiction of the marshal extends to the boundaries of the county in which the corporation court is situated. If the corporation court is in a city which is situated in more than one county, the jurisdiction of the marshal extends to all those counties. He shall have like power, with the sheriff of the county, to execute warrants; he shall be active in quelling riots, disorder and disturbance of the peace within the city limits and shall take into custody all persons so offending against the peace of the city and shall have authority to take suitable and sufficient bail for the appearance before the corporation court of any person charged with an offense against the ordinance or laws of the city. It shall be his duty to arrest, without warrant, all violators of the public peace, and all who obstruct or interfere with him in the execution of the duties of his office or who shall be guilty of any disorderly conduct or disturbance whatever; to prevent a breach of the peace or preserve quiet and good order, he shall have authority to close any theatre, ballroom or other place or building of public resort. In the prevention and suppression of crime and arrest of offenders, he shall have, possess and execute like power, authority, and jurisdiction as the sheriff. He shall perform such other duties and possess such other powers and authority as the city council may by ordinance require and confer, not inconsistent with the Constitution and laws of this State. The marshal shall give such bond for the faithful performance of his duties as the city council may require. He shall receive a salary or fees of office, or both, to be fixed by the city council. The governing body of any city or town having less than three thousand inhabitants according to the preceding Federal census, may by an ordinance, dispense with the office of marshal, and at the same time by such ordinance confer the duties of said office upon any peace officer of the county, but no marshal elected by the people shall be removed from his office under the provisions of this article.

Amended by Acts 1967, 60th Leg., p. 1172, ch. 523, § 3, eff. Aug. 28, 1967.

Acts 1967, 60th Leg., p. 1171, ch. 523, § 1 section 2 of the act of 1967 amended article amended Vernon's Ann.C.C.P. art. 45.04; 998.

CHAPTER FOUR—THE CITY COUNCIL

Art. 1015f. Parking on private property [New].

Art. 1015g. Toll bridges over international boundary rivers, powers, respecting

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Refunding bonds

Sec. 13(d). The governing body of any such city or town which shall have issued bonds or warrants pursuant to this Act or has outstanding bonds or warrants or bonds and warrants, the interest on and the principal of which are payable from all or part of the gross or net revenues received by said city or town from or in respect to any such properties, shall have power and authority to issue refunding bonds to refinance or refund any or all of such bonds and warrants by the issuance of its refunding bonds, and any said governing body may pledge all or part of said gross or net revenues to the refunding bonds and may provide that the refunding bonds shall have the same relative priorities of lien as the bonds or warrants refunded, or in providing for the security of the refunding bonds, may combine liens of differing priorities securing the bonds or warrants refunded, into one or more issues of refunding bonds. The provisions of this Act, where not inconsistent with this Section, concerning form of bonds, sale, approval by the Attorney General, registration by the Comptroller of Public Accounts, and delivery pertaining to other bonds authorized to be issued pursuant to this Act shall apply to said refunding bonds.

Sec. 13(d) added by Acts 1967, 60th Leg., p. 561, ch. 248, § 1, emerg. eff. May 22, 1967.

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Art. 1015i. Parking on private property

Any incorporated city or town may by ordinance regulate the parking of motor vehicles on private property, and may enforce the ordinance in the same manner that it enforces ordinances regulating parking in public no-parking zones, including impoundment of offending vehicles.

Acts 1967, 60th Leg., p. 562, ch. 249, § 1, eff. Aug. 28, 1967.

Title of Act:

An Act authorizing cities to make and private property; and declaring an emergency. Acts 1967, 60th Leg., p. 562, ch. 249.

CHAPTER FIVE—TAXATION

1066c. Local Sales and Use Tax Act [New].

Art. 1042b. Assessment and collection of taxes in cities, towns, villages, drainage districts, and other districts

County assessor and collector as assessor and collector for city, town, etc.

Section 1. Any incorporated city, town or village, drainage district, water control and improvement district, water improvement district, fresh water supply district, navigation district or hospital district in the State of Texas is hereby authorized by ordinance or by proper resolution to authorize the county assessor of the county in which said incorporated city, town or village, drainage district, water con-

trol and improvement district, water improvement district, fresh water supply district, navigation district or hospital district is located to act as tax assessor for said incorporated city, town or village, drainage district, water control and improvement district, water improvement district, fresh water supply district, navigation district or hospital district or authorize the tax collector of the county in which said incorporated city, town or village, drainage district, water control and improvement district, water improvement district, fresh water supply district, navigation district or hospital district is situated to act as tax collector for said incorporated city, town or village, drainage district, water control and improvement district, water improvement district, fresh water supply district, navigation district or hospital district.

Duties of Tax Assessor

Sec. 2. When an ordinance or proper resolution is passed, making available the services of the county tax assessor to such incorporated city, town or village, drainage district, water control and improvement district, water improvement district, fresh water supply district, navigation district or hospital district, it shall be the duty of the said tax assessor of the county in which such incorporated city, town or village, drainage district, water control and improvement district, water improvement district, fresh water supply district, navigation district or hospital district and perform the duties of tax assessor for said incorporated city, town or village, drainage district, water control and improvement district, water improvement district, fresh water supply district, navigation district or hospital district according to the ordinances and resolutions of said incorporated city, town or village, drainage district, water control and improvement district, water improvement district, fresh water supply district, navigation district or hospital district, and according to law.

Duties of Tax Collector

Sec. 3. When an ordinance or proper resolution is passed availing such incorporated cities, towns or villages, drainage districts, water control and improvement districts, water improvement districts, fresh water supply districts, navigation districts or hospital districts of the services of the county tax collector, it shall be the duty of said tax collector of the county in which said incorporated cities, towns or villages, drainage districts, water control and improvement districts, water improvement districts, fresh water supply districts, navigation districts or hospital districts are situated to collect the taxes and assessments for said incorporated cities, towns or villages, drainage districts, water control and improvement districts, water improvement districts, fresh water supply districts, navigation districts or hospital districts and turn over as soon as collected to the respective proper depository of said incorporated cities, towns or villages, drainage districts, water control and improvement districts, water improvement districts, fresh water supply districts, navigation districts or hospital districts, or other authority authorized to receive such taxes or assessments, all taxes or moneys collected for said incorporated cities, towns or villages, drainage districts, water control and improvement districts, water improvement districts, fresh water supply districts, navigation districts or hospital districts according to the ordinances or resolutions of said incorporated cities, towns or villages, drainage districts, water control and improvement districts, water improvement districts, fresh water supply districts, navigation districts or hospital districts, and according to law, less his fees hereinafter provided for, and shall perform the duties of tax collector of said incorporated cities, towns or villages, drainage districts, water control and improvement districts, water improvement districts, fresh water supply districts, navigation districts or hospital districts.

Valuation

Sec. 4. The property situated within and subject to taxation in said incorporated cities, towns or villages, drainage districts, water control and improvement districts, water improvement districts, fresh water supply districts, navigation districts or hospital districts taking advantage of this Act shall be assessed at the same value as it is assessed for county and state purposes.

Compensation of County Assessor and County Collector

Sec. 5. When the county assessor and county collector are required to assess and collect the taxes in any incorporated city, town or village, drainage district, water control and improvement district, water improvement district, fresh water supply district, navigation district or hospital district, they shall respectively receive for such services an amount to be agreed upon by the governing body of such incorporated cities, towns or villages, drainage districts, water control and improvement districts, water improvement districts, fresh water supply districts, navigation districts or hospital districts, and the commissioners court of the county in which such incorporated cities, towns or villages, drainage districts, water control and improvement districts, water improvement districts, fresh water supply districts, navigation districts or hospital districts are situated not to exceed one percent of the taxes so collected."

Amended by Acts 1967, 60th Leg., p. 859, ch. 366, § 1, eff. Aug. 28, 1967.

Section 2 of the act of 1967 was a severability provision.

Art. 1064. [962] [521] [450] One year redemptions

If the real estate of an infant or lunatic be sold under this title, the same may be redeemed at any time within one year after such disability be removed.

Amended by Acts 1967, 60th Leg., p. 739, ch. 309, § 3, eff. Jan. 1, 1968.

Section 1 of Acts 1967, 60th Leg., p. 735, ch. 309 revised and amended chapters 2 and 3 of Title 75; section 2 of the act amended articles 6632 and 6647; section 4 of the act added article 3.49—3 to V.A.T.S. Insurance Code; section 5 of the act amended article 5460; and sections 6—8, which repealed var-

ious articles, validated certain acknowledgments of married women and provided an effective date, are set out as notes under article 4610.

Section 3 of the act of 1967 also amended articles 5518, 5519 and 5535.

Art. 1066b. Assessor, collector and equalization board acting for included municipality or district

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Payments in installments; penalties and interest

Sec. 1b. Any city which is acting as Tax Assessor, Board of Equalization, and Tax Collector of other districts or municipalities as provided for in this Act may by ordinance provide for payment in installments and for payment of penalties and interest at the time and in the manner prescribed by Article 7255, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 14, page 651, General Laws, Acts of the 46th Legislature, 1939 (Article 7255, Vernon's Texas Civil Statutes), and Article 7336, Revised Civil Statutes of Texas, 1925, as last amended by Section 3, Chapter 16, page 654, General Laws, Acts of the 46th Legislature, 1939 (Article 7336, Vernon's Texas Civil Statutes), or the city may by ordinance provide that all taxes collected by the city and districts and municipalities for which it is collecting taxes shall be payable on October 1 of the year for which an assessment is made, and that if such taxes are not paid in full on or before January 31 of the succeeding year, the follow-

ing penalties and interest shall be payable: During the month of February, one percent; during the month of March, two percent; during the month of April, three percent; during the month of May, four percent; during the month of June, five percent; and on and after the first day of July, eight percent; and all delinquent taxes shall bear interest at the rate of six percent per annum from the date of their delinquency until paid.

Sec. 1b added by Acts 1967, 60th Leg., p. 1079, ch. 473, § 1, emerg. eff. June 12, 1967.

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Art. 1066c. Local Sales and Use Tax Act

Title of act; definitions

Section 1. This Act is known and may be cited as the "Local Sales and Use Tax Act," and the following words shall have the following meanings unless a different meaning clearly appears from the context:

A. Comptroller. "Comptroller" shall mean the Comptroller of Public Accounts of the State of Texas.

B. City. "City" shall mean any incorporated city, town, or village in the State of Texas.

C. Title 122A. "Title 122A" shall mean Title 122A, Taxation—General of the Revised Civil Statutes of Texas, 1925, and as heretofore or hereafter amended.

Authority to adopt tax; imposition and rate; election and ballots; canvass of returns; results of election; city boundaries; tax schedule and bracket system formula for joint collection of taxes; standards

Sec. 2. A. Any city may, by a majority vote of the qualified voters of said city voting at an election held for that purpose, adopt a local sales and use tax for the benefit of such city in accordance with the provisions of this Act.

B. The sales tax portion of any local sales and use tax adopted under this Section is hereby imposed at the rate of one percent (1%) on the receipts from the sale at retail of all tangible personal property within any city adopting such tax which property is subject to taxation by the State of Texas under the provisions of the Limited Sales, Excise and Use Tax Act, as enacted, and as heretofore or hereafter amended.

C. The governing body of any city may, by a majority vote of its members qualified and serving, or shall, upon petition of qualified voters of said city equal in number to at least twenty percent (20%) of the total number of votes cast in the last preceding regular city election, provide by ordinance for the calling and holding of an election on such question.

D. If such election is initiated by petition of qualified voters, the governing body of the city shall have thirty (30) days after receipt of such petition to determine the sufficiency thereof and, if such petition is sufficient, shall within sixty (60) days after receipt of such petition pass the ordinance calling such election.

E. The ordinance calling such election shall provide for the submission of such question at an election to be held not less than thirty (30) days nor more than ninety (90) days after the passage of said ordinance. If the next regular city election is to be held during such period, the submission of such question shall be at such election; otherwise, a special election shall be called for the purpose.

F. Notice of said election shall be given by causing a substantial copy of the ordinance calling the election to be published on the same day of two successive weeks in a newspaper of general circulation published within said city, the date of the first publication to be at least twenty-one (21) days prior to the date set for such election. If there be no newspaper

For Annotations and Historical Notes, see V.A.T.S.

published within the city, such ordinance may be published in some newspaper having general circulation within the city. The provisions of this Section shall prevail over any city charter provision to the contrary.

G. The ballot at such election shall have printed on it the following:

"FOR adoption of a one percent (1%) local sales and use tax within the city."

"AGAINST adoption of a one percent (1%) local sales and use tax within the city."

The election shall be conducted in the manner provided by law for other municipal elections unless otherwise specified herein. If a majority of the votes cast at such an election be in favor of the adoption of a local sales and use tax, the same shall be effective in such city as follows: In order to allow time for the Comptroller's administrative duties under this Act, there shall elapse one whole calendar quarter after the Comptroller receives notice of adoption of such tax provided for in this Act, after which such local sales and use tax shall be effective in such city beginning on the first day of the calendar quarter next succeeding such elapsed quarter.

H. In any city in which a local sales and use tax has been imposed in the manner provided for herein, in the same manner and by the same procedure such city may by majority vote of the qualified voters of said city voting at an election held for that purpose abolish such tax. The ballot for any such election shall have printed on it the following:

"FOR abolition of the local sales and use tax within the city."

"AGAINST abolition of the local sales and use tax within the city."

If a majority of the votes cast at any such election be in favor of the abolition of such tax, such local sales and use tax shall be thereby abolished effective in such city as follows: There shall elapse one whole calendar quarter after the Comptroller receives the notice of abolition of such tax, after which such local sales and use tax shall be abolished in such city beginning on the first day of the calendar quarter next succeeding such elapsed quarter.

I. Within ten (10) days after any election held under the provisions of this Section at which a majority of the qualified voters voting at such election in any city shall vote in favor of the adoption or the abolition of a local sales and use tax within such city, the governing body of such city shall canvass the returns of such election and by ordinance or resolution entered in the minutes declare the results of such election. Thereafter, the City Secretary shall forward to the Comptroller by United States Registered Mail or Certified Mail a certified copy of the ordinance or resolution of the governing body canvassing the returns and declaring the result of such election. Such ordinance or resolution shall reflect the date of the election in such city, the proposition voted on, the total number of votes cast for and against the proposition, and the number of votes by which the proposition was approved, and shall be accompanied by a map of the city clearly showing the boundaries thereof. If a majority of votes be found to be against any proposition, so that the tax status of such city under this Act is not changed, no notice of the results of the election shall be filed with the Comptroller.

J. If any city in which a local sales and use tax has been imposed in the manner provided for herein shall thereafter change or alter its boundaries, the City Secretary of such city shall forward to the Comptroller by United States Registered Mail or Certified Mail a certified copy of the ordinance adding or detaching territory from such city. Such ordinance shall reflect the effective date thereof, and shall be accompanied by a map of the city clearly showing the territory added thereto or detached therefrom. Upon receipt of such ordinance and map, the tax imposed by this Act shall be effective in such added territory or abolished in such detached territory on the first day of the next succeeding quarter; provided that if the Comptroller shall notify the City Secretary in writing

within ten (10) days after receipt of such ordinance and map that he requires more time, the Comptroller shall be entitled to the elapsed calendar quarter referred to in Subsection G of this Section before such tax shall be imposed in such added territory or abolished in such detached territory.

K. (1) In each city in which a local sales and use tax has been imposed in the manner provided by this Act, every retailer shall add the tax imposed by the Limited Sales, Excise and Use Tax Act of the State of Texas and the tax imposed by this Act to his sale price, and when added, the combined tax shall constitute a part of the price, shall be a debt of the purchaser to the retailer until paid, and shall be recoverable at law in the same manner as the purchase price. When the sale price in such city shall involve a fraction of a dollar, the two combined taxes shall be added to the sale price upon the schedule and bracket system formula set forth in Paragraphs (2) and (3) of this subsection.

(2) When such Limited Sales, Excise and Use Tax imposed by the State of Texas shall be at the rate of two percent (2%) on the receipts from the sale at retail of all tangible personal property within this State which is subject to such tax, and the Local Sales and Use Tax imposed in any city under authority of this Act shall be at the rate of one percent (1%) on the receipts from the sale of all tangible personal property within such city which is subject to such tax, the total gross rate of such combined taxes in such city shall be at the rate of three percent (3%) on the receipts from the sale of all tangible personal property within such city which is subject to such taxes. When the sale price shall involve a fraction of a dollar, the taxes shall be added to the sale price upon the following schedule:

Amount of Sale	Tax
\$.01 to \$.16	No Tax
.17 to .49	\$.01
.50 to .83	.02
.84 to 1.16	.03
1.17 to 1.49	.04
1.50 to 1.83	.05

Provided, that for successive brackets for this schedule in this paragraph, the tax shall be computed by multiplying three percent (3%) times the amount of the sale. Any fraction of one cent (\$.01) which is less than one half of one cent (\$.005) of tax shall not be collected. Any fraction of one cent (\$.01) of tax equal to one half of one cent (\$.005) or more shall be collected as a whole cent (\$.01) of tax.

(3) In the event the Legislature shall either increase or decrease the rate of such State Limited Sales, Excise and Use Tax, the combined rate of the State Limited Sales, Excise and Use Tax and the Local Sales and Use Tax shall be the sum of the two rates, in which event the schedule for collection of such combined taxes shall be calculated by multiplying the combined tax rate times the amount of the sale. Any fraction of one cent (\$.01) which is less than one half of one cent (\$.005) of tax shall not be collected. Any fraction of one cent (\$.01) of tax equal to one half of one cent (\$.005) or more shall be collected by the retailer as a whole cent (\$.01) of tax. The Comptroller may publish a schedule based on the above formula for use in those cities which have imposed a Local Sales and Use Tax under the authority of this Act, and which cities have a need for such schedule under the provisions of this paragraph.

Frequency of elections

Sec. 3. No election upon a proposition to adopt a local sales and use tax in any city or to abolish such tax in such city shall be held within two (2) years from the date of the last preceding election in such city on any of such propositions.

CITIES, TOWNS AND VILLAGES Art. 1066c
 For Annotations and Historical Notes, see V.A.T.S.
**Excise tax; combined rate of excise tax; imposition,
 rate and collection of tax**

Sec. 4. A. In every city where the local sales and use tax has been adopted pursuant to the provisions of this Act, there is hereby imposed an excise tax on the storage, use, or other consumption within such city of tangible personal property purchased, leased, or rented from any retailer on or after the effective date for collection of the sales tax portion of the local sales and use tax for storage, use or other consumption in such city at the rate of one percent (1%) of the sales price of the property or, in the case of leases or rentals, of said lease or rental price; provided, that if no excise tax on the storage, use or other consumption of any article or item of tangible personal property is owed to or collected by the State of Texas under the State Limited Sales, Excise and Use Tax Act, then the tax imposed by this Section shall not be owed to and shall not be collected by, for or in behalf of such city for storage or other consumption of such article or item of tangible personal property within such city.

B. In each city where the local sales and use tax has been imposed as provided in Section 2 of this Act, the excise tax imposed under the State Limited Sales, Excise and Use Tax Act on the storage, use, or other consumption of tangible personal property and the excise tax imposed by this Section of this Act shall be added together to form a combined rate of excise tax which is equal to the sum of the two taxes. The tax imposed by this Section of this Act shall be collected by the Comptroller on behalf of and for the benefit of such city. The bracket system formula prescribed in Subsection K of Section 2 of this Act shall be applicable to the collection of the excise tax imposed under this Section.

C. The provisions of Subdivisions (A), (B), (C), (D), (E), (F), (G), (H), (I), (J), (K), and (L) of Article 20.03, Chapter 20, Title 122A, as enacted and as heretofore or hereafter amended, shall be applicable to the collection of the tax imposed by this Section, provided that the name of the city where the local sales and use tax has been adopted shall be substituted for that of the State where the words "this State" are used to designate the taxing authority or to delimit the tax imposed; and provided further that the effective date for commencing the collection of the sales tax portion of the tax imposed by this Act in any city shall be substituted for the phrase "the effective date of this Chapter."

**Comptroller; functions for administration, collection,
 enforcement and operation of tax**

Sec. 5. On and after the effective date of any tax imposed under the provisions of this Act, the Comptroller shall perform all functions incident to the administration, collection, enforcement, and operation of the tax, and the Comptroller shall collect, in addition to the Limited Sales, Excise and Use Tax for the State of Texas, an additional tax under the authority of this Act of one percent (1%) on the receipts from the sale at retail or on the sale price or lease or rental price on the storage, use, or other consumption of all tangible personal property within such city which property is subject to the State Limited Sales, Excise and Use Tax Act. The tax imposed hereunder and the tax imposed under the Limited Sales, Excise and Use Tax Act shall be collected together and reported upon such forms and under such administrative rules and regulations as may be prescribed by the Comptroller. On and after the effective date of any proposition to abolish such local sales and use tax in any city, the Comptroller shall comply therewith as provided in this Act.

Provisions governing collection of tax

Sec. 6. The following provisions shall govern the collection by the Comptroller of the tax imposed by this Act:

A. All applicable provisions contained in Chapter 20 of Title 122A shall apply to the collection of the tax imposed by this Act, except as modified in this Act.

B. (1) For the purposes of the local sales tax imposed by this Act, all retail sales, leases and rentals, except sales of natural gas or electricity, are consummated at the place of business of the retailer unless the tangible personal property sold, leased, or rented is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. In the event the retailer has no permanent place of business in the State, the place or places at which the retail sales, leases, or rentals are consummated for the purposes of the tax imposed by this Act shall be determined under rules and regulations prescribed by the Comptroller. If the retailer has more than one place of business in the State, the place or places at which retail sales, leases, and rentals are consummated shall be the retailer's place or places where the purchaser or lessee takes possession and removes from the retailer's premises the articles of tangible personal property, or if the retailer delivers the tangible personal property to a point designated by the purchaser or lessee, then the sales, leases, or rentals are consummated at the retailer's place or places of business from which tangible personal property is delivered to the purchaser or lessee. The sale of natural gas or electricity is consummated at the point of delivery to the consumer.

(2) For the purpose of the excise tax imposed by this Act on any retailer holding tangible personal property purchased on a Resale Certificate, and which property becomes subject to such excise tax by reason of use or other consumption of such property, such use or other consumption of such property is consummated at the place of business of the retailer, unless the tangible personal property is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. If the retailer has more than one place of business in this State, the place at which such use or consumption is consummated shall be the last place of business of such retailer where such property is stored or kept at the time of or just prior to its use or consumption.

(3) For the purpose of the taxes imposed by this Act, any tangible personal property owned by a consumer to whom a direct payment permit has been issued by the Comptroller under the provisions of Paragraph (K) of Article 20.05, Chapter 20, Title 122A, which property becomes subject to the taxes imposed by this Act by reason of use or consumption of such property in this State, such use or other consumption of such property is consummated at the last place of business in this State where such property is used or where such property is stored or kept at the time of or just prior to its use or consumption in this State.

C. All exemptions granted to agencies of government, organizations, persons, and to the sale, storage, use, and other consumption of certain articles and items of tangible personal property under the provisions of Article 20.04, Chapter 20, Title 122A, are hereby made applicable to the imposition and collection of the tax imposed by this Act; except that in applying Paragraph (H) of said Article 20.04 to the collection of the tax imposed by this Act, the following words and phrases in said Paragraph (H) shall have the following meaning in this Act: the phrase "this Chapter" shall mean the Local Sales and Use Tax Act; the phrase "September 1, 1961" or the phrase "August 16, 1961" shall mean the date on which the Local Sales and Use Tax becomes effective in any city; and the phrase "August 31, 1964" shall mean the date on which three (3) years shall have elapsed since the date on which the tax imposed by this Act became effective in any city.

D. The same sales tax permit, exemption certificate, and resale certificate required by Chapter 20 of Title 122A for the administration and collection of the State Limited Sales, Excise and Use Tax shall satisfy the requirements of this Act, and no additional permit or exemption certificate or resale certificate shall be required; except that the Comptroller may prescribe a form of exemption certificate for an exemption from

For Annotations and Historical Notes, see V.A.T.S.

the tax imposed by this Act as a result of a prior contract under Subsection C of this Section.

E. All discounts allowed the retailer under the provisions of the Limited Sales, Excise and Use Tax Act for the collection of and for prepayment of taxes under that Act are hereby allowed and made applicable to any taxes collected under the provisions of this Act.

F. The penalties provided in Chapter 20 of Title 122A (Limited Sales, Excise and Use Tax Act) for violations of that Act are hereby made applicable to violations of this Act.

Deposit of revenues; suspense accounts; surety bonds

Sec. 7. A. Any local sales and use tax collected by the Comptroller under this Act on behalf of any city shall be deposited with the State Treasurer in trust and shall be kept in a separate suspense account for each such city.

B. The Comptroller, and any of his deputies, assistants, and employees, who shall have any duties or responsibilities in connection with the collection, deposit, transfer, transmittal, disbursement, safekeeping, accounting, or recording of funds which come into the hands of the Comptroller under the provisions of this Act shall enter into a surety bond or bonds payable to any and all cities in whose behalf such funds have been collected under this Act in the amount of \$100,000; provided that the Comptroller may enter into a blanket bond or bonds covering himself and all such deputies, assistants, and employees. The cost of the premium or premiums for such surety bond or bonds shall be paid by the Comptroller from out of the share of such collections retained by the Comptroller for the benefit of the State. At any time when any premium or premiums on such bond or bonds are due and payable, the Comptroller shall pay the cost of same out of the State's share of such collection in his hands, and deposit the balance of the State's share as provided in Section 8 of this Act.

Transmission of revenues; deductions; retention of revenues; refunds; closing of accounts

Sec. 8. Each city's share of all local sales and use tax collected under this Act by the Comptroller shall be transmitted to the Treasurer or the officer performing the functions of such office of such city by the Comptroller payable to the city periodically as promptly as feasible. Transmittals required under this Act shall be made at least twice in each State fiscal year. The funds so transmitted may be used by the city for any purpose for which the general funds of the city may be used. Before transmitting such funds, the Comptroller shall deduct two percent (2%) of the sum collected from each such city during such period as a charge by the State of Texas for its services specified in this Act, and the amounts so deducted, subject to the provisions of Section 7B of this Act, shall be deposited by the Comptroller in the State Treasury to the credit of the General Revenue Fund of the State. The Comptroller is authorized to retain in the suspense account of any city a portion of the city's share of the tax collected under this Act. Such balance so retained in the suspense account shall not exceed five percent (5%) of the amount remitted to the city. The Comptroller is authorized to make refunds from the suspense account of any city for overpayments made to such accounts, and to redeem dishonored checks and drafts deposited to the credit of the suspense accounts of such cities. When any city shall adopt the Local Sales and Use Tax, and shall thereafter abolish such tax, the Comptroller may retain in the suspense account of such city for a period of one year five percent (5%) of the final remittance to each such city at the time of termination of collection of such tax in such city to cover possible refunds for overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of such

accounts. After one year has elapsed after the effective date of abolition of such tax in such city, the Comptroller shall remit the balance in such account to the city and close the account.

Pledge of anticipated revenue

Sec. 9. Money collected under this Act is for the use and benefit of the cities of the state; but no city may pledge anticipated revenue from this source to secure the payment of bonds or other indebtedness.

Existing powers of taxation

Sec. 10. Nothing in this Act shall be construed to abolish or limit existing powers of taxation of any city.

Comptroller; rules and regulations

Sec. 11. The Comptroller may promulgate reasonable rules and regulations, not inconsistent with the provisions of this Act, to implement the enforcement, administration, and collection of the taxes authorized herein.

**Delinquent taxes; collection suits; notice and limitations; parties;
seizure and sale of property**

Sec. 12. A. In any city where the Local Sales and Use Tax has been imposed, if any person is delinquent in the payment of the amount required to be paid by him under this Act or in the event a determination has been made against him for taxes and penalty under this Act, the limitation for bringing suit for the collection of such delinquent tax and penalty shall be the same as that provided in Article 20.09, Chapter 20, Title 122A. Where the Comptroller has determined that suit must be filed against any person for the collection of delinquent taxes due the State under the Limited Sales, Excise and Use Tax Act, and where such person is also delinquent in payment of taxes under this Act, the Comptroller shall notify the Tax Collector of the city to which delinquent taxes are due under this Act by United States Registered Mail or Certified Mail at least ten (10) days before turning the case over to the Attorney General. The city, acting through its attorney, may join in such suit as a party plaintiff to seek a judgment for the delinquent taxes and penalty due such city.

B. Where property is seized by the Comptroller under the provisions of any law authorizing seizure of the property of a taxpayer who is delinquent in payment of the tax imposed by the State Limited Sales, Excise and Use Tax Act, and where such taxpayer is also delinquent in payment of any tax imposed by this Act, the Comptroller shall sell sufficient property to pay the delinquent taxes and penalty due any city under this Act in addition to that required to pay any amount due the State under the Limited Sales, Excise and Use Tax Act. The proceeds from such sale shall first be applied to all sums due the State, and the remainder, if any, shall be applied to all sums due such city.

Election contests; notice

Sec. 13. A. If the validity of any election held under authority of this Act or the result of such election based on the returns thereof shall be contested, such election contest shall be filed and tried as provided in the Election Code of the State of Texas; provided that the contestant shall notify the Comptroller by United States Registered Mail or Certified Mail within ten (10) days after filing such contest by mailing a copy of such Notice of Contest to the Comptroller showing the style of the contest, the date filed, the case number, and the Court in which the same is pending; and provided further that no such contest shall be heard unless the Comptroller is timely notified as provided herein.

For Annotations and Historical Notes, see V.A.T.S.

B. Upon receipt of a Notice of Contest, the date upon which such tax shall become effective in any city, or abolished in any city, as a result of such election shall be suspended. When a final judgment shall be entered in such election contest, the City Secretary shall notify the Comptroller by United States Registered Mail or Certified Mail, and shall enclose a certified copy of such final judgment. If the judgment sustains the validity of such election or the result of such election so that the tax status under this Act of such city is changed, the Comptroller shall place in effect such tax, or abolish the same, as the case may be, in such city, substituting the notice of final judgment and the date on which it is received for the notice of the result of such election elsewhere provided for in this Act.

Conflicting laws

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

Acts 1967, 60th Leg., p. 62, ch. 36, eff. Aug. 28, 1967.

Title of Act:

An Act authorizing incorporated cities, towns, and villages, by majority vote of the qualified voters of any such city, town, or village, voting at an election held for that purpose, to impose a local sales and use tax of one percent (1%) on the sale or use of certain tangible personal property in such cities, towns, and villages; providing for the abolition of the local sales and use tax authorized herein by majority vote of the qualified voters of any such city, town, or village; providing for the administration and collection and enforcement of such tax by the State of Texas; authorizing the Comptroller of Public Accounts of the State of Texas to prescribe rules, regulations, and forms for the administration of this Act; providing that the Comptroller of Public Accounts of the State of Texas may promulgate a bracket system formula for the joint collection of the taxes authorized by this Act and the taxes

authorized by the Limited Sales, Excise and Use Tax Act of the State of Texas, and prescribing the standards to be followed by the Comptroller in promulgating such bracket system formula; providing for the allocation of revenues from taxes collected under this Act; providing for surety bonds for the Comptroller of Public Accounts and his staff and for payment of premiums on such bonds; prohibiting any city from pledging anticipated revenue from money collected under this Act to secure payment of bonds or other indebtedness; prescribing procedure in contests of election for elections held under this Act; providing that this Act shall be cumulative of all existing powers of taxation of any city; providing for penalty; repealing all laws or parts of laws inconsistent or in conflict herewith; providing for severability; and declaring an emergency. Acts 1967, 60th Leg., p. 62, ch. 36.

CHAPTER NINE—STREET IMPROVEMENTS

Art.

1105b—1. Validating special assessments for street improvements [New].

Art. 1105a. Establishing building lines on streets

* * * * *

Building lines authorized

Sec. 2. It shall hereafter be lawful for any city, town, or village to establish building lines on any public street or highway, or part thereof in such city, town, or village."

Sec. 2 amended by Acts 1967, 60th Leg., p. 1094, ch. 483, § 1, emerg. eff. June 12, 1967.

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Art. 1105b. Street improvements and assessments in cities having more than 1000 inhabitants

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Notice and hearing; contents of notice

Sec. 9. No assessment herein provided for shall be made against any abutting property or its owners, nor against any railway, street railway or interurban, or owner, until after notice and opportunity for hearing as herein provided, and no assessment shall be made against any abutting property or owners thereof in excess of the special benefits of such property, and its owners in the enhanced value thereof by means of such improvements as determined at such hearing. Such notice shall be by advertisement inserted at least three (3) times in some newspaper published in the city where such special assessment tax is to be imposed, if there be such a paper; if not, then the nearest to such city of general circulation in the county in which such city is located; the first publication of such notice of hearing to be made at least twenty-one (21) days before the date of the hearing; and, additional written notice of the hearing shall be given by depositing in the United States mail, at least fourteen (14) days before the date of the hearing, written notice of such hearing, postage prepaid, in an envelope addressed to the owners of the respective properties abutting such highway, highways or portion or portions thereof to be improved, as the names of such owners are shown on the then current rendered tax rolls of such city and at the addresses so shown, or if the names of such respective owners do not appear on such rendered tax rolls, then addressed to such owners as their names are shown on the current unrendered rolls of the city at the addresses shown thereon; and, where a special tax is proposed to be levied against any railway or street railway using, occupying or crossing any highway, portion or portions thereof to be improved, such additional notice shall be given by depositing in the United States mail, at least fourteen (14) days before the date of the hearing, a written notice of such hearing, postage prepaid, in an envelope addressed to the said railway or street railway as shown on the then current rendered tax rolls of such city, at the address so shown, or, if the name of such respective railways do not appear on such rendered rolls of the city, then addressed to such railways or street railways as the names are shown on the current unrendered rolls of the city, at the addresses shown thereon. If any such notice shall describe in general terms the nature of the improvements for which assessments are proposed to be levied and to which such notice relates, shall state the highway, highways, portion or portions thereof to be improved, shall state the estimated amount or amounts per front foot proposed to be assessed against the owner or owners of abutting property and such property on each highway or portion with reference to which hearing mentioned in the notice is to be held, and shall state the estimated total cost of the improvements on each such highway, portion or portions thereof, and, if the improvements are to be constructed in any part of the area between and under rails and tracks, double tracks, turnouts, and switches, and two (2) feet on each side thereof of any railway, street railway or interurban, shall also state the amount proposed to be assessed therefor, and shall state the time and place at which such hearing shall be held, then such notice shall be sufficient, valid and binding upon all owning or claiming such abutting property, or any interest therein, and upon all owning or claiming such railway, street railway, or interurban, or any interest therein. The notice to be mailed may consist of a copy of the published notice. In those cases in which an owner of property abutting a highway or portion thereof which is to be improved is listed as 'unknown' on the then current city tax roll, or the name of an owner is shown on the city tax roll but no address for such owner is shown, no notice need

be mailed. In those cases where the owner is shown to be an estate, the mailed notice may be addressed to such estate. Such hearing shall be by and before the governing body of such city and all owning any such abutting property, or any interest therein, and all owning any such railway, street railway or interurban, or any interest therein, shall have the right, at such hearing, to be heard on any matter as to which hearing is a constitutional prerequisite to the validity of any assessment authorized by this Act, and to contest the amounts of the proposed assessments, the lien and liability thereof, the special benefits to the abutting property and owners thereof by means of the improvements for which assessments are to be levied, the accuracy, sufficiency, regularity and validity of the proceedings and contract in connection with such improvements and proposed assessments, and the governing body shall have power to correct any errors, inaccuracies, irregularities, and invalidities, and to supply any deficiencies, and to determine the amounts of assessments and all other matters necessary, and by ordinance to close such hearing and levy such assessments before, during or after the construction of such improvements, but no part of any assessment shall be made to mature prior to acceptance by the city of the improvements for which assessment is levied.

Anyone owning or claiming any property assessed, or any interest therein, or any railway, street railway, or interurban assessed, or any interest therein, who shall desire to contest any such assessment on account of the amount thereof, or any inaccuracy, irregularity, invalidity, or insufficiency of the proceedings or contract with reference thereto, or with reference to such improvements, or on account of any matter or thing not in the discretion of the governing body, shall have the right to appeal therefrom and from such hearing by instituting suit for that purpose in any court having jurisdiction, within fifteen (15) days from the time such assessment is levied, and anyone who shall fail to institute such suit within such time shall be held to have waived every matter which might have been taken advantage of at such hearing, and shall be barred and estopped from in any manner contesting or questioning such assessment, the amount, accuracy, validity, regularity, and sufficiency thereof, and of the proceedings and contract with reference thereto and with reference to such improvement for or on account of any matter whatsoever. And the only defense to any such assessment in any suit to enforce the same shall be that the notice of hearing was not mailed as required or was not published or did not contain the substance of one or more of the requisites therefor herein prescribed, or that the assessments exceed the amount of the estimate, and no words or acts of any officer or employee of the city, or member of any governing body shown in its written proceedings and records shall in any way affect the force and effect of the provisions of this Act.

Sec. 9 amended by Acts 1967, 60th Leg., p. 365, ch. 176, § 1, emerg. eff. May 12, 1967.

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Acts 1967, 60th Leg., p. 364, ch. 176 amended section 9 of this article; sections 2 and 3 of the amendatory act provided:

"Sec. 2. Nothing in this Act shall be construed as invalidating any assessment for street improvements heretofore levied by any city pursuant to the provisions of Chapter 106, Acts of the Fortieth Legislature, First Called Session, 1927, as amended [this article]."

"Sec. 3. If any word, phrase, clause, paragraph, sentence, part, portion, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act shall nevertheless be valid, and the Legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion, or provision."

Art. 1105b—1. Validating special assessments for street improvements

Section 1. That where any city acting through its governing body has heretofore levied assessments for street improvements against property abutting upon the highway or portion thereof ordered to be improved

and against the owners of such property, and where such city has purported to act under the authority of Chapter 106, page 489 et seq., Acts of the Fortieth Legislature, First Called Session, 1927, as amended, as said Act read on the date said assessments were levied (which Act as amended appears as Article 1105b in Vernon's Texas Civil Statutes), and where not more than all of the cost of constructing, reconstructing, repairing and realigning curbs, gutters and sidewalks and not more than nine-tenths ($\frac{9}{10}$) of the remaining cost of such improvements as shown on the estimate of costs prepared or caused to be prepared by the governing body of said city, where assessed against the property abutting upon the highway or portion thereof ordered to be improved and against the owners thereof, and where the portion of the cost of the improvements which was assessed against abutting property and the owners thereof was in fact apportioned among the parcels of abutting property and the owners thereof in accordance with the front foot plan or rule, or, where the city, in addition to giving the published notice provided for by Section 9 of Chapter 106 of the Acts of the Fortieth Legislature, First Called Session, 1927, as amended, as it then read, mailed or caused to be mailed by United States mail, postage prepaid, a reasonable time prior to the date of the hearing, notices containing the information required to be contained in the published notice, addressed to the owners of the respective properties abutting the highway, highways or portions thereof to be improved as such names of such owners were shown on the then current tax rolls of such city at the addresses so shown, all such assessments and all proceedings levying same are hereby legalized, approved and validated as of the respective times and dates of such assessments and proceedings and according to their terms and shall have the force and effect provided by the provisions of said Chapter 106 of the Acts of the Fortieth Legislature, First Called Session, 1927, as amended, except that nothing herein shall be construed as validating or legalizing any lien against any interest in property exempt at the time the improvements were ordered from the lien of special assessments for street improvements.

Sec. 2. All assignable certificates of special assessment issued in evidence of such assessments hereby validated are hereby legalized, approved and validated according to their terms. Any city which has heretofore levied assessments validated hereby but has not yet issued assignable certificates of special assessment to evidence such assessments may issue same and such certificate shall be valid and legal.

Acts 1967, 60th Leg., p. 367, ch. 177, emerg. eff. May 12, 1967.

Acts 1967, 60th Leg., p. 367, ch. 177, § 3 was a severability clause.

Title of Act:

An Act validating and legalizing certain special assessments for street improvements levied by any city purporting to act pursuant to the provisions of Chapter 106 of the Acts of the Fortieth Legislature, First Called Session, 1927, as amended (Article 1105b, Vernon's Texas Civil Statutes), as it read at the date said assessments were levied, where not more than all of the cost of constructing, reconstructing, repairing and realigning curbs, gutters and sidewalks and not more than nine-tenths ($\frac{9}{10}$) of the remaining cost of such improvements as shown on the estimate of costs were assessed against the abutting property and the owners thereof, and where the part of the cost so assessed was in fact apportioned in accordance with the front foot plan or rule or, where the city, in addition to giving the published notice provided by Section 9 of Chapter 106 of the Acts of the

Fortieth Legislature, First Called Session, 1927, as amended, as it then read, mailed or caused to be mailed by United States mail, postage prepaid, a reasonable time prior to the date of the hearing, notices containing the information required to be contained in the published notice, addressed to the owners of the respective properties abutting the highway or portion thereof to be improved as such names of such owners were shown on the then current tax rolls of the city at the addresses so shown, and providing that nothing herein shall be construed as validating or legalizing any lien against any interest in property exempt at the time the improvements were ordered from the lien of special assessment for street improvements; and validating and legalizing the assignable certificates of special assessment issued to evidence the assessments hereby validated; providing a severability clause; and declaring an emergency. Acts 1967, 60th Leg., p. 367, ch. 177.

CHAPTER TEN—PUBLIC UTILITIES

1. CITY OWNED UTILITIES

Art.

1109e—1. Contracts with conservation and reclamation districts for water supply [New].

1. CITY OWNED UTILITIES

Art. 1109e—1. Contracts with conservation and reclamation districts for water supply

Section 1. Incorporated cities having a population of more than 900,000 according to the next preceding Federal Census which own and operate a municipal water system shall be authorized to enter into contracts and joint enterprises with conservation and reclamation districts created under Article XVI, Section 59 of the Constitution of Texas for the conveyance, transportation and distribution of water for and on behalf of such cities or may contract to sell water to such districts and to repurchase all or part thereof at a designated point or points on the district's conveyance, transportation and distribution system. Such contracts may be for such period of time, not exceeding forty (40) years, as may be prescribed therein, and may provide that they shall continue in effect until bonds issued by such districts to finance the cost of such conveyance, transportation and distribution facilities and extensions, enlargements and improvements thereto, and refunding bonds issued in lieu of such bonds, are paid.

Sec. 2. Such contracts may provide that money required to be paid by the city to the district thereunder shall constitute an operating expense of the waterworks system of the city or shall be payable from surplus or other funds of the city's waterworks system or from the revenues of specified water sales contracts or from other sources; provided that if such contract involves an obligation by the city to pay all or any part of the consideration out of funds raised or to be raised by taxation, such contract shall not become effective until an election shall have been called, held and carried, in the manner required for bond elections of such city, on the proposition of authorizing the governing body to execute such a contract; otherwise no election shall be required.

Sec. 3. Such cities may enter into contracts for the sale of water to industrial and commercial customers and to municipal corporations and political subdivisions upon such terms and for such periods, not to exceed forty (40) years, as may be prescribed by ordinance.

Sec. 4. This Act shall be cumulative of other legislation pertaining to the same or similar subjects; provided, that cities electing to make contracts under this Act shall be governed solely by the provisions of this Act, any other Statute, charter provision or ordinance to the contrary notwithstanding.

Acts 1967, 60th Leg., p. 1281, ch. 571, emerg. eff. June 16, 1967.

Title of Act:

An Act authorizing certain cities to enter into contracts with conservation and reclamation districts in regard to the conveyance, transportation, distribution, sale and repurchase of water; prescribing some of the terms and conditions thereof; authorizing such cities to enter into certain con-

tracts for the sale of water; providing that this Act shall be cumulative but that cities electing to make contracts under this Act shall be governed solely thereby, any Statute, charter provision or ordinance to the contrary notwithstanding; and declaring an emergency. Acts 1967, 60th Leg., p. 1281, ch. 571.

Art. 1110c. Improvements to water and sewer systems

* * * * *

Definitions

Sec. 2. As used in this Act, unless the context otherwise requires, the term:

(A) "City" shall mean any incorporated city, town or village, including home rule cities, which has all or a major portion of its territory in a county which, at the time any action is taken under the powers herein granted, has a population in excess of 100,000 according to the preceding Federal Census.

Sec. 2(A) amended by Acts 1967, 60th Leg., p. 2068, ch. 769, § 1, eff. Aug. 28, 1967.

* * * * *

Subdivided or platted property

Sec. 19. No assessment or other charge for the construction of improvements to any water or sewer system shall be made against any property or property owners, regardless of who initiates the request for said construction, unless such property is in an area which has been subdivided or platted for a period of at least ten years next preceding the effective date of this Act. For purposes of determining property or areas to which this Act shall apply, "subdivided or platted property" shall mean such property as has been duly platted under the terms of Article 974-a, V.A.T.C.S. or any property which has been subdivided or platted by map or plat filed for record in the office of any county clerk, by the terms of which map or plat there has been made any dedication of the property to the public use for a street or alley right-of-way or for public utility easements.

Sec. 19 amended by Acts 1967, 60th Leg., p. 2068, ch. 769, § 2, eff. Aug. 28, 1967.

* * * * *

Section 3 of the 1967 amendatory act provided: "If any provisions of this Act or the application thereof to any person or circumstance is held invalid such invalidity shall not affect other provisions or applications of this Act which can be given effect without the invalid provisions or applications, and to this end the provisions of this Act are declared to be severable."

CHAPTER ELEVEN—TOWNS AND VILLAGES

Art. 1143. [1046] [591] [518] Term of office

(a) The mayor, alderman and all other officers elected at the first election under this chapter, regardless of the time of such first election, shall hold their offices until their successors shall have been duly elected and qualified at the next succeeding annual election, according to the provisions of the succeeding article.

(b) In lieu of one year terms of office, the board of aldermen may provide by ordinance for two year staggered terms of office for the mayor and aldermen. If such an ordinance is adopted, the mayor and two aldermen, determined by lot at the first meeting of the board of aldermen following the next annual election after the adoption of the ordinance, shall serve two year terms. The remaining aldermen hold office for an initial term of one year. Thereafter, all members of the board of aldermen hold office for terms of two years and until their successors have qualified.

Amended by Acts 1967, 60th Leg., p. 1011, ch. 441, § 1, eff. Aug. 28, 1967.

Art. 1144. [1047] [592] [519] Annual election

The annual election of officers of all towns and villages incorporated under the provisions of this chapter shall be held on the first Saturday

For Annotations and Historical Notes, see V.A.T.S.

in April of each year. The mayor, or in case of his inability or refusal to act, any two aldermen, shall order such annual election by notices posted for at least twenty days at three public places within the corporate limits. The returns of such election shall be made to the town or village council, and certificates of election given by the mayor or person acting as such to the persons elected to the various offices of such corporation. Amended by Acts 1967, 60th Leg., p. 1931, ch. 723, § 75, eff. Aug. 28, 1967.

Synopsis of Changes—1967

See note under art. 978.

Art. 1152. [1060] [611] [538] Publication of ordinances

Section 1. No ordinance or by-law shall be enforced until it has been published at least ten days in three public places in the town, or in a newspaper if one be published in the corporation. If no newspaper is published in the corporation, such ordinance or by-law may be published in some newspaper having general circulation in the town. If such newspaper be published weekly, the publication shall be made in one issue thereof.

Sec. 2. In lieu of the publication required in Section 1 of this Article, the governing body may in its discretion provide for the publication of a descriptive caption or title, stating in summary the purpose of the ordinance or by-law and the penalty for violation thereof. Amended by Acts 1967, 60th Leg., p. 468, ch. 212, § 1, emerg. eff. May 19, 1967.

CHAPTER TWELVE—COMMISSION FORM OF GOVERNMENT

Art. 1158. [1073] Officers

At such election there shall be elected two commissioners, who shall serve until the first Saturday in April following, and in said unincorporated cities and towns, and unincorporated towns and villages, there shall at such elections be elected a mayor and two commissioners, who shall serve until the first Saturday in April following. The mayor of the incorporated cities and towns, and incorporated towns and villages, adopting the commission form of government shall continue to hold his office for the term for which he was elected. The term of office of the mayor and commissioners, except the first elected under the provisions hereof, shall be two years, and they shall be elected on the first Saturday in April every two years.

Amended by Acts 1967, 60th Leg., p. 1932, ch. 723, § 75, eff. Aug. 28, 1967.

Synopsis of Changes—1967

See note under art. 978.

CHAPTER THIRTEEN—HOME RULE

Art.

1182g. Home rule cities of 900,000 or more;
Investment of trust funds [New].

Art. 1175. Enumerated powers

* * * * *

19. Each city shall have the power to define all nuisances and prohibit the same within the city and outside the city limits for a distance of five thousand feet; to have power to police all parks or grounds, lakes and the land contiguous thereto and used in connection therewith, speedways, or boulevards owned by said city and lying outside of said city; to prohibit the pollution of any stream, drain or tributaries thereof, which may

constitute the source of water supply of any city and to provide for policing the same as well as to provide for the protection of any water sheds and the policing of same; to inspect dairies, slaughter pens and slaughter houses inside or outside the limits of the city, from which meat or milk is furnished to the inhabitants of the city.

Subd. 19 amended by Acts 1967, 60th Leg., p. 189, ch. 100, § 1, eff. Aug. 28, 1967.

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Art. 1182c—1. Cities which have annexed territory within water control and improvement or supply districts

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Continued existence of city water boards; depositories for funds

Sec. 2b. City Water Boards created by Section 6 of Chapter 184 Acts of the 52nd Legislature, Regular Session, 1951,¹ which have remained in existence to preserve vested rights created thereunder shall, after a relevant city has annexed all the territory of the Water Control and Improvement District whose functions it has assumed and delegated to the City Water Boards, remain in existence with its full powers, so long as lands located within its jurisdiction are being used for farming, ranching and/or orchard purposes, and such City Water Boards, without limitation of any other powers they have, shall select and designate one or more depositories of the proceeds of all maintenance and water charges and other charges levied by any water control and improvement district annexed by a relevant city and of any other income or funds of said water control and improvement district, regardless of the fact that one or more members of said City Water Board may be a member of the board of directors or a stockholder of any such depository, and that the funds of said water control and improvement district may be kept in one or more separate and distinct accounts in said depository or depositories if the funds deposited in each such separate account are to be used for a different or separate designated purpose from the funds deposited in any other such separate account, and such funds deposited in any depository selected by said City Water Board shall be insured by an official agency of the government of the United States and shall be at least equally as well insured and protected as funds deposited in the official city depository of said relevant city.

Sec. 2b amended by Acts 1967, 60th Leg., p. 929, ch. 406, § 1, emerg. eff. June 8, 1967.

¹ Article 7880—147z1 (now repealed).

* * * * *

Sections 2 and 3 of the act of 1967 provided:

"Sec. 2. All laws or parts of laws in conflict with the provisions of this Act are hereby expressly repealed to the extent of such conflict.

"Sec. 3. If any provisions of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable."

Art. 1182g. Home rule cities of 900,000 or more; investment of trust funds

Application of act

Section 1. This Act shall apply to all cities having a population of 900,000 or more, according to the preceding federal census, and whose home rule charter provides for an elected comptroller, auditor, or treasurer.

Authority to make investments of trust funds and special deposits; amount

Sec. 2. Any such city, acting by and through the official or officials thereof charged with the duty of managing and conducting its fiscal affairs and subject to the supervision and control of its governing body, as established from time to time by ordinance, is hereby authorized from time to time to make investments of trust funds and special deposits in the custody of such city, to the extent of the amount of such funds that, according to official estimates, are not required for immediate disbursement, by purchasing with such funds or some of them obligations of the United States government, or by placing such funds or some of them on time deposit with one or more depository banks of such city.

Withdrawal of funds

Sec. 3. If at any time any of the funds so placed on time deposit are required before maturity they shall be made available by the depository bank but the depository bank shall not be liable for interest earned on any amount withdrawn before maturity.

Interest

Sec. 4. Said city official is hereby authorized to receive all interest earned on such investments and to place the same in the general fund of such city as compensation to the city for holding and handling said trust funds and special deposits for the benefit of the persons ultimately entitled to receive such funds and deposits.

Cumulative effect of act

Sec. 5. The provisions of this Act are cumulative of all other powers of investment possessed by any such city, whether derived from its charter or from the general law; and nothing contained herein shall ever be held to have effected any limitation on any such city's powers of investment otherwise so derived.

Acts 1967, 60th Leg., p. 201, ch. 113, emerg. eff. May 4, 1967.

Title of Act:

An Act authorizing any city having a population of 900,000 or more, according to the preceding federal census, and whose home-rule charter provides for an elected comptroller, auditor, or treasurer, acting by and through the official or officials of such city charged with the duty of managing and conducting its fiscal affairs and subject to supervision and control of its governing body, as established by ordinance, from time to time to invest any and all trust funds and special deposits in the custody of such city, to the extent of the amount of such funds that such official estimates are not required for immediate disbursement, by purchasing with such funds or some of them obligations of the United States government or by placing such funds or some of them on time deposit with a depository bank of such city; pro-

viding that if at any time the funds so placed on time deposit are required to be withdrawn before maturity they may be withdrawn, in which event the depository bank shall not be liable for interest thereon; providing that said city official is authorized to receive all interest earned on said investments and to place such interest in the general fund of the city as compensation for holding and handling such trust funds and special deposits for the benefit of the persons ultimately entitled to receive the same; making the Act cumulative of all other powers of investment possessed by any such city and further providing nothing herein shall ever be held to have effected any limitation of such city's powers of investment; and declaring an emergency. Acts 1967, 60th Leg., p. 201, ch. 113.

CHAPTER FOURTEEN—CITIES ON NAVIGABLE WATERS**Art.**

1187—1. Designation of annexed territory as an industrial district [New].

Art. 1187—1. Designation of annexed territory as an industrial district

The governing body of any incorporated city which has heretofore annexed or which shall hereafter annex territory under author-

ity of and for the limited purposes described in Articles 1183 through 1187 of the Revised Civil Statutes of Texas, 1925, shall have the right, power, and authority to designate all or any part of such area so annexed and remaining in such limited purpose annexation status as an industrial district, as the term is customarily used, and to treat with such area from time to time as such governing body may deem to be in the best interest of the city. Included in such rights and powers of the governing body of any such city is the permissive right and power to enter into contracts or agreements with the owner or owners of land in such industrial district to guarantee the continuation of the limited purpose annexation status of such district, and its immunity from general purpose annexation by the city for a period of time not to exceed ten years, and upon such other terms and conditions as the parties might deem appropriate. Such contract or agreement shall be evidenced in writing and may be renewed or extended for successive periods not to exceed ten years each by such governing body and the owner or owners of land in such industrial district.

Acts 1967, 60th Leg., p. 842, ch. 353, § 1, eff. Aug. 28, 1967.

Section 2 of Acts 1967, 60th Leg., p. 842, ch. 353, provided: "Sec. 2. If any provision of this Act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable."

Title of Act:

An Act authorizing incorporated cities which have heretofore annexed or which

shall hereafter annex territory under authority of Articles 1183 through 1187, Revised Civil Statutes of Texas, 1925, to designate all or any part of such territory so annexed and remaining in such limited purpose annexation status as an industrial district and to contract with the owner or owners of land in such industrial district to guarantee the continuation of the limited purpose annexation status of such districts and for other purposes; providing for severability; and declaring an emergency. Acts 1967, 60th Leg., p. 842, ch. 353.

CHAPTER SIXTEEN—CORPORATION COURT

Art. 1200c. Cities of 350,000 population in counties having 500,000 but less than 650,000 population

Establishment; number; judges

Section 1. All incorporated cities of this State having a population in excess of three hundred fifty thousand (350,000) and being in a county having a population in excess of five hundred thousand (500,000), but less than six hundred fifty thousand (650,000), according to the last preceding United States Census may, by an ordinance legally adopted, provide for the establishment of two (2) or more corporation courts, not to exceed one (1) court for each eighty thousand (80,000) population according to the last preceding census. The Mayor of any such city shall have the power to appoint two (2) or more judges for each such court and designate the seniority of the judges, with the confirmation of the governing body of the city, so that any of such courts may be in concurrent or continuous session either day or night.

Sec. 1 amended by Acts 1967, 60th Leg., p. 109, ch. 53, § 1, eff. Aug. 28, 1967.

* * * * *

**CHAPTER NINETEEN—ABOLITION OF CORPORATE
 EXISTENCE**

Art.

1241a. Procedure for abolition of cities and towns [New].

Art. 1241. Repealed. Acts 1967, 60th Leg., p. 1988, ch. 736, § 5. Eff. June 18, 1967

See, now, art. 1241a.

Art. 1241a. Procedure for abolition of cities and towns

Authority to abolish corporate existence

Section 1. Incorporated towns and villages, and cities and towns incorporated under the general laws, and cities and towns of ten thousand inhabitants or less chartered under special law, including those which may have heretofore accepted the provisions of Chapter 1 of Title 28, may abolish their corporate existence in the manner hereinafter provided.

Petition and election

Sec. 2. When four hundred of the qualified voters resident in any such city, town, or village desire the abolishment of such corporation, they may petition the mayor to that effect, who shall thereupon order an election to be held in such city, town, or village on the same date provided by law for the next general election for mayor therein. If a majority of the qualified voters resident in any such city, town, or village is less than four hundred in number, then the mayor shall order an election as above provided upon the presentation to him of a petition signed by three-fourths of the resident voters of such city, town, or village.

Eligible voters; results; declaration of abolition

Sec. 3. All persons who are legally qualified resident voters of the city, town, or village where such election is to be held shall be entitled to vote at such election. If a majority of such voters voting at such election shall vote to abolish such corporation, the mayor shall declare such corporation abolished and certify such fact to the commissioners court of the county. Such commissioners court shall enter said order upon its minutes, and said corporation shall cease to exist.

Order; conduct and canvass of election by mayor; laws governing election

Sec. 4. The election as herein provided shall be ordered, conducted and canvassed by the mayor as in the case of the incorporation of such city, town, or village, except that the mayor shall perform all acts performable in the case of incorporation by the county judge. Except as otherwise specifically provided herein, such election shall be governed by the laws of the State of Texas applicable generally to elections in incorporated cities.

Repeals

Sec. 5. The following statutes are specifically repealed: Acts 1895, p. 166, G.L. Vol. 10, p. 896; Acts 1899, p. 245; Acts 1897, p. 194; these being codified respectively as Articles 1241, 1242, 1243, and 1261. No other laws are hereby repealed except insofar as they are inconsistent herewith.

Acts 1967, 60th Leg., p. 1989, ch. 736, emerg. eff. June 18, 1967.

Section 6 of the act of 1967 provided: "If any portion of this Act shall be declared unconstitutional by a court of competent jurisdiction, it is the intention of the Legislature that the remainder of this Act shall remain in full force and effect."

Title of Act:

An Act providing procedures for the abolition of cities and towns, and towns and villages, incorporated under the general laws, and cities and towns of ten thousand inhabitants or less chartered under special law; providing for the calling of elections on the question of such abolition on peti-

tion to the mayor; providing for the qualification of voters in such elections and the conduct and canvass of such elections; repealing certain statutes; and containing a severability clause; and declaring an emergency. Acts 1967, 60th Leg., p. 1988, ch. 736.

Arts. 1242, 1243. Repealed. Acts 1967, 60th Leg., p. 1988, ch. 736, § 5. Eff. June 18, 1967

See, now, art. 1242a.

Art. 1261. Repealed. Acts 1967, 60th Leg., p. 1988, ch. 736, § 5. Eff. June 18, 1967

See, now, art. 1241a.

CHAPTER TWENTY—MISCELLANEOUS PROVISIONS

Art.

1269j—5.2 Airport revenue bonds; home rule cities with population of 125,000 or more [New].

1269j—8. Validating notes and warrants [New].

Art. 1269j—4.1 Civic centers, auditoriums, exhibition halls, libraries and similar buildings; cities of 8,500 or more population

Applicability of act

Section 1. This Act shall be applicable to all incorporated cities, including Home Rule Cities, having a population of eight thousand five hundred (8,500) or more according to the last preceding federal census.

Sec. 1 amended by Acts 1967, 60th Leg., p. 1289, ch. 563, § 1, emerg. eff. June 14, 1967.

Buildings, structures, parking areas and facilities; leases

Sec. 2. Any such city is hereby authorized to establish, acquire, lease as lessee or lessor, purchase, construct, improve, enlarge, equip, repair, operate or maintain (any or all) public improvements such as civic centers, civic center buildings, auditoriums, opera houses, music halls, exhibition halls, coliseums, museums, libraries, or other city buildings (either or all), and to establish, acquire, lease as lessee or lessor, purchase, construct, improve, enlarge, equip, repair, operate or maintain (any or all) structures, parking areas, or facilities, located at or in the immediate vicinity of such public improvements, to be used in connection with such public improvements for off-street parking or storage of motor vehicles or other conveyances; and provided that any such lease shall be on such terms and conditions as said city shall deem appropriate.

Sec. 2 amended by Acts 1967, 60th Leg., p. 1289, ch. 563, § 1, emerg. eff. June 14, 1967.

Revenue bonds; ordinance; pledge of revenues; charges for services; leases

Sec. 3. (a) Any such city is hereby authorized to issue negotiable revenue bonds to provide all or part of the funds for the establishment, acquisition, purchase, construction, improvement, enlargement, equipment or repair (any or all) of public improvements such as civic centers, civic center buildings, auditoriums, opera houses, music halls, exhibition halls, coliseums, museums, libraries or other city buildings, either or all, and the establishment, acquisition, purchase, construction, improvement, enlargement, equipment or repair (any or all) of structures, parking areas or facilities, located at or in the immediate

vicinity of such public improvements, to be used in connection with such public improvements for off-street parking or storage of motor vehicles or other conveyances.

(b) Such revenue bonds may be issued when duly authorized by an ordinance passed by the governing body of such city and shall be secured by a pledge of and be payable from all or any designated part of the revenues of said public improvements or said parking or storage facilities and a tax on occupancy of hotel rooms or other sleeping rooms, if such city is authorized to levy such tax (any or all), as may be provided in the ordinance or ordinances authorizing the issuance of such bonds. To the extent that such revenues may have been pledged to the payment of revenue or revenue refunding bonds which are still outstanding, the pledge securing the proposed bonds shall be inferior to the previous pledge or pledges. Within the discretion of the governing body of the city, and subject to limitations contained in previous pledges, if any, in addition to the pledge of revenues a lien may be given on all or any part of the physical properties acquired out of the proceeds from the sale of such bonds.

(c) When any of the revenues of such public improvements and facilities are pledged to the payment of bonds issued under this Act, it shall be the duty of the governing body of the city to cause to be fixed, maintained and enforced charges for services rendered by properties and facilities, the revenues of which have been pledged, at rates and amounts at least sufficient to comply with and carry out the covenants, and provisions contained in the ordinance or ordinances authorizing the issuance of said bonds.

(d) If any such city leases as lessee any one or more such public improvements, structures, parking areas or facilities, such city shall have authority to pledge to the lease payments required to be made by such city all or any part of the revenues of such public improvements, structures, parking areas or facilities and all or any part of a tax on occupancy of hotel rooms or sleeping rooms lawfully levied and collected by such city.

Sec. 3 amended by Acts 1967, 60th Leg., p. 1239, ch. 563, § 1, emerg. eff. June 14, 1967.

Payment of principal or interest on bonds

Sec. 4. The owners or holders of such revenue or revenue refunding bonds shall never have the right to demand payment of either the principal of or interest on such bonds out of any funds raised or to be raised by taxation, except as to room taxes, if pledged.

Sec. 4 amended by Acts 1967, 60th Leg., p. 1239, ch. 563, § 1, emerg. eff. June 14, 1967.

* * * * *

Revenue refunding bonds; examination and approval; registration

Sec. 8. Any city to which this Act applies shall have the power and authority to issue revenue refunding bonds similarly secured to refund either original bonds or revenue refunding bonds theretofore issued by such city under this Act, and such refunding bonds shall bear interest at the same or lower rate or rates than that of the bonds refunded unless it is shown mathematically that a saving will result in the total amount of interest to be paid. Refunding bonds shall be authorized by ordinance or ordinances and shall be executed and shall mature as is provided in this Act for original bonds. They shall be approved by the Attorney General as in the case of original bonds, and shall be registered by the Comptroller of Public Accounts upon the surrender and cancellation of the bonds to be refunded, but in lieu thereof the ordinance or ordinances authorizing their issuance may provide

that they shall be sold and the proceeds thereof deposited in the place or places where the underlying bonds are payable, in which case the refunding bonds may be issued in an amount sufficient to pay the interest on and principal of the underlying bonds to their option or maturity date, and the Comptroller of Public Accounts shall register them without the surrender and cancellation of the underlying bonds. All such refunding bonds, after they have been approved by the Attorney General and registered by the Comptroller of Public Accounts, shall be incontestable except for forgery or fraud.

Sec. 8 amended by Acts 1967, 60th Leg., p. 1239, ch. 563, § 1, emerg. eff. June 14, 1967.

* * * * *

Art. 1269j—5.1 Airport revenue bonds; cities with population of 500,000 or more

Section 1. This Act shall be applicable to all incorporated cities, including Home Rule Cities, having a population of five hundred thousand (500,000) or more according to the last preceding Federal Census.

Sec. 1 amended by Acts 1967, 60th Leg., p. 906, ch. 396, § 1, eff. Aug. 28, 1967.

* * * * *

Art. 1269j—5.2 Airport revenue bonds; home rule cities with population of 125,000 or more

Section 1. This Act shall be applicable to any home-rule city having a population of 125,000 or more according to the last preceding federal census, which owns or has leased or has otherwise acquired control of land for airport purposes, and which is operating such land for such purposes.

Sec. 2. In the event any such city shall determine to issue revenue bonds under and for any of the purposes and secured by any of the revenues authorized by Chapter 43, Acts of the 53rd Legislature of Texas, 1st Called Session, 1954, as amended (compiled as Article 1269j—5, Vernon's Texas Civil Statutes), such city, in addition to the revenues and income of said airport or airports pledged to the payment of operation and maintenance expenses and principal of and interest on such bonds, shall be authorized to levy and pledge to the payment of such operation and maintenance expenses, as a supplement to the pledge of revenues for such purpose, all or any part of the ad valorem tax authorized by Section 8 of Chapter 114, Acts of the 50th Legislature, Regular Session, 1947 (compiled as Article 46d—8, Vernon's Texas Civil Statutes). The proceeds of any tax thus pledged shall be utilized annually to the extent required by the ordinance authorizing such revenue bonds to assure the efficient operation and maintenance of such airport or airports, and such city, in its discretion, may covenant in the proceedings authorizing the issuance of said bonds that certain costs of operating and maintaining such airport or airports, as may be enumerated in said proceedings, will be paid by the city from the proceeds of such tax. If it is deemed advisable by the city that revenue bonds theretofore issued under said Chapter 43, supra, and then outstanding, should be refunded so as to facilitate the financing of the acquisition of any improvements to and the further improvement of its airport or airports, it shall be authorized to make a like pledge of said tax in the proceedings authorizing such refunding bonds and any additional revenue bonds issued for the purposes prescribed in said Chapter 43, supra.

Acts 1967, 60th Leg., p. 112, ch. 56, emerg. eff. April 17, 1967.

Acts 1967, 60th Leg., p. 112, ch. 56, § 3 provide: "This Act shall be cumulative of and in addition to all laws of this state on this subject; provided, that in the event of any conflict with the provisions hereof, this Act shall prevail."

CITIES, TOWNS AND VILLAGES Art. 1269j—8

For Annotations and Historical Notes, see V.A.T.S.

Title of Act:

An Act authorizing certain home-rule cities to pledge an ad valorem tax to the payment of airport operation and maintenance expense as a supplement to the revenues and income derived from the operation of their airport or airports; providing that said tax shall be used for such purpose to the extent required by any ordinance authorizing issuance of airport revenue bonds under provisions of Chapter 43, Acts of the 53rd Legislature, 1st Called Session, 1954, as amended (compiled as Article

1269j—5, Vernon's Texas Civil Statutes); authorizing the making of certain covenants in proceedings issuing such bonds with respect to the use of said tax for such purpose; making said tax for such purpose available for like use upon issuance of bonds to refund outstanding revenue bonds issued under said Chapter 43, supra, and additional bonds issued for purposes permitted under said Chapter 43; enacting other provisions relating to the subject; and declaring an emergency. Acts 1967, 60th Leg., p. 112, ch. 56.

Art. 1269j—8. Validating notes and warrants

Section 1. All notes, warrants, time warrants, and treasury warrants heretofore issued and sold or authorized to be issued and sold or attempted to be issued and sold by any and all cities in the state for the purpose of obtaining funds for public purposes are in all respects validated.

Sec. 2. All orders, ordinances, and resolutions of the governing bodies of such cities authorizing such notes, warrants, time warrants, and treasury warrants, or attempting to authorize the same, or any of the same, and the sales and attempted sales thereof for cash for the par or principal amount thereof plus accrued interest to the date of delivery thereof, are in all respects validated.

Sec. 3. All orders, ordinances, and resolutions of said governing bodies of said cities levying and directing the levying and assessing of taxes to provide for the payment of interest and principal of such notes, warrants, time warrants, and treasury warrants, as they respectively mature, are in all respects validated.

Sec. 4. All notes, warrants, time warrants, and treasury warrants validated by this Act may be refunded into bonds at any time after the effective date of this Act upon proper authorization thereof by a duly adopted bond ordinance of the governing body of any such city. Such bonds shall be made to mature serially or otherwise in not to exceed 40 years, and shall bear interest at a rate or rates not exceeding six percent per annum, and shall contain such other covenants, details and specifications as may be contained in such bond ordinance, and after approval thereof by the attorney general and registration by the comptroller shall be incontestable for any cause.

Sec. 5. This Act is not intended to validate nor does it apply to any notes, warrants, time warrants, or treasury warrants which are on the effective date hereof the subject matter of any litigation pending in any court in this state in which the validity thereof is being challenged.

Acts 1967, 60th Leg., p. 869, ch. 375, emerg. eff. June 8, 1967.

Title of Act:

An Act validating notes, warrants, time warrants, and treasury warrants heretofore issued or authorized to be issued and sold or attempted to be issued and sold by any and all cities in the state for the purpose of obtaining funds for public purposes; and validating all orders, ordinances, and resolutions of the governing bodies of such cities pertaining to such notes, warrants, time warrants, and treasury warrants, and

all orders, ordinances, and resolutions of said governing bodies of said cities levying and assessing taxes to provide for the payment of interest and principal of such notes, warrants, time warrants, and treasury warrants as they respectively mature; authorizing the refunding of the same into bonds by duly adopted bond ordinance; providing a non-litigation clause; and declaring an emergency. Acts 1967, 60th Leg., p. 869, ch. 375.

CHAPTER TWENTY-ONE—HOUSING

Art. 1269l-3. Urban Renewal Law

* * * * *

Definitions

4. The following terms wherever used or referred to in this Act, shall have the following meanings, unless a different meaning is clearly indicated by the context.

* * * * *

(h) "Slum Area" shall mean an area within a city in which there is a predominance of either residential or nonresidential buildings or improvements which are in a state of dilapidation, deterioration or obsolescence due to their age, or for other reasons; or an area in which inadequate provisions have been made for open spaces and which is thus conducive to high population densities and overcrowding of population; or an area of open land which, because of its location and/or situation within the city limits of a city, is necessary for sound community growth, by re-platting and planning and development, for predominantly residential uses; or an area in which conditions exist, due to any of the hereinabove named causes, or any combination thereof, which endanger life or property by fire or by other causes, or which is conducive to the ill-health of the inhabitants of the area or to the transmission of disease, and to the incidence of abnormally high rates of infant mortality, or which is conducive to abnormally high rates of crime and juvenile delinquency, or which is not conducive to an orderly development by reason of inadequate and/or improper platting with adequate lots for residential development of lots, streets and public utilities, and is thus an area which is detrimental to the public health, safety, morals or welfare of the city.

Sec. 4, par. (h) amended by Acts 1967, 60th Leg., p. 1971, ch. 732, § 1, emerg. eff. June 18, 1967.

* * * * *

(j) "Urban Renewal Project" may include undertakings of a city (as herein defined) in an urban renewal area for the elimination and for the prevention of the development or spread of slums and blight, and may involve slum clearance and redevelopment (as herein defined) in an urban renewal area, or rehabilitation or conservation (as herein defined) in an urban renewal area, and may include open land which, because of its location and/or situation, is necessary for sound community growth which is to be developed, by re-platting and planning, for predominantly residential uses, or any combination or part thereof in accordance with the urban renewal plan therefor.

Sec. 4, par. (j) amended by Acts 1967, 60th Leg., p. 1971, ch. 732, § 2, emerg. eff. June 18, 1967.

* * * * *

Section 3 of the amendatory act of 1967 provided: "Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provision of this Act, or the application thereof to any person or circumstances, is held invalid, for any reason, the remainder of the Act and the application of such provision to persons or circumstances other than to those to which it is held invalid, shall not be affected thereby."

UNIFORM COMMERCIAL CODE

§§ 1—101 to 10—105.

Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721, enacting the Uniform Commercial Code, effective June 30, 1966, was itself repealed by Acts 1967, 60th Leg., vol. 2, p. 2343, ch. 785, adopting the Business & Commerce Code effective September 1, 1967. However, the latter Act specifically provided that the repeal did not affect the prior operation of the 1965 Act or any prior action taken under it.

For text of the Business and Commerce Code, with Tables and Index, see page 1485.

TITLE 31. CONVEYANCES

Art. 1300. Repealed. Acts 1967, 60th Leg., p. 735, ch. 309, § 6. Eff. Jan. 1, 1968

Section 1 of Acts 1967, 60th Leg., p. 735, ch. 309 revised and amended chapters 2 and 3 of Title 75; sections 2 and 3 of the act amended articles 1064, 5518, 5519, 5535, 6632 and 6647; section 4 of the act added article 3.49—3 to V.A.T.S. Insurance Code; section 5 of this act amended article 5460;

and sections 6-8, which repealed articles 1983, 1985, 4611, 4612, 4616, 6605, 6608 and 6648-6651, validated certain acknowledgments of married women and provided an effective date, are set out as notes under article 4610.

See, now, arts. 4618, 4621.

TITLE 32—CORPORATIONS

CHAPTER ONE—TEXAS MISCELLANEOUS CORPORATION LAWS ACT

Art. 1302—2.09. Authority of certain corporations to borrow money
[New].

Art. 1302—2.09. Authority of certain corporations to borrow money

Notwithstanding any other provision of law, corporations, domestic or foreign, may agree to and stipulate for any rate of interest as such corporation may determine, not to exceed one and one-half percent (1½%) per month, on any bond, note, debt, contract or other obligation of such corporation under which the original principal amount is Five Thousand Dollars (\$5,000) or more, or on any series of advances of money pursuant thereto if the aggregate of sums advanced or originally proposed to be advanced shall exceed Five Thousand Dollars (\$5,000), or on any extension or renewal thereof, and in such instances, the claim or defense of usury by such corporation, its successors, guarantors, assigns or anyone on its behalf is prohibited; however, nothing contained herein shall prevent any charitable or religious corporation from asserting the claim or interposing the defense of usury in any action or proceeding.

Added by Acts 1967, 60th Leg., p. 713, ch. 296, § 1, emerg. eff. May 25, 1967.

Acts 1967, 60th Leg., p. 713, ch. 296, §§ 2, 3 provided:

"Sec. 2. If any section, provision, sentence or phrase of this Act shall be declared unconstitutional, or void for any other reason, such adjudication shall not affect the other sections and provisions

hereof, but same shall be preserved, and the remainder thereof shall be left intact and valid.

"Sec. 3. All laws and parts of laws in conflict with this Act are hereby repealed, to the extent of any such conflict only."

Arts. 1302—6.01 to 1302—6.24. Repealed. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721, § 10—102. Eff. June 30, 1966

Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721, enacting the Uniform Commercial Code, repealed article 1302—6.01 effective June 30, 1966. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721 was itself repealed by Acts 1967, 60th Leg., vol. 2, p. 2343, ch. 785, adopting the Business & Commerce Code effective September 1, 1967. However, the latter Act specifically provided that the repeal did not affect the prior operation of the 1965 Act or any prior action taken under it.

For text of the Business and Commerce Code, with Tables and Index, see page 1485.

CHAPTER THREE—GENERAL PROVISIONS

Art.
1358b. Shares on books or corporations in names of joint owners with right of survivorship [New].

Art. 1358b. Shares on books of corporations in names of joint owners with right of survivorship

Whenever shares are registered on the books of a corporation in the names of two or more persons as joint owners with the right of survivorship, upon the death of any such joint owner, the surviving joint owner or owners shall have the power to transfer full legal and equitable title to such shares to any person, firm or corporation and may receive any dividends declared upon said shares as if such surviving joint owner or owners were the absolute owners of such shares prior to such time as the corporation receives actual written notice that parties other than such surviving joint owner or owners claim an interest in such shares or dividends, and the corporation permitting such transfer by and paying such dividends to such surviving joint owner or owners prior to the receipt of such written notice from other parties claiming an interest in such shares or dividends shall be discharged from all liability for the transfer or payment so made; provided, however, that the discharge of such corporation from liability and the transfer of full legal and equitable title of the shares shall in no way affect, reduce or limit any cause of action existing in favor of any owner of an interest in such shares or dividends against such surviving joint owner or owners.

Acts 1967, 60th Leg., p. 423, ch. 188, § 1, emerg. eff. May 15, 1967.

For Annotations and Historical Notes, see V.A.T.S.

Title of Act:

An Act to provide that when shares are registered on the books of a corporation in the names of two or more persons as joint owners, with the right of survivorship, the surviving joint owner shall have the power to transfer title to such shares and receive dividends thereon; that no liability shall accrue to any corporation

because of such transfer or payment of dividends prior to receipt of actual written notice by an adverse claimant; that such discharge of liability on the part of the corporation shall not affect a cause of action by an adverse claimant against such surviving joint owner; and declaring an emergency. Acts 1967, 60th Leg., p. 423, ch. 188.

**CHAPTER NINE—NON-PROFIT, RELIGIOUS,
CHARITABLE AND EDUCATIONAL**

Art. 1396—2.14. Board of Directors or Trustees

* * * * *

E. The board of directors or trustees of a non-profit corporation may be elected (in whole or in part) by another non-profit corporation or corporations, domestic or foreign, if (1) the articles of incorporation or the bylaws of the former corporation so provide, and (2) the former has no members with voting rights.

Sec. E added by Acts 1967, 60th Leg., p. 1716, ch. 656, § 1, emerg. eff. June 17, 1967.

Acts 1967, 60th Leg., p. 1716, ch. 656, §§ 2 and 3 amended articles 1396—2.17 and 1397—2.18, § A; section 4 of the act provided:

"Sec. 4. If any provision of this Act or the application thereof to any person or

circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable."

Art. 1396—2.17. Quorum and Voting Directors

A. A quorum for the transaction of business by the board of directors shall be whichever is less:

(1) A majority of the number of directors fixed by the bylaws, or in the absence of a bylaw fixing the number of directors, a majority of the number of directors stated in the articles of incorporation, or

(2) Any number, not less than three, fixed as a quorum by the articles of incorporation or the bylaws.

B. Directors present by proxy may not be counted toward a quorum.

C. The act of the majority of the directors present in person or by proxy at a meeting at which a quorum is present shall be the act of the board of directors, unless the act of a greater number is required by the articles of incorporation or the bylaws.

D. A director may vote in person or (if the articles of incorporation or the bylaws so provide) by proxy executed in writing by the director. No proxy shall be valid after three months from the date of its execution. Each proxy shall be revocable unless expressly provided therein to be irrevocable, and unless otherwise made irrevocable by law. Amended by Acts 1967, 60th Leg., p. 1716, ch. 656, § 2, emerg. eff. June 17, 1967.

Acts 1967, 60th Leg., p. 1716, ch. 656, § 1 amended article 1396—2.14, § E; section 3 of the act of 1967 amended article 1396—2.18, § A and section 4 thereof, severability clause, is set out as a note under article 1396—2.14.

Art. 1396—2.18. Committees

A. If the articles of incorporation or the bylaws so provide, the board of directors, by resolution adopted by a majority of the directors

in office, may designate one or more committees, which, to the extent provided in such resolution, in the articles of incorporation, or in the bylaws, shall have and exercise the authority of the board of directors in the management of the corporation. Each such committee shall consist of two or more persons, a majority of whom are directors; the remainder, if the articles of incorporation or the bylaws so provide, need not be directors. The designation of such committees and the delegation thereto of authority shall not operate to relieve the board of directors, or any individual director, of any responsibility imposed upon it or him by law. Any non-director who becomes a member of any such committee shall have the same responsibility with respect to such committee as a director who is a member thereof.

Sec. A amended by Acts 1967, 60th Leg., p. 1716, ch. 656, § 3, emerg. eff. June 17, 1967.

* * * * *
Acts 1967, 60th Leg., p. 1716, ch. 656, § 3, emerg. eff. June 17, 1967. erability clause, is set out as a note under article 1396—2.14.
§§ 1, 2 amended article 1396—2.14, § E and article 1396—2 and section 4 of the act, sev-

Art. 1396—7.12. Survival of Remedy After Dissolution

A. The dissolution of a corporation either (1) by the issuance of a certificate of dissolution by the Secretary of State, or (2) by a decree of court when the court has not liquidated the assets and affairs of the corporation as provided in this Act, or (3) by expiration of its period of duration, shall not take away or impair any remedy available to or against such corporation, its directors, officers, or members, for any right or claim existing, or any liability incurred, prior to such dissolution if action or other proceeding thereon is commenced within three (3) years after the date of such dissolution. Any such action or proceeding by or against the corporation may be prosecuted or defended by the corporation in its corporate name. The members, directors and officers shall have power to take such corporate or other action as shall be appropriate to protect such remedy, right or claim. If such corporation was dissolved by the expiration of its period of duration, such corporation may amend its articles of incorporation at any time during such period of three (3) years so as to extend its period of duration.

Provided, however, any non-profit cemetery association whose charter expired prior to 1955 shall have until January 1, 1968 to amend its articles of incorporation so as to extend its period of duration.
Amended by Acts 1967, 60th Leg., p. 1824, ch. 704, § 1, eff. Aug. 28, 1967.

CHAPTER TEN—PUBLIC UTILITIES

9. TRADE ZONES

Art. 1446.4 San Angelo Trade Zone Corporation [New].

3. WATER

Art. 1434a. Water supply or sewer service corporations

* * * * *

Annual election of officers and board meetings; salaries

Sec. 5. After the issuance of a charter and annually thereafter following the annual membership or stockholders meeting, the board of directors shall elect a president, a vice president, and a secretary-treasurer and may require of such officers bonds for the faithful performance of their duties. The annual meeting of the members or stockholders of the

For Annotations and Historical Notes, see V.A.T.S.

corporation shall be held at any time between January 1 and May 1 of each year, at such time as shall be specified by the by-laws or the board of directors of the corporation. The salaries of all the officers of said corporation except that of the secretary-treasurer and of the manager whose salary is hereinafter referred to, shall not exceed Five Thousand Dollars (\$5,000) per year. The salary of the secretary-treasurer shall be fixed by the board of directors at a sum commensurate with the duties required of him.

Sec. 5 amended by Acts 1967, 60th Leg., p. 804, ch. 338, § 1, emerg. eff. June 8, 1967.

* * * * *

4. GAS AND LIGHT

Art. 1436. Right of way

Such corporation shall have the right and power to enter upon, condemn and appropriate the lands, right-of-way, easements and property of any person or corporation, and shall have the right to erect its lines over and across any public road, railroad, railroad right-of-way, interurban railroad, street railroad, canal or stream in this State, any street or alley of any incorporated city or town in this State with the consent and under the direction of the governing body of such city or town. Such lines shall be constructed upon suitable poles in the most approved manner, or pipes may be placed under the ground, as the exigencies of the case may require.

Amended by Acts 1967, 60th Leg., p. 730, ch. 306, § 1, eff. Aug. 28, 1967.

Section 2 of the act of 1967 amended article 1436a; section 3 thereof repealed conflicting laws, but expressly saved articles 6674w through 6674w-5 from repeal and is set out as a note under article 1436a; and section 4 of the act was a severability provision and is also set out as a note under article 1436a.

Art. 1436a. Construction of lines on and across roads and streets

Corporations

Section 1. Corporations organized under the Electric Cooperative Corporation Act¹ of this State, and all other corporations (including River Authorities created by the Legislature of this State) engaged in the generation, transmission and/or the distribution of electric energy in Texas and whose operations are subject to the Judicial and Legislative processes of this State, shall have the right to erect, construct, maintain and operate lines over, under, across, upon and along any State highway or county road in this State, except within the limits of an incorporated city or town; and to maintain and operate existing lines located on such highways and county roads; and to erect, maintain and operate lines over, across and along the streets, alleys and other public property in any incorporated city or town in this State, with the consent and under the direction of the governing body of such city or town. Except as modified or changed by ordinance or regulation in incorporated cities and towns, all lines for the transmission and distribution of electric energy, whether along highways or elsewhere, shall be constructed, operated and maintained, as to clearances, in accordance with the National Electrical Safety Code, as published in March, 1948, by the National Bureau of Standards, Handbook 30, as revised by Handbook 81, published by the National Bureau of Standards in November, 1961, provided that lines along highways and county roads shall be single pole construction, and provided that at any place where a transmission line crosses a highway or road it shall be at least twenty-two (22) feet above the surface of the traffic lane, and further provided that all lines shall be at least twenty-two (22) feet above the surface of any railroad track or railroad siding. Any such corporation shall notify the

State Highway Commission, or the Commissioners Court having jurisdiction, as the case may be, when it proposes to build lines along the right-of-way of any State highway, or county road, outside the limits of an incorporated city or town, whereupon the Highway Commission, or the Commissioners Court, may, if it so desires, designate the place along the right-of-way where such lines shall be constructed. The public agency having jurisdiction or control of a highway or county road, that is, the Highway Commission or the Commissioners Court, as the case may be, may require any such corporation, at its own expense, to re-locate its lines on a State highway or county road outside the limits of an incorporated city or town, so as to permit the widening of the right-of-way, changing of traffic lanes, improvement of the road bed, or improvement of drainage ditches located on such right-of-way by giving thirty (30) days' written notice to such corporation and specifying the line or lines to be moved, and indicating the place on the new right-of-way where such line or lines may be placed. In the event a State highway or county road on which lines have been built passes through or into an unincorporated city or town, which thereafter becomes an incorporated city or town, the corporation owning such lines shall continue to have the right to build, maintain and operate its lines along, across, upon and over the roads and streets within the corporate limits of such city or town for a period of ten (10) years from and after the date of such incorporation, but thereafter only with the consent of the governing body of such city or town, but this provision shall not be construed as prohibiting such city or town from levying taxes and such special charges for the use of the streets as are authorized by Article 7060, Revised Civil Statutes of the State of Texas; and the governing body of such city or town may require any such corporation, at its own expense, to re-locate its poles and lines so as to permit the widening or straightening of streets, by giving to such corporation thirty (30) days' notice and specifying the new location for such poles and lines along the right-of-way of such street or streets.

Sec. 1 amended by Acts 1967, 60th Leg., p. 730, ch. 306, § 2, eff. Aug. 28, 1967.

¹ Article 1528b.

Municipal plants and systems

Sec. 1a. Any incorporated city or town in this State which owns and operates an electric generating plant or operates transmission lines and/or distribution system or systems shall have the right to erect, construct, maintain and operate lines over, under, across, upon and along any state highway or county road in this State, except within the limits of another incorporated city or town; and to maintain and operate existing lines located on such highways and county roads; and to erect, maintain and operate lines over, across and along the streets, alleys and other public property in any other incorporated city or town in this State with the acquiescence or consent and under the regulations of the governing body of such city or town. Except as modified or changed by ordinance or regulation in incorporated cities and towns, all lines for the transmission and distribution of electric energy, whether along highways or elsewhere, shall be constructed, operated and maintained in accordance with the National Electrical Safety Code, as published in March, 1948, by the National Bureau of Standards, Handbook 30, as revised by Handbook 81, published by the National Bureau of Standards in November, 1961, provided that lines along highways and county roads shall be single pole construction, and provided that at any place where a transmission line crosses a highway or road it shall be at least twenty-two (22) feet above the surface of the traffic lane, and further provided that all lines shall be at least twenty-two (22) feet above

For Annotations and Historical Notes, see V.A.T.S.

the surface of any railroad track or railroad siding. Any such incorporated city or town authorized to build lines along highways and public roads under this Section shall notify the State Highway Commission or the Commissioners Court having jurisdiction, as the case may be, when it proposes to build lines along the right-of-way of any state highway, or county road, outside the limits of an incorporated city or town, whereupon the Highway Commission, or the Commissioners Court, may, if it so desires, designate the place along the right-of-way where such lines shall be constructed. The public agency having jurisdiction or control of a highway or county road, that is, the Highway Commission or the Commissioners Court, as the case may be, may require any such municipal corporation, at its own expense, to re-locate its lines on a State highway or county road outside the limits of an incorporated city or town, so as to permit the widening of the right-of-way, changing of traffic lanes, improvement of the road bed, or improvement of drainage ditches located on such right-of-way, by giving thirty (30) days' written notice to such municipal corporation owning such lines, and specifying the line or lines to be moved, and indicating the place on the new right-of-way where such line or lines may be placed. In the event a State highway or county road on which lines have been built passes through or into an unincorporated city or town, which thereafter becomes an incorporated city or town, the municipal corporation owning such lines shall continue to have the right to build, maintain and operate its lines along, across, upon and over the roads and streets within the corporate limits of such city or town for a period of ten (10) years from and after the date of such incorporation, but thereafter only with the consent of the governing body of such city or town; and the governing body of such city or town may require the municipal corporation owning such lines, at its own expense, to re-locate its poles and lines so as to permit the widening or straightening of streets, by giving to the municipal corporation owning such lines thirty (30) days' notice and specifying the new location for such poles and lines along the right-of-way of such street or streets. Nothing herein shall be construed as granting the right to such municipal corporation to maintain existing lines in any area, which is included within the corporate limits of another city or town prior to the effective date of this Act, without the consent of the governing body of such other city or town.

Sec. 1a amended by Acts 1967, 60th Leg., p. 731, ch. 306, § 2, eff. Aug. 28, 1967.

* * * * *

Section 1 of the act of 1967 amended article 1436; sections 3 and 4 provided:

"Sec. 3. All other statutes, or parts of statutes, in conflict with the provisions of this Act are hereby expressly repealed; provided, however, that this Act does not amend, repeal or alter Chapter 300, Acts of the 55th Legislature, Regular Session, 1957 (Article 6674w—1 through Article 6674w—5, Vernon's Texas Civil Statutes), and provided further, this section shall not change, modify or limit the rights granted corporations, cities and towns in Section 2 of this Act.

"Sec. 4. If any section, sentence, phrase, clause, or any part of any section, sentence, phrase or clause of this Act shall, for any reason, be held invalid, such decision shall not affect the remaining portions of this Act, and it is hereby declared to be the intention of this Legislature to have passed each section, sentence, phrase, clause, or part thereof irrespective of the fact that any other section, sentence, phrase or clause or part thereof may be declared invalid."

Art. 1438a. Repealed. Acts 1967, 60th Leg., vol. 2, p. 2343, ch. 785, § 4. Eff. Sept. 1, 1967

Acts 1967, 60th Leg., vol. 2, p. 2343, ch. 785, adopting the Business & Commerce Code, repealed article 1438a effective September 1, 1967. For text of the Business and Commerce Code, with Tables and Index, see volume 2 of this Supplement.

Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721 enacted the Uniform Commercial Code effective June 30, 1966. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721 was itself repealed by Acts 1967, 60th Leg., vol. 2, p. 2343, ch. 785, effective September 1, 1967. However, the latter Act specifically provided that the repeal did not affect the prior operation of the

1965 Act or any prior action taken under it.

Prior to repeal article 1438a was amended by Acts 1965, 59th Leg., p. 180, (U.C.C.) ch. 721, § 10-104 which was thereafter amended by Acts 1967, 60th Leg., p. 1987, ch. 735, § 10.

See, now, V.A.T.C. Bus. & C. §§ 35.01 to 35.08.

9. TRADE ZONES [NEW]

Art. 1446.4 San Angelo Trade Zone Corporation

Section 1. The San Angelo Trade Zone, Inc., organized and incorporated under the laws of the State of Texas, with offices at San Angelo, Tom Green County, Texas, is authorized to establish, operate and maintain a foreign trade zone at San Angelo, Tom Green County, Texas, and other sub-zones.

Sec. 2. The San Angelo Trade Zone, Inc., is authorized to apply for and accept a grant to establish, operate and maintain a foreign trade zone at the San Angelo Port of Entry, and other sub-zones, subject to the requirements of Public Law No. 397, as amended by Public Law 566, 81st Congress (Ch. 1A, Title 19, Sections 81a-81u, United States Code Annotated), and regulations of the Foreign Trade Zones Board. Acts 1967, 60th Leg., p. 2075, ch. 777, emerg. eff. June 18, 1967.

Title of Act.

An Act authorizing the San Angelo Trade Zone, Inc., to establish, operate and maintain a foreign trade zone at San Angelo, Tom Green County, Texas, and other sub-zones; authorizing the San Angelo Trade Zone, Inc., to apply to the Foreign Trade Zone Board, Washington, D.C., for a grant

to permit the establishment, operation and maintenance of the foreign trade zone and sub-zones in accordance with federal laws and the regulations of the Federal Trade Zones Board; authorizing the acceptance of such grant; and declaring an emergency. Acts 1967, 60th Leg., p. 2075, ch. 777.

CHAPTER SEVENTEEN—TRUST COMPANIES AND INVESTMENTS

Art. 1513a. Creation of trust company; purposes

Creation; purposes

Section 1. Trust companies may be created, and any corporation, however created, may amend its charter in compliance herewith, or a foreign corporation may obtain a certificate of authority to do business in Texas for the following purpose: to act as trustee, executor, administrator, or guardian when designated by any person, corporation, or court to do so, and as agent for the performance of any lawful act, including the right to receive deposits made by agencies of the United States of America for the authorized account of any individual, and to act as attorney-in-fact for reciprocal or inter-insurance exchange, and to lend and accumulate money without banking privileges, when licensed under the provisions of Subtitle II of Title 79, Revised Civil Statutes of Texas, 1925, as amended.¹

¹ See article 5069—1.01 et seq.

For Annotations and Historical Notes, see V.A.T.S.

Supervision of Banking Commissioner; annual statement;
examination of trust companies; penalties

Sec. 2. (a) Such corporations shall be subject to supervision by the Banking Commissioner of Texas and shall file with the Banking Commissioner of Texas on or before February 1 of each year a statement of its condition on the previous December 31, in such form as may be required by the Banking Commissioner, showing under oath its assets and liabilities, together with a fee of \$25 for filing; which statement when so filed shall not be open to the public but shall be for the information of the Banking Commissioner and his employees. The Banking Commissioner may, for good cause shown, extend the time for filing such statement for not more than 60 days. The Banking Commissioner, or his authorized assistants or representative, shall not make public the contents of said statement, or any information derived therefrom, except in the course of some judicial proceeding in this state.

(b) The Banking Commissioner of Texas shall have authority to examine or cause to be examined each such corporation annually or more often if he deems it necessary. Such corporation shall pay the actual traveling expenses, hotel bills, and all other actual expenses incident to such examination and a fee not exceeding \$25 per day per person engaged in such examination. If such corporation has not sold in Texas, and does not offer for sale or sell in Texas, any of its securities which have been registered or with respect to which a permit authorizing their sale has been issued under the Securities Act, as presently in force or hereafter amended, the Banking Commissioner of Texas, in lieu of an examination, shall accept the financial statement filed by such corporation pursuant to the first paragraph of this Section. Such fees, together with all other fees, penalties and revenues collected by the Banking Department, shall be retained by the department and shall be expended only for the expenses of the department.

(c) If any such corporation shall fail to comply with the requirements of the first paragraph of this Section in the manner and within the time required, such failure shall subject such corporation to a penalty of not less than \$200 nor more than \$1,000, which shall be collected at the suit of the Attorney General if not paid within 30 days after February 1 of each year. A second failure to file such statement, as so required, shall be grounds for forfeiture of the charter of such corporation at the suit of the Attorney General upon request of the Banking Commissioner of Texas.

(d) Refusal on the part of any such corporation to submit to an examination by the Banking Commissioner of Texas, or his representatives, or the withholding of information from the Banking Commissioner of Texas, or his representatives, shall constitute grounds for forfeiture of the charter of such corporation at the suit of the Attorney General upon the request of the Banking Commissioner of Texas.

Compliance with Securities Act

Sec. 3. Any securities issued or sold by such companies shall be issued and sold in compliance with all of the provisions of the Securities Act, as amended, as it now exists or may hereafter be amended.

Paid-in capital

Sec. 4. Any such company must have a fully paid-in capital of not less than \$500,000.

Demand or time deposits

Sec. 5. Any such company shall not accept demand or time deposits, except as hereinabove provided.

Foreign corporations

Sec. 6. The provisions of this Act shall apply to foreign corporations which have heretofore been authorized and which may hereafter be authorized to transact business in this state under a certificate of authority which authorizes such corporation to exercise in this state all or any of the purposes, powers or authorities referred to in Section 1 hereof. Every such foreign corporation authorized to transact business in the state shall be subject to the examination of the Banking Commissioner of Texas in the same manner and under the same terms and conditions as are domestic corporations. In lieu of such examinations, the Banking Commissioner of Texas may, in his discretion, accept reports of examination made by the supervising authority of the state in which the home office of such foreign corporation is domiciled. Failure to comply with this Act shall constitute grounds for revocation of the certificate of authority of such foreign corporation to transact business in this state in an action filed by the Attorney General upon the request of the Banking Commissioner of Texas.

Supplementary laws; antitrust laws

Sec. 7. The General Laws for incorporation and governing of corporations and the provisions of Article 1513, Revised Civil Statutes of Texas, 1925, and the provisions of the Texas Business Corporation Act shall supplement the provisions of this Act and shall apply to such trust companies to the extent that they are not inconsistent herewith; provided, the provisions of Article 2.01A² permitting a corporation to have more than one purpose shall not apply. The power and authority herein conferred shall in no way affect any of the provisions of the antitrust laws of this state.

Amended by Acts 1967, 60th Leg., p. 1730, ch. 658, § 1, emerg. eff. June 17, 1967.

2 V.A.T.S.Bus.Corp.Act, art. 2.01.

Sections 2 and 3 of the amendatory act of 1967 provided:

"Sec. 2. Chapter 165, Acts of the 42nd Legislature, Regular Session, 1931, as amended (Article 1524a, Vernon's Texas Civil Statutes), is repealed.

"Sec. 3. If any word, phrase, clause, sentence or Section of this Act or the ap-

plication thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable."

Art. 1524a. Repealed. Acts 1967, 60th Leg., p. 1730, ch. 658, § 2. Eff. June 17, 1967

Acts 1967, 60th Leg., p. 1730, ch. 658, § 1 amended article 1513a; section 3 thereof, a severability clause, is set out as a note under article 1513a.

See, now, article 1513a and notes thereunder.

BUSINESS CORPORATION ACT

PART TWO

Art. 2.10—1 Change of address of registered agent [New].

PART ONE

Art. 1.02. Definitions

A. As used in this Act, unless the context otherwise requires, the term:

* * * * *

(13) "Earned surplus" means the portion of the surplus of a corporation equal to the balance of its net profits, income, gains and losses

For Annotations and Historical Notes, see V.A.T.S.

from the date of incorporation, or from the latest date when a deficit was eliminated by an application of its capital surplus or stated capital or otherwise, after deducting subsequent distributions to shareholders and transfers to stated capital and capital surplus to the extent such distributions and transfers are made out of earned surplus. Earned surplus shall include also any portion of surplus allocated to earned surplus in mergers, consolidations or acquisitions of all or substantially all of the outstanding shares or of the property and assets of another corporation, domestic or foreign.

Sec. A, subsec. (13) amended by Acts 1967, 60th Leg., p. 1718, ch. 657, § 1, emerg. eff. June 17, 1967.

* * * * *
 Acts 1967, 60th Leg., p. 1729, ch. 657 amended and repealed various articles of the Business Corporation Act; section 21 of the 1967 act, a savings provision, is set out as a note under articles 5.06 and 6.01; section 22 thereof provided:
 "If any word, phrase, clause, sentence or section of this Act or the application there-

of to any person or circumstances is held invalid, such invalidity shall not affect other provisions or application of this Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable."

PART TWO

Art. 2.02. General Powers

* * * * *
 C. Nothing contained in this Article shall be deemed to authorize any action in violation of the Anti-Trust Laws of this State or of any of the provisions of Part Four of the Texas Miscellaneous Corporation Laws Act, as now existing or hereafter amended.
 Sec. C amended by Acts 1967, 60th Leg., p. 1718, ch. 657, § 2, emerg. eff. June 17, 1967.

Acts 1967, 60th Leg., p. 1732, ch. 657, amended and repealed various provisions of the Business Corporation Act; section 21 of the 1967 act, a savings provision, is set out as a note under articles 5.06 and 6.01; section 22 thereof, a savings clause, is set out as a note under article 1.02.

Art. 2.07. Registered Name

* * * * *
 C. Such registration shall be effective for a period of one year from the date on which the application for registration is filed, unless voluntarily withdrawn by the filing of a written notice thereof with the Secretary of State.
 Sec. C amended by Acts 1967, 60th Leg., p. 1718, ch. 657, § 3, emerg. eff. June 17, 1967.

Acts 1967, 60th Leg., p. 1732, ch. 657, amended and repealed various provisions of the Business and Corporation Act; section 21 of the 1967 act, a savings provision, is set out as a note under articles 5.06 and 6.01; section 22 thereof, a savings clause, is set out as a note under article 1.02.

Art. 2.10—1. Change of Address of Registered Agent

A. The location of the business office of any registered office in Texas for a corporation, domestic or foreign, may be changed from one address to another within the same County upon filing in the office of the Secretary of State a statement setting forth:
 (1) The name and last known address of the principal place of business of the corporation represented by such registered agent.
 (2) The post office address at which such registered agent has maintained the registered office for said corporation.

(3) The new post office address at which such registered agent will thereafter maintain the registered office for said corporation, which shall be identical with the location of the business office of such registered agent.

(4) A statement that notice of the change has been given to said corporation in writing at least ten (10) days prior to such filing.

B. Triplicate originals of such statement shall be signed and verified by the registered agent, or, if said agent is a corporation, by the president or vice-president of such corporate agent, and delivered to the Secretary of State. If the Secretary of State finds that such statement conforms to the provisions of this Act, he shall:

(1) Endorse on each of such originals the word "Filed," and the month, day and year of the filing thereof.

(2) File one of such originals in his office.

(3) Return one original to such registered agent.

(4) Return one original to the corporation at the last known address of the principal place of business of the corporation as shown in such statement.

C. The registered office of the corporation named in such statement shall be changed to the new address of the registered agent upon the filing of such statement by the Secretary of State.

Added by Acts 1967, 60th Leg., p. 1719, ch. 657, § 4, emerg. eff. June 17, 1967.

Acts 1967, 60th Leg., p. 1732, ch. 657, amended and repealed various provisions of the Business and Corporation Act; section 21 of the 1967 act, a savings provision, is set out as a note under articles 5.06 and 6.01; section 22 thereof, a savings clause, is set out as a note under article 1.02.

Art. 2.17. Determination of Amount of Stated Capital

* * * * *

D. If shares have been or shall be issued by a corporation in merger or consolidation or in acquisition of all or substantially all of the outstanding shares or of the property and assets of another corporation, whether domestic or foreign, any amount that would otherwise constitute capital surplus under the foregoing provisions of this Article may instead be allocated to earned surplus by the Board of Directors of the issuing corporation except that its aggregate earned surplus shall not exceed the sum of the earned surpluses as defined in this Act of the issuing corporation and of all other corporations, domestic or foreign, that were merged or consolidated or of which the shares or assets were acquired.

Sec. D. added by Acts 1967, 60th Leg., p. 1719, ch. 657, § 4A, emerg. eff. June 17, 1967.

Acts 1967, 60th Leg., p. 1732, ch. 657, amended and repealed various provisions of the Business and Corporation Act; section 21 of the 1967 act, a savings provision, is set out as a note under articles 5.06 and 6.01; section 22 thereof, a savings clause, is set out as a note under article 1.02.

Art. 2.22. Provisions Relating to Restrictions on the Transfer of Shares and Pre-emptive Rights

* * * * *

E. Except as otherwise expressly provided in this Article, no provision of Article 8—Investment Securities of the Uniform Commercial Code of this State shall be deemed to be amended or repealed by any provision of this Act.

Sec. E. amended by Acts 1967, 60th Leg., p. 1719, ch. 657, § 5, emerg. eff. June 17, 1967.

Acts 1967, 60th Leg., p. 1732, ch. 657, amended and repealed various provisions of the Business and Corporation Act; section 21 of the 1967 act, a savings provision, is set out as a note under articles 5.06 and 6.01; section 22 thereof, a savings clause, is set out as a note under article 1.02.

For Annotations and Historical Notes, see V.A.T.S.

Art. 2.29. Voting of Shares

A. Each outstanding share, regardless of class, shall be entitled to one vote on each matter submitted to a vote at a meeting of shareholders, except to the extent that the voting rights of the shares of any class or classes are limited or denied by the articles of incorporation as permitted by this Act and except as otherwise provided by Article 5.13. Sec. A, amended by Acts 1967, 60th Leg., p. 1719, ch. 657, § 6, emerg. eff. June 17, 1967.

* * * * * Acts 1967, 60th Leg., p. 1732, ch. 657, amended and repealed various provisions of the Business and Corporation Act; section 21 of the 1967 act a savings provision, is set out as a note under articles 5.06 and 6.01; section 22 thereof, a savings clause, is set out as a note under article 1.02.

PART FOUR

Art. 4.02. Procedure to Amend Articles of Incorporation

* * * * * C. The articles of incorporation may also be amended by the unanimous written consent of the incorporators of a corporation which has not commenced business and which has not issued any shares or accepted any subscriptions. Sec. C added by Acts 1967, 60th Leg., p. 1719, ch. 657, § 7, emerg. eff. June 17, 1967.

Acts 1967, 60th Leg., p. 1732, ch. 657, amended and repealed various provisions of the Business and Corporation Act; section 21 of the 1967 act a savings provision, is set out as a note under articles 5.06 and 6.01; section 22 thereof, a savings clause, is set out as a note under article 1.02.

Art. 4.03. Class Voting on Amendments

* * * * * C. The provisions of Paragraph B of this Article 4.03 shall not apply to the holders of the outstanding shares of any class not entitled to vote upon a proposed amendment by the provisions of the Articles of Incorporation, in the case of an amendment which would increase the aggregate number of authorized shares of such class or create a new class of shares having rights and preferences equal, prior, or superior to the shares of such class, or increase the rights and preferences of any class having rights or preferences later or inferior to the shares of such class in such a manner as to become equal, prior or superior to the shares of such class, if the provisions of the Articles of Incorporation applicable to such class set forth specific limitations and restrictions within which the corporation may take the action contemplated by the proposed amendment, and if the action contemplated by the proposed amendment is within the limitations and restrictions so specified.

Sec. C added by Acts 1967, 60th Leg., p. 1758, ch. 663, § 1, emerg. eff. June 17, 1967.

Section 2 of the amendatory act of 1967 provided: "If any word, phrase, clause, sentence or Section of this Act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or application of this Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable."

Art. 4.04. Articles of Amendment

* * * * * B. Articles of amendment adopted by unanimous written consent of the incorporators, in lieu of the requirements provided in Section A of this Article, shall be executed in duplicate and verified by them, and shall set forth:

- (1) The name of the corporation.
 - (2) If the amendment alters any provision of the original or amended articles of incorporation, an identification by reference or description of the altered provision and a statement of its text as it is amended to read. If the amendment is an addition to the original or amended articles of incorporation, a statement of that fact and the full text of each provision added.
 - (3) That none of its shares has been issued.
 - (4) That it has not accepted any subscriptions.
 - (5) That the corporation has not commenced business.
 - (6) That such amendment has been adopted by unanimous written consent of the incorporators.
 - (7) The date of the adoption of the amendment by the incorporators.
- Sec. B added by Acts 1967, 60th Leg., p. 1719, ch. 657, § 8, emerg. eff. June 17, 1967.

Acts 1967, 60th Leg., p. 1732, ch. 657, amended and repealed various provisions of the Business and Corporation Act; section 21 of the 1967 act a savings provision, is set out as a note under articles 5.06 and 6.01; section 22 thereof, a savings clause, is set out as a note under article 1.02.

PART FIVE

Art. 5.03. Approval by Shareholders of Merger or Consolidation of Domestic Corporations

* * * * *

B. At each such meeting, a vote of the shareholders shall be taken on the proposed plan of merger or consolidation. Each outstanding share of each such corporation shall be entitled to vote on the proposed plan of merger or consolidation, whether or not such share has voting rights under the provisions of the articles of incorporation of such corporation. The plan of merger or consolidation shall be approved upon receiving the affirmative vote of the holders of at least two-thirds of the outstanding shares of each such corporation, unless any class of shares of any such corporation is entitled to vote as a class thereon, in which event, as to such corporation, the plan of merger or consolidation shall be approved upon receiving the affirmative vote of the holders of at least two-thirds of the outstanding shares within each class of shares entitled to vote as a class thereon as well as of at least two-thirds of the outstanding shares. Any class of shares of any such corporation shall be entitled to vote as a class if the plan of merger or consolidation, as the case may be, contains any provision which, if contained in a proposed amendment to articles of incorporation, would entitle such class of shares to vote as a class.

Sec. B amended by Acts 1967, 60th Leg., p. 1720, ch. 657, § 9, emerg. eff. June 17, 1967.

* * * * *

Acts 1967, 60th Leg., p. 1732, ch. 657, amended and repealed various provisions of the Business and Corporation Act; section 21 of the 1967 act a savings provision, is set out as a note under articles 5.06 and 6.01; section 22 thereof, a savings clause, is set out as a note under article 1.02.

Art. 5.06. Effect of Merger or Consolidation of Domestic Corporations

A.

* * * * *

(7) Repealed. Acts 1967, 60th Leg., p. 1729, ch. 657, § 19, eff. June 17, 1967.

Acts 1967, 60th Leg., p. 1729, ch. 657, which amended and repealed various provisions of the Business Corporation Act, provided in section 21: "The repeal of a

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prior act by this Act shall not affect any right accrued or established, or any liability or penalty incurred under the provisions of such act, prior to the repeal thereof, nor shall the amendment or repeal of a prior act by this Act invalidate or otherwise affect any pending proceedings for the voluntary dissolution of a corporation or the

remedies of any shareholder dissenting as to any corporate action which has been effected prior to the effective date of this Act."

Section 22 of the act of 1967, a severability clause, is set out as a note under art. 1.02.

Art. 5.07. Merger or Consolidation of Domestic and Foreign Corporations

* * * * *

B. Such merger or consolidation shall be carried out in the following manner:

(1) Each domestic corporation shall comply with the provisions of this Act with respect to merger or consolidation, as the case may be, of domestic corporations, except that if the surviving or new corporation is to be a foreign corporation, the plan of merger or consolidation shall specify the state under whose laws such surviving or new corporation is to be governed and the address, including street and number, if any, of the registered or principal office of such surviving or new corporation in the state under whose laws it is to be governed; provided that no domestic corporation shall be merged or consolidated with a foreign corporation unless and until a resolution authorizing such merger or consolidation shall be adopted upon the affirmative vote of the holders of at least two-thirds of the outstanding shares of the domestic corporation cast at a meeting called and conducted in the same manner as provided by Article 5.08 of this Act.

Sec. B, subsec. (1) amended by Acts 1967, 60th Leg., p. 1720, ch. 657, § 10, emerg. eff. June 17, 1967.

* * * * *

Acts 1967, 60th Leg., p. 1732, ch. 657, amended and repealed various provisions of the Business and Corporation Act; section 21 of the 1967 act a savings provision, is

set out as a note under articles 5.06 and 6.01; section 22 thereof, a savings clause, is set out as a note under article 1.02.

Art. 5.10. Disposition of Assets Requiring Special Authorization of Shareholders

A. A sale, lease, exchange, or other disposition (not including any pledge, mortgage, deed of trust or trust indenture unless otherwise provided in the articles of incorporation) of all, or substantially all, the property and assets, with or without the good will of a corporation, if not made in the usual and regular course of its business, may be made upon such terms and conditions and for such consideration, which may consist in whole or in part of money or property, real or personal, including shares of any corporation, domestic or foreign, as may be authorized in the following manner:

* * * * *

(3) At such meeting, the shareholders may authorize such sale, lease, exchange or other disposition and may fix, or may authorize the board of directors to fix, any or all of the terms and conditions thereof and the consideration to be received by the corporation therefor. Each outstanding share of the corporation shall be entitled to vote thereon, whether or not entitled to vote thereon by the provisions of the articles of incorporation. Such authorization shall require the affirmative vote of the holders of at least two-thirds of the outstanding shares of the corporation, and, in the event any class of shares is entitled to vote as a class thereon, such authorization shall require in addition the af-

firmative vote of the holders of at least two-thirds of the outstanding shares of each class of shares entitled to vote as a class thereon.

Sec. A., subsec. (3) amended by Acts 1967, 60th Leg., p. 1720, ch. 657, § 11, emerg. eff. June 17, 1967.

Acts 1967, 60th Leg., p. 1732, ch. 657, amended and repealed various provisions of the Business and Corporation Act; section 21 of the 1967 act, a savings provision, is set out as a note under articles 5.06 and 6.01; section 22 thereof, a savings clause, is set out as a note under article 1.02.

Art. 5.12. Procedure for Dissent by Shareholders as to Said Corporate Actions

A. In case any shareholder of any domestic corporation lawfully elects to exercise his right to dissent from any of the corporate actions referred to in the last preceding Article hereof, the following procedure shall be followed:

(1) Such shareholder shall file with the corporation, prior to the taking of the vote of shareholders on the proposed corporate action, a written objection to such proposed corporate action, setting out that his right to dissent will be exercised if such action is effective and giving his address, to which notice thereof shall be delivered or mailed in such event. If such corporate action be effected and such shareholder shall not have voted in favor thereof, the corporation shall, within ten (10) days after such corporate action is effected deliver or mail to such shareholder written notice thereof, and such shareholder may, within ten (10) days from the delivery or mailing of such notice, make written demand on the existing, surviving, or new corporation, as the case may be, domestic or foreign, for payment of the fair value of his shares. The fair value of such shares shall be the value thereof as of the day before the vote was taken authorizing such corporate action, excluding any appreciation or depreciation in anticipation of such proposed act. Such demand shall state the number and class of the shares owned by the dissenting shareholder and the fair value of such shares as estimated by him. Any shareholder failing to make demand within the ten (10) day period shall be bound by such corporate action.

(2) Within twenty (20) days after receipt by the existing, surviving, or new corporation, as the case may be, of a demand for payment of the fair value of his shares made by such dissenting shareholder in accordance with Subsection (1) hereof, such corporation shall deliver or mail to such dissenting shareholder a written notice which shall either set out that the corporation accepts the amount claimed in such demand and agrees to pay such amount within ninety (90) days after the date on which such corporate action was effected, upon the surrender of the share certificates duly endorsed, or shall contain an estimate by the corporation of the fair value of such shares, together with an offer to pay the amount of such estimate within ninety (90) days after the date on which such corporate action was effected, upon receipt of notice within sixty (60) days after such date from such shareholder that he agrees to accept such amount upon the surrender of the share certificates duly endorsed.

(3) If, within sixty (60) days after the date on which such corporate action was effected the value of such shares is agreed upon between the dissenting shareholder and the existing, surviving, or new corporation, as the case may be, payment therefor shall be made within ninety (90) days after the date on which such corporate action was effected, upon surrender of his certificate or certificates representing such shares. Upon payment of the agreed value, the dissenting shareholder shall cease to have any interest in such shares or in the corporation.

B. If, within such period of sixty (60) days after the date on which such corporate action was effected, the shareholder and the existing,

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surviving, or new corporation, as the case may be, do not so agree, then the dissenting shareholder or the corporation may, within sixty (60) days after the expiration of the sixty (60) day period, file a petition in any court of competent jurisdiction in the county in which the principal office of the corporation is located, asking for a finding and determination of the fair value of such shares. Upon the filing of any such petition by a shareholder, service of a copy thereof shall be made upon the corporation, which shall, within ten (10) days after such service, file in the office of the clerk of the court in which such petition was filed a duly verified list containing the names and addresses of all shareholders who have demanded payment for their shares and with whom agreements as to the value of their shares have not been reached by the corporation. If the petition shall be filed by the corporation, the petition shall be accompanied by such a duly verified list. The clerk of the court shall give notice of the time and place fixed for the hearing of such petition by registered mail to the corporation and to the shareholders shown upon such list at the addresses therein stated. The forms of the notices by mail shall be approved by the court. All shareholders thus notified and the corporation shall thereafter be bound by the final judgment of the court.

C. After the hearing of such petition, the court shall determine the shareholders who have complied with the provisions of this Article and have become entitled to the valuation of and payment for their shares, and shall appoint one or more qualified appraisers to determine such value. Such appraisers shall have power to examine any of the books and records of the corporation the shares of which they are charged with the duty of valuing, and they shall make a determination of the fair value of the shares upon such investigation as to them may seem proper. The appraisers shall also afford a reasonable opportunity to the parties interested to submit to them pertinent evidence as to the value of the shares. The appraisers shall also have such power and authority as may be conferred on Masters in Chancery by the Rules of Civil Procedure or by the order of their appointment.

D. The appraisers shall determine the fair value of the shares of the shareholders adjudged by the court to be entitled to payment therefor and shall file their report respecting such value in the office of the clerk of the court, and notice of the filing of such report shall be given by the clerk to the parties in interest. Such report shall be subject to exceptions to be heard before the court both upon the law and the facts. The court shall by its judgment determine the fair value of the shares of the shareholders entitled to payment therefor and shall direct the payment of such value by the existing, surviving, or new corporation, together with interest thereon, to the date of such judgment, to the shareholders entitled thereto. The judgment shall be payable only upon, and simultaneously with, the surrender to the existing, surviving, or new corporation, as the case may be, of the certificate or certificates representing such shares. Upon payment of the judgment, the dissenting shareholders shall cease to have any interest in such shares, or in the corporation. The court shall allow the appraisers a reasonable fee as court costs and all court costs shall be allotted between the parties in such manner as the court shall determine to be fair and equitable.

E. Shares acquired by the existing, surviving, or new corporation, as the case may be, pursuant to the payment of the agreed value thereof or to payment of the judgment entered therefor, as in this Article provided, may be held and disposed of by such corporation as in the case of other treasury shares.

F. The provisions of this Article shall not apply to a merger if, on the date of the filing of the articles of merger, the surviving corporation is the owner of all the outstanding shares of the other corporations, domestic or foreign, that are parties to the merger.

G. In the absence of fraud in the transaction, the remedy provided by this Article to a shareholder objecting to any corporate action referred to in Article 5.11 of this Act is the exclusive remedy for the recovery of the value of his shares or money damages to such shareholder with respect to such corporate action; and if the existing, surviving, or new corporation, as the case may be, complies with the requirements of this Article, any such shareholder who fails to comply with the requirements of this Article shall not be entitled to bring suit for the recovery of the value of his shares or money damages to such shareholder with respect to such corporate action.

Amended by Acts 1967, 60th Leg., p. 1721, ch. 657, § 12, emerg. eff. June 17, 1967.

Acts 1967, 60th Leg., p. 1732, ch. 657, set out as a note under articles 5.06 and amended and repealed various provisions of 6.01; section 22 thereof, a savings clause, the Business and Corporation Act; section 1s set out as a note under article 1.02. 21 of the 1967 act, a savings provision, is

Art. 5.13. Provisions Affecting Remedies of Dissenting Shareholders

A. Any shareholder who has demanded payment for his shares in accordance with Article 5.12 shall not thereafter be entitled to vote or exercise any other rights of a shareholder except the right to receive payment for his shares pursuant to the provisions of said Article 5.12 and the right to maintain an appropriate action to obtain relief on the ground that the corporate action would be or was fraudulent, and the respective shares for which payment has been demanded shall not thereafter be considered outstanding for the purposes of any subsequent vote of shareholders.

B. Within twenty (20) days after demanding payment for his shares in accordance with Article 5.12, each shareholder so demanding payment shall submit the certificate or certificates representing his shares to the corporation for notation thereon that such demand has been made. His failure so to do shall, at the option of the corporation, terminate his rights under Article 5.12 unless a court of competent jurisdiction for good and sufficient cause shown shall otherwise direct. If shares represented by a certificate on which notation has been so made shall be transferred, each new certificate issued therefor shall bear similar notation together with the name of the original dissenting holder of such shares and a transferee of such shares shall acquire by such transfer no rights in the corporation other than those which the original dissenting shareholder had after making demand for payment of the fair value thereof.

C. Any shareholder who has demanded payment for his shares in accordance with Article 5.12 may withdraw such demand at any time before payment for his shares or before any petition has been filed pursuant to Article 5.12 asking for a finding and determination of the fair value of such shares, but no such demand may be withdrawn after such payment has been made or, unless the corporation shall consent thereto, after any such petition has been filed. If, however, such demand shall be withdrawn as hereinbefore provided, or if pursuant to Section B of this Article the corporation shall terminate the shareholder's rights under Article 5.12, or if no petition asking for a finding and determination of fair value of such shares by a court shall have been filed within the time provided in Article 5.12, or if after the hearing of a petition filed pursuant to Article 5.12, the court shall determine that such shareholder is not entitled to the relief provided by Article 5.12, then, in any such case, such shareholder and all persons claiming under him shall be conclusively presumed to have approved and ratified the corporate action from which he dissented and shall be bound thereby, the right of such shareholder to be paid the fair value of his shares shall cease, and his status as a shareholder shall be restored without prejudice to any corporate proceedings which may have

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been taken during the interim, and such shareholder shall be entitled to receive any dividends or other distributions made to shareholders in the interim.

Amended by Acts 1967, 60th Leg., p. 1723, ch. 657, § 13, emerg. eff. June 17, 1967.

Acts 1967, 60th Leg., p. 1732, ch. 657, set out as a note under articles 6.06 and amended and repealed various provisions of 6.01; section 22 thereof, a savings clause, the Business and Corporation Act; section 1s set out as a note under article 1.02. 21 of the 1967 act, a savings provision, is

PART SIX

Part 6 of the Texas Business Corporation Act, Acts 1955, 54th Leg., p. 239, ch. 64, relating to voluntary corporate dissolution, consisting of articles 6.01 to 6.12, was amended by Acts 1967, 60th Leg., p. 1724, ch. 657, § 14, to consist of articles 6.01 to 6.07, as herein set out.

Art. 6.01. Voluntary Dissolution by Incorporators

A. A corporation which has not commenced business and which has not issued any shares, may be voluntarily dissolved by the incorporators at any time within two years after the date of issuance of its certificate of incorporation, in the following manner:

(1) Articles of dissolution shall be executed in duplicate by a majority of the incorporators, and verified by them, and shall set forth:

- (a) The name of the corporation.
- (b) The date of issuance of its certificate of incorporation.
- (c) That none of its shares has been issued.
- (d) That the corporation has not commenced business.

(e) That the amount, if any, actually paid on subscriptions for its shares, less any part thereof disbursed for necessary expenses, has been returned to those entitled thereto.

(f) That no debts of the corporation remain unpaid.

(g) That a majority of the incorporators elect that the corporation be dissolved.

(2) Duplicate originals of the articles of dissolution shall be delivered to the Secretary of State, along with a certificate from the Comptroller of Public Accounts that all franchise taxes have been paid. If the Secretary of State finds that the articles of dissolution conform to law, he shall, when all fees and franchise taxes have been paid as required by law:

(a) Endorse on each of such duplicate originals the word "Filed," and the month, day, and year of the filing thereof.

(b) File one of such duplicate originals in his office.

(c) Issue a certificate of dissolution, to which he shall affix the other duplicate original.

(3) The certificate of dissolution, together with the duplicate original of the articles of dissolution affixed thereto by the Secretary of State, shall be delivered to the incorporators or their representatives. Upon the issuance of such certificate of dissolution by the Secretary of State, the existence of the corporation shall cease.

Amended by Acts 1967, 69th Leg., p. 1724, ch. 657, § 14, emerg. eff. June 17, 1967.

Acts 1967, 60th Leg., p. 1729, ch. 657, which amended and repealed various provisions of the Business Corporation Act, provided in section 21: "The repeal of a prior act by this Act shall not affect any right accrued or established, or any liability or penalty incurred under the provisions of such act, prior to the repeal thereof, nor shall the amendment or repeal of a prior act by this Act invalidate or otherwise affect any pending proceedings for the voluntary dissolution of a corpora-

tion or the remedies of any shareholder dissenting as to any corporate action which has been effected prior to the effective date of this Act."

Section 22 of the amendatory act of 1967 is a savings clause and is set out as a note under article 1.02.

Art. 6.02. Voluntary Dissolution by Consent of Shareholders

A. A corporation may be voluntarily dissolved by the written consent of all of its shareholders.

B. Upon the execution of such written consent and after compliance with other provisions of this Act, the corporation shall file articles of dissolution as provided in this Act.

Amended by Acts 1967, 60th Leg., p. 1724, ch. 657, § 14, emerg. eff. June 17, 1967.

Art. 6.03. Voluntary Dissolution by Act of Corporation

A. A corporation may be dissolved by the act of the corporation when authorized in the following manner:

(1) The board of directors shall adopt a resolution recommending that the corporation be dissolved, and directing that the question of such dissolution be submitted to a vote at a meeting of shareholders, which may be either an annual or a special meeting.

(2) Written or printed notice shall be given to each shareholder of record entitled to vote at such meeting within the time and in the manner provided in this Act for the giving of notice of meetings of shareholders, and, whether the meeting be an annual or special meeting, shall state that the purpose, or one of the purposes, of such meeting is to consider the advisability of dissolving the corporation.

(3) At such meeting a vote of shareholders entitled to vote thereat shall be taken on a resolution to dissolve the corporation. Each outstanding share of the corporation shall be entitled to vote thereon, whether or not entitled to vote thereon by the provisions of the articles of incorporation. Such resolution shall be adopted upon receiving the affirmative vote of the holders of at least two-thirds of the outstanding shares of the corporation, unless any class of shares is entitled to vote as a class thereon, in which event the resolution shall require for its adoption the affirmative vote of the holders of at least two-thirds of the outstanding shares of each class of shares entitled to vote as a class thereon, as well as the affirmative vote of two-thirds of the total outstanding shares.

B. Upon the adoption of such resolution and after compliance with other provisions of this Act, the corporation shall file articles of dissolution as provided in this Act.

Amended by Acts 1967, 60th Leg., p. 1725, ch. 657, § 14, emerg. eff. June 17, 1967.

Art. 6.04. Procedure Before Filing Articles of Dissolution

A. Before filing articles of dissolution:

(1) The corporation shall cease to carry on its business, except insofar as may be necessary for the winding up thereof.

(2) The corporation shall cause written notice by registered mail of its intention to dissolve to be mailed to each known creditor of and claimant against the corporation.

(3) The corporation shall proceed to collect its assets, convey and dispose of such of its properties as are not to be distributed in kind to its shareholders, pay, satisfy, or discharge its liabilities and obligations, or make adequate provision for payment and discharge thereof, and do all other acts required to liquidate its business and affairs; in case its property and assets are not sufficient to satisfy or discharge all the corporation's liabilities and obligations, the corporation shall apply them so far

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as they will go to the just and equitable payment of the liabilities and obligations. After paying or discharging all its obligations, or making adequate provision for payment and discharge thereof, the corporation shall then distribute the remainder of its assets, either in cash or in kind, among its shareholders according to their respective rights and interests.

(4) The corporation, at any time during the liquidation of its business and affairs, may make application to any district court of this State in the county in which the registered office of the corporation is situated to have the liquidation continued under the supervision of such court as provided in this Act.

Amended by Acts 1967, 60th Leg., p. 1725, ch. 657, § 14, emerg. eff. June 17, 1967.

Art. 6.05. Revocation of Voluntary Dissolution Proceedings

A. At any time prior to the issuance of a certificate of dissolution by the Secretary of State, a corporation may revoke voluntary dissolution proceedings:

(1) By the written consent of all of its shareholders.

(2) By the act of the corporation in the following manner:

(a) The board of directors shall adopt a resolution recommending that the question of such revocation be submitted to a vote at a special meeting of shareholders.

(b) Written or printed notice, stating that the purpose or one of the purposes of such meeting is to consider the advisability of revoking the voluntary dissolution proceedings, shall be given to each shareholder of record entitled to vote at such meeting within the time and in the manner provided in this Act for the giving of notice of special meetings of shareholders.

(c) At such meeting a vote of the shareholders entitled to vote thereat shall be taken on a resolution to revoke the voluntary dissolution proceedings. Each outstanding share of the corporation shall be entitled to vote thereon, whether or not entitled to vote thereon by the provisions of the articles of incorporation. Such resolution shall be adopted upon receiving the affirmative vote of the holders of at least two-thirds of the outstanding shares of the corporation, unless any class of shares is entitled to vote thereon as a class, in which event the resolution shall require for its adoption the affirmative vote of the holders of at least two-thirds of the outstanding shares of each class of shares entitled to vote as a class thereon, as well as two-thirds of the total outstanding shares.

B. Upon the revocation of voluntary dissolution proceedings, whether by consent of shareholders or by act of the corporation, the corporation may again carry on its business.

Amended by Acts 1967, 60th Leg., p. 1726, ch. 657, § 14, emerg. eff. June 17, 1967.

Art. 6.06. Articles of Dissolution

A. If voluntary dissolution proceedings have not been revoked, then, when all liabilities and obligations of the corporation have been paid or discharged, or adequate provision has been made therefor, or in case its property and assets are not sufficient to satisfy and discharge all the corporation's liabilities and obligations, then when all the property and assets have been applied so far as they will go to the just and equitable payment of the corporation's liabilities and obligations, and all of the remaining property and assets of the corporation have been distributed to its shareholders according to their respective rights and interests, articles of dissolution shall be executed in duplicate by the corporation by its president or a vice-president and by its secretary or an assistant secretary, and

verified by one of the officers signing such statement, which statement shall set forth:

- (1) The name of the corporation.
- (2) The names and respective addresses of its officers.
- (3) The names and respective addresses of its directors.

(4) That all debts, obligations and liabilities of the corporation have been paid or discharged or that adequate provision has been made therefor, or, in case the corporation's property and assets were not sufficient to satisfy and discharge all its liabilities and obligations, that all property and assets have been applied so far as they would go to the payment thereof in a just and equitable manner and that no property or assets remained available for distribution among its shareholders.

(5) That all the remaining property and assets of the corporation have been distributed among its shareholders in accordance with their respective rights and interests or that no property remained for distribution to shareholders after applying it as far as it would go to the just and equitable payment of the liabilities and obligations of the corporation.

(6) That there are no suits pending against the corporation in any court, or that adequate provision has been made for the satisfaction of any judgment, order, or decree which may be entered against it in any pending suit.

(7) If the corporation elected to dissolve by written consent of all shareholders:

(a) A copy of the written consent to dissolve, and a statement that such written consent has been signed by all shareholders of the corporation or signed in their names by their attorneys thereunto duly authorized.

(8) If the corporation elected to dissolve by act of the corporation:

(a) A copy of the resolution to dissolve, and a statement that such resolution was adopted by the shareholders of the corporation and the date of the adoption thereof.

(b) The number of shares outstanding, and, if the shares of any class are entitled to vote as a class, the designation and number of outstanding shares of each such class.

(c) The number of shares voted for and against such resolution respectively and, if the shares of any class are entitled to vote as a class, the number of shares of each such class voted for and against the resolution respectively.

Amended by Acts 1967, 60th Leg., p. 1727, ch. 657, § 14, emerg. eff. June 17, 1967.

Art. 6.07. Filing Articles of Dissolution

A. Duplicate originals of such articles of dissolution shall be delivered to the Secretary of State, along with a certificate from the Comptroller of Public Accounts that all franchise taxes have been paid. If the Secretary of State finds that such articles of dissolution conform to law, he shall, when all fees and franchise taxes have been paid as required by law:

(1) Endorse on each of such duplicate originals the word "Filed," and the month, day, and year of the filing thereof.

(2) File one of such duplicate originals in his office.

(3) Issue a certificate of dissolution to which he shall affix the other duplicate original.

B. The certificate of dissolution, together with the duplicate original of the articles of dissolution affixed thereto by the Secretary of State, shall be delivered to the representative of the dissolved corporation. Upon the issuance of such certificate of dissolution the existence of the corporation shall cease, except for the purpose of suits, other proceedings and ap-

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propriate corporate action by shareholders, directors and officers as provided by the laws of this State

Amended by Acts 1967, 60th Leg., p. 1727, ch. 657, § 14, emerg. eff. June 17, 1967.

PART SEVEN

Art. 7.06. Jurisdiction of Court to Liquidate Assets and Business of Corporation and Receiverships Therefor

A. The district court for the county in which the registered office of a corporation is located may order the liquidation of the assets and business of the corporation and may appoint a receiver to effect such liquidation, whenever circumstances demand liquidation in order to avoid damage to parties at interest, but only if all other requirements of law are complied with and if all other remedies available either at law or in equity, including the appointment of a receiver of specific assets of the corporation and appointment of a receiver to rehabilitate the corporation, are determined by the court to be inadequate and only in the following instances:

(1) When an action has been filed by the Attorney General, as provided in this Act, to dissolve a corporation and it is established that liquidation of its business and affairs should precede the entry of a decree of dissolution.

(2) Upon application by a corporation to have its liquidation continued under the supervision of the court.

(3) If the corporation is in receivership and no plan for remedying the condition of the corporation requiring appointment of the receiver, which the court finds to be feasible, has been presented within twelve (12) months after the appointment of the receiver.

(4) Upon application of any creditor if it is established that irreparable damage will ensue to the unsecured creditors of the corporation, generally, as a class, unless there be an immediate liquidation of the assets of the corporation.

Sec. A amended by Acts 1967, 60th Leg., p. 1727, ch. 657, § 15, emerg. eff. June 17, 1967.

* * * * *
 Acts 1967, 60th Leg., p. 1732, ch. 657, is set out as a note under articles 5.06 and 6.01; section 22 thereof, a savings clause, is set out as a note under article 21 of the 1967 act, a savings provision, 1.02.

PART EIGHT

Art. 8.04. Repealed. Acts 1967, 60th Leg., p. 1729, ch. 657, § 20. Eff. June 17, 1967

Acts 1967, 60th Leg., p. 1729, ch. 657 set out as a note under articles 5.06 and 6.01; section 22 thereof, a severability clause, is set out as a note under article 21 of the 1967 act, a savings provision, is 1.02.

Art. 8.09. Change of Registered Office or Registered Agent of Foreign Corporation

* * * * *
 D. Any registered agent of a foreign corporation may resign as such agent upon filing a written notice thereof, executed in duplicate, with the Secretary of State, who shall forthwith mail a copy thereof to the corporation at its registered office. The appointment of such agent shall

terminate upon the expiration of thirty (30) days after receipt of such notice by the Secretary of State.

Sec. D added by Acts 1967, 60th Leg., p. 1728, ch. 657, § 16, emerg. eff. June 17, 1967.

Acts 1967, 60th Leg., p. 1732, ch. 657, amended and repealed various provisions of the Business and Corporation Act; section 21 of the 1967 act, a savings provision, is set out as a note under articles 5.06 and 6.01; section 22 thereof, a savings clause, is set out as a note under article 1.02.

PART NINE

Art. 9.10. Actions Without a Meeting

A. Any action required by this Act to be taken at a meeting of the shareholders of a corporation, or any action which may be taken at a meeting of the shareholders, may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the shareholders entitled to vote with respect to the subject matter thereof, and such consent shall have the same force and effect as a unanimous vote of shareholders, and may be stated as such in any articles or document filed with the Secretary of State.

B. Unless otherwise restricted by the articles of incorporation or by-laws, any action required or permitted to be taken at a meeting of the board of directors or any executive committee may be taken without a meeting if a consent in writing, setting forth the action so taken, is signed by all the members of the board of directors or executive committee, as the case may be. Such consent shall have the same force and effect as a unanimous vote at a meeting, and may be stated as such in any document or instrument filed with the Secretary of State.

Amended by Acts 1967, 60th Leg., p. 1728, ch. 657, § 17, emerg. eff. June 17, 1967.

Acts 1967, 60th Leg., p. 1732, ch. 657, amended and repealed various provisions of the Business and Corporation Act; section 21 of the 1967 act a savings provision, is set out as a note under articles 5.06 and 6.01; section 22 thereof, a savings clause, is set out as a note under article 1.02.

PART TEN

Art. 10.01. Filing Fees

A. The Secretary of State is authorized and required to collect for the use of the State the following fees:

(1) Filing articles of incorporation of a domestic corporation and issuing a certificate of incorporation, Fifty Dollars (\$50.00).

(2) Filing articles of amendment of a domestic corporation and issuing a certificate of amendment, Fifty Dollars (\$50.00).

(3) Filing articles of merger or consolidation, whether the surviving or new corporation be a domestic or foreign corporation, One Hundred Dollars (\$100.00).

(4) Filing an application of a foreign corporation for an original or renewal of a certificate of authority to transact business in this State and issuing such a certificate of authority, Fifty Dollars (\$50.00).

(5) Filing an application of a foreign corporation for an amended certificate of authority to transact business in this State and issuing such an amended certificate of authority, Fifty Dollars (\$50.00).

(6) Filing a copy of an amendment or supplement to the articles of incorporation of a foreign corporation holding a certificate of authority to transact business in this State, Fifty Dollars (\$50.00).

For Annotations and Historical Notes, see V.A.T.S.

(7) Filing restated articles of incorporation of a domestic corporation, One Hundred Dollars (\$100.00).

(8) Filing application for reservation of corporate name and issuing certificate therefor, Five Dollars (\$5.00).

(9) Filing notice of transfer of reserved corporate name and issuing a certificate therefor, Five Dollars (\$5.00).

(10) Filing application for registration of corporate name and issuing certificate therefor, Twenty-five Dollars (\$25.00).

(11) Filing application for renewal of registration of corporate name and issuing certificate therefor, Twenty-five Dollars (\$25.00).

(12) Filing statement of change of registered office or registered agent, or both, Five Dollars (\$5.00).

(13) Filing statement of change of address of registered agent, Five Dollars (\$5.00).

(14) Filing statement of resolution establishing series of shares or filing statement of provisions to be incorporated by reference, Five Dollars (\$5.00).

(15) Filing statement of cancellation of redeemable shares, Five Dollars (\$5.00).

(16) Filing statement of cancellation of re-acquired shares, Five Dollars (\$5.00).

(17) Filing statement of reduction of stated capital, Five Dollars (\$5.00).

(18) Filing articles of dissolution and issuing certificate therefor, Five Dollars (\$5.00).

(19) Filing application for withdrawal and issuing certificate therefor, Five Dollars (\$5.00).

(20) Filing certificate from home state that foreign corporation is no longer in existence in said state, Five Dollars (\$5.00).

(21) Maintaining record of service of any process, notice or demand upon the Secretary of State as agent for foreign and domestic corporations and for any foreign association, joint stock company, partnership, or non-resident natural person, Five Dollars (\$5.00).

Amended by Acts 1957, 55th Leg., p. 111, ch. 54, § 13; Acts 1961, 57th Leg., p. 451, ch. 224, § 1, eff. May 25, 1961; Acts 1967, 60th Leg., p. 1729, ch. 657, § 18, emerg. eff. June 17, 1967.

Acts 1967, 60th Leg., p. 1732, ch. 657, amended and repealed various provisions of the Business and Corporation Act; section 21 of the 1967 act a savings provision, is

set out as a note under articles 5.06 and 6.01; section 22 thereof, a savings clause, is set out as a note under article 1.02.

TITLE 33—COUNTIES AND COUNTY SEATS

CHAPTER THREE—CORPORATE RIGHTS AND POWERS

Art. 1577. [1370] [794] [681] Sale of real estate

The commissioners court may, by an order to be entered on its minutes, appoint a Commissioner to sell and dispose of any real estate of the county at public auction, and notice of the public auction shall be advertised at least 20 days before the day of sale, by the officer, by having the notice thereof published in the English language once a week for three consecutive weeks preceding such sale in a newspaper in the county in which the real estate is located and in the county which owns the real estate, if they are not the same. The deed of the Commissioner, made in conformity to the order for and in behalf of the county, duly acknowledged and proven and recorded, shall be sufficient to convey to the purchasers all the right, title, and interest and estate which the county may have in and to the premises to be conveyed. Provided, however, that where abandoned right-of-way property is no longer needed for highway or road purposes and the county decides to sell the right-of-way property, it shall be sold with the following priorities: (1) to abutting or adjoining landowners; (2) to the original grantors, his heirs or assigns of the original tract from whence said right-of-way was conveyed; or (3) at public auction as provided above. The commissioners court may provide for conveyance of any real estate of the county subject to any restrictions, conditions, and limitations the commissioners court deems necessary or proper. In the order and in the notice of public auction, the commissioners court shall give a substantial statement of any such restrictions, conditions, and limitations. Nothing contained in this article shall authorize any commissioners court to dispose of any lands given, donated or granted to the county for the purpose of education in any other manner than shall be directed by law.

Amended by Acts 1967, 60th Leg., p. 114, ch. 58, § 1, eff. Aug. 28, 1967.

Amendment of article 1577 by Acts 1967, 60th Leg., p. 2071, ch. 772, § 1, see article 1577, post.

Art. 1577. [1370] [794] [681] Sale of real estate

The Commissioners Court may, by an order to be entered on its minutes, appoint a Commissioner to sell and dispose of any real estate of the county at public auction, and notice of said public auction shall be advertised at least twenty (20) days before the day of sale, by the officer, by having the notice thereof published in the English language once a week for three (3) consecutive weeks preceding such sale in a newspaper in the county in which the real estate is located and in the county which owns the real estate, if they are not the same. In its order appointing the Commissioner, the Commissioners Court may provide for reasonable compensation to be paid to the Commissioner for his services in connection with such/sale. The deed of such Commissioner made in conformity to such order for and in behalf of the county, duly acknowledged and proven and recorded, shall be sufficient to convey to the purchasers all the right, title, and interest and estate which the county may have in and to the premises to be conveyed. Provided, however, that where abandoned right-of-way property is no longer needed for highway or road purposes and the county decides to sell said right-of-way property, it shall be sold with the following priorities: (1) to abutting or adjoining landowners; (2) to the original grantors, his heirs or assigns of the original tract from whence said right-of-way was conveyed; or (3) at public auction as provided

For Annotations and Historical Notes, see V.A.T.S.

above; provided further, whenever any real property, or interest therein, is owned by any county and is sold or exchanged or conveyed hereunder and is being used by a public utility or common carrier having the right of eminent domain for right-of-way and easement purposes, the sale, exchange, conveyance and surrender of possession herein provided for shall be and remain in all things subject to the right and continued use of such public utility or common carrier. Nothing contained in this Article shall authorize any Commissioners Court to dispose of any lands given, donated or granted to such county for the purpose of education in any other manner than shall be directed by law.

Amended by Acts 1967, 60th Leg., p. 2071, ch. 772, § 1, eff. Aug. 28, 1967.

Amendment of article 1577 by Acts 1967, 60th Leg., p. 114, ch. 58, § 1, see article 1577, ante.

Art. 1581g. County industrial commissions in certain counties

The County Judge of any county having a population of more than 68,000 and less than 73,000, or of more than 140,000 and less than 145,000, according to the last preceding Federal Census, may appoint a County Industrial Commission to consist of at least seven residents of the county who have exhibited interest in the industrial development of the county to serve for a term of two (2) years. The county is hereby authorized to pay the necessary expenses of such Commission. Such Commission shall investigate, study and undertake ways and means of promoting and encouraging the prosperous development of business, industry and commerce within said county. Such Commission shall promote and encourage the location and development of new businesses and industries in such county as well as the maintenance and expansion of existing businesses. Such Commission shall cooperate with, and utilize the services of, the Texas Industrial Commission. The data obtained shall be available to the Commissioners Court.

Acts 1965, 59th Leg., p. 1192, ch. 553, § 1, eff. Aug. 30, 1965. Amended by Acts 1967, 60th Leg., p. 821, ch. 347, § 1, eff. Aug. 28, 1967.

CHAPTER SEVEN—COUNTY HOME RULE

Art. 1606c. Office of county fire marshal

Establishment of office; compensation; facilities; exemption from liability

Section 1. The Commissioners Court of any county may, at its option and if it deem advisable, by proper order set up and establish the office of County Fire Marshal for such period of time as it may desire, but not to exceed the term for which the members of said court are elected; said court may provide for such compensation to be paid the County Fire Marshal as in its judgment it may deem advisable. Authority is granted to such Commissioners Court to provide office facilities, equipment, transportation, assistants and professional services as it may deem necessary for said County Fire Marshal for the proper execution of his duties. Except in cases of gross neglect or wilful malfeasance in office, said County Fire Marshal, his assistants or employees, shall not be answerable in damages, for any acts or omissions, to any persons in the performance of his or their duties. The provisions of this Act shall not apply to any state agency authorized to prevent and extinguish forest and grass fires.

Sec. 1 amended by Acts 1967, 60th Leg., p. 1008, ch. 438, § 1, eff. Aug. 28, 1967.

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TITLE 34—COUNTY FINANCES

2. COUNTY AUDITOR

- | | |
|---|---------------------------------------|
| <p>Art.
1650a. Mileage expenses [New].
1657a. Relieving clerk of certain duties prescribed by article 1657 in counties of 1,200,000 population [New].</p> | <p>Art.
1663a. Penalty [New].</p> |
|---|---------------------------------------|

2. COUNTY AUDITOR

Art. 1650a. Mileage expenses

The commissioners court may reimburse the county auditor for expenses incurred in traveling to and from the county seat in his personal automobile to perform his official duties and to attend conferences and seminars relating to the performance of his official duties. However, the commissioners court may not reimburse the auditor for expenses incurred in traveling between his personal residence and county office, or for expenses incurred in any other travel of a personal nature. The commissioners court by order shall fix the rate of reimbursement, not to exceed 10 cents a mile. Reimbursement shall be made monthly from the appropriate county funds on submission of sworn expense reports by the county auditor.

Added by Acts 1967, 60th Leg., p. 852, ch. 361, § 1, eff. Aug. 28, 1967.

Art. 1657a. Relieving clerk of certain duties prescribed by article 1657 in counties of 1,200,000 population

In counties containing a population in excess of 1,200,000 inhabitants according to the last preceding federal census, the county clerk is relieved of all duties prescribed by Article 1657, Revised Civil Statutes of the State of Texas, 1925. The county treasurer shall prepare a triplicate receipt for all moneys received, retain one copy of the receipt, and transmit the original and duplicate to the county auditor and the depositor, respectively. The county auditor shall prescribe for the county treasurer a system for receiving and depositing all moneys received; provided that such system shall not be inconsistent with the provisions of this Act.

Acts 1967, 60th Leg., p. 540, ch. 235, § 1, eff. Aug. 28, 1967.

Acts 1967, 60th Leg., p. 540, ch. 235, § 2 repealed all conflicting laws and parts of laws.

Title of Act:

An Act providing that in counties containing a population in excess of 1,200,000 inhabitants according to the last preceding federal census, the county clerk is relieved of all duties prescribed by Article 1657, Revised Civil Statutes of the State of Texas,

1925, and requiring the county treasurer to prepare a triplicate receipt for all moneys received, and authorizing the county auditor to prescribe a system consistent with this Act to the county treasurer for receiving and depositing all moneys received; repealing all laws in conflict herewith; enacting other provisions relating to the subject; and declaring an emergency. Acts 1967, 60th Leg., p. 540, ch. 235.

Art. 1663a. Penalty

A county official or other person from whom the county auditor is entitled to receive reports, statements, or other information under the provisions of Subdivision 2 of this Title who willfully refuses to comply with any reasonable request of the county auditor concerning those reports, statements, or other information is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$25 nor more than \$200, removal from office, or both a fine and removal from office.

Added by Acts 1967, 60th Leg., p. 1766, ch. 668, § 1, eff. Aug. 28, 1967.

TITLE 35—COUNTY LIBRARIES

Art. 1702a-1. County law libraries in certain counties—management

Section 1. For the purpose of establishing and maintaining a 'County Law Library' for each county coming within the terms of this Act there shall be charged as costs, and taxed, collected, and paid as other costs, the sum of Two Dollars and Fifty Cents (\$2.50) in each civil case, except suits for delinquent taxes, hereafter filed in every County or District Court, in each county having seven (7) or more District Courts and three (3) or more County Courts including County Courts at Law; except that in each county having fifteen (15) or more District Courts, including Criminal District Courts, the sum shall be fixed by the Commissioners Court, not to exceed Two Dollars and Fifty Cents (\$2.50). Provided, however, that in no case shall the county be liable for said cost in any civil cases. Such costs shall be collected by the Clerk of the respective Courts, and when collected shall be paid to the County Treasurer, to be kept by him in a separate fund to be known as the 'County Law Library Fund'; such fund shall be administered by the Commissioners Court for the purchase, lease or maintenance of a law library, and furniture and equipment necessary thereto, in a place convenient and accessible to the Judges and litigants in such courts, and for the payment of salaries to employees to be appointed by the Commissioners Court; the Commissioners Court of counties affected by this Act shall make rules for the use of books in said library, and shall provide suitable space and shelving for housing same.

The salary of the custodian or librarian and such other employees or assistants as may be necessary shall be fixed by the Commissioners Court and shall be paid out of the funds collected under this Act.

The Commissioners Court of such counties may vest the management of such library in a committee to be selected by the Bar Association of such county, but the acts of such committee shall be subject to the approval of the Commissioners Court.

Sec. 1 amended by Acts 1967, 60th Leg., p. 762, ch. 317, § 1, eff. Aug. 28, 1967.

* * * * *

TITLE 37—COURT—SUPREME

CHAPTER THREE—TERMS AND JURISDICTION

Art. 1735a. Mandamus in connection with elections and political party conventions

The Supreme Court or any court of civil appeals shall have jurisdiction and authority to issue the writ of mandamus, or any other mandatory or compulsory writ or process, against any public officer or officer of a political party, or any judge or clerk of an election, to compel the performance, in accordance with the laws of this state, of any duty imposed upon them, respectively, by law, in connection with the holding of any general, special, or primary election or any convention of a political party. Any proceeding seeking to obtain such a writ shall be conducted in accordance with the rules pertaining to original proceedings in the court wherein the petition is filed. When presented to a court of civil appeals, any petition pertaining to an election on an office or proposition which is voted on by the voters of the entire state shall be presented to the court of the supreme judicial district in which the respondent resides, or in which one of the respondents resides, if there is more than one, and any petition pertaining to an election on an office or proposition which is voted on by the voters of only a portion of the state shall be presented to the court of a supreme judicial district in which the territory covered by the election or a portion thereof is located. A petition presented to a court of civil appeals which pertains to a precinct or county convention shall be presented to the court of the supreme judicial district in which the precinct or county is located; a petition pertaining to a district convention shall be presented to the court of a supreme judicial district in which the district or a portion thereof is located; and a petition pertaining to a state convention shall be presented to the court of a supreme judicial district in which the respondent resides, or in which one of the respondents resides, if there is more than one.

Amended by Acts 1967, 60th Leg., p. 1932, ch. 723, § 76, eff. Aug. 28, 1967.

Synopsis of Changes—1967

Original jurisdiction of the Supreme Court and Courts of Civil Appeals to issue writs of mandamus against primary election officers is extended to include officers of all types of elections. The statute is also amended to apply to conventions of political parties, in keeping with the provisions of former Art. 3154(a), Vernon's Civil Statutes, which is repealed by Sec. 77 of this chapter [Acts 1967, 60th Leg., p. 1858, ch. 732.]

TITLE 39—COURT OF CIVIL APPEALS

Art. 1817. [1586] [993] Location of courts

A Court of Civil Appeals shall be held at the following places, respectively:

1. In the First Supreme Judicial District, in the city of Houston;
2. In the Second Supreme Judicial District, in the city of Fort Worth;
3. In the Third Supreme Judicial District, in the city of Austin;
4. In the Fourth Supreme Judicial District, in the city of San Antonio;
5. In the Fifth Supreme Judicial District, in the city of Dallas;
6. In the Sixth Supreme Judicial District, in the city of Texarkana;
7. In the Seventh Supreme Judicial District, in the city of Amarillo;
8. In the Eighth Supreme Judicial District, in the city of El Paso;
9. In the Ninth Supreme Judicial District, in the city of Beaumont;
10. In the Tenth Supreme Judicial District, in the city of Waco;
11. In the Eleventh Supreme Judicial District, in the city of Eastland;
12. In the Twelfth Supreme Judicial District, in the city of Tyler;
13. In the Thirteenth Supreme Judicial District, in the city of Corpus Christi; and
14. In the Fourteenth Supreme Judicial District, in the city of Houston.

The cities of Beaumont, Waco, and Eastland, respectively, shall furnish and equip suitable rooms for the respective Courts of Civil Appeals therein, and the justices thereof, and the County of Harris shall furnish and equip suitable rooms in Houston for the Courts of Civil Appeals for the First and Fourteenth Supreme Judicial Districts, and for the justices thereof, all without cost or expense to the state. The city of Tyler and Smith County and the city of Corpus Christi and Nueces County, respectively, shall furnish and equip suitable rooms and a library for the respective Courts of Civil Appeals located therein, and for the justices thereof, all without cost or expense to the state. Amended by Acts 1967, 60th Leg., p. 1953, ch. 728, § 2, eff. Sept. 1, 1967.

Acts 1967, 60th Leg., p. 1952, ch. 728, § 1 amended article 198; section 3 of the 1967 act amended article 1817a and sections 4-6, relating to the appointment of justices for

the 14th Supreme Judicial District, appropriation of moneys and the effective date, are set out as notes under articles 198 and 1817a.

Art. 1817a. First and Fourteenth Judicial Districts, places where business transacted: dockets equalized

From and after the passage of this Act, the Courts of Civil Appeals for the First and the Fourteenth Supreme Judicial Districts may transact their business either at the city of Galveston or the city of Houston, as the court shall determine it necessary and convenient; providing, that all cases originating in Galveston County may be heard and tried in such county. Subject to the provisions of Article 1738, Revised Civil Statutes of Texas, 1925, as amended, the clerks of the First

and the Fourteenth Supreme Judicial Districts shall also from time to time equalize by lot or chance the dockets of the two courts.

Amended by Acts 1967, 60th Leg., p. 1954, ch. 728, § 3, eff. Sept. 1, 1967.

Acts 1967, 60th Leg., p. 1952, ch. 728, §§ 1, 2 amended articles 198 and 1817; sections 4-6 of the act provided:

"Sec. 4. (a) On or before the 10th day after this Act takes effect, the Governor shall, by and with the consent of the Senate if in session, appoint one chief and two associate justices for the Fourteenth Supreme Judicial District.

"(b) To be eligible for appointment to the court, a person must possess the qualifications prescribed by Article 1814, Revised Civil Statutes of Texas, 1925.

"(c) The justices appointed hold their offices until the next general election at which justices shall be elected and qualify in accordance with Article 1813, Revised Civil Statutes of Texas, 1925, as amended.

"Sec. 5. The following sums or as much of them as may be necessary for the objectives and purposes shown are appropri-

ated from the General Revenue Fund for the expenses of the Fourteenth Supreme Judicial District for the fiscal year ending August 31, 1968.

Fourteenth District, Houston	
Personal Services—	
1. Judges, 3 at \$24,000	\$72,000
2. Clerk	10,000
3. Deputy Clerk	5,616
4. Stenographer III	5,616
	<u>\$93,232</u>
5. Consumable supplies and materials, current and recurring operating expenses (excluding travel expense), and capital outlay	3,400

Total, Fourteenth District, Houston \$96,632

"Sec. 6. This Act takes effect on September 1, 1967."

TITLE 40—COURTS—DISTRICT

CHAPTER FIVE—CRIMINAL DISTRICT COURTS [NEW]

HARRIS COUNTY

Art.

1926—31 to 1926—35. Transferred.

HARRIS COUNTY

Art. 1926—31. Transferred to art. 199(174)

Historical Note

Acts 1967, 60th Leg., p. 2073, ch. 774 §§ 1-4 changed the name of the Criminal Judicial District of Harris County and the name of the Criminal District Court of Harris County to the 174th Judicial District and the 174th District Court and are set out as notes under article 199(174). The text of article 1926—31 was transferred to art. 199(174) to conform with these changes.

Art. 1926—32. Transferred to art. 199(176)

Historical Note

Acts 1967, 60th Leg., p. 2073, ch. 774, §§ 1-4 changed the name of the Criminal Judicial District No. 2 of Harris County to the 176th Judicial District and the name of the Criminal District Court No. 2 of Harris County to the 176th District Court and are set out as notes under article 199(174). The text of article 1926—32 was transferred to article 199(176) to conform with these changes.

Art. 1926—33. Transferred to art. 199(177)

Historical Note

Acts 1967, 60th Leg., p. 2073, ch. 774, §§ 1-4 changed the name of the Criminal Judicial District No. 3 of Harris County to the 177th Judicial District and the name of the Criminal District Court No. 3 of Harris County to the 177th District Court and are set out as notes under article 199(174). The text of article 1926—33 was transferred to article 199(177) to conform with these changes.

Art. 1926—34. Transferred to art. 199(178, 179)

Historical Note

Acts 1967, 60th Leg., p. 2073, ch. 774, §§ 1-4 changed the names of the Criminal Judicial Districts Nos. 4 and 5 to the 178th and 179th Judicial Districts and the names of the Criminal District Courts Nos. 4 and 5 to the 178th and 179th District Courts and are set out as notes under article 199(174). The text of article 1926—34 was transferred to article 199(178, 179) to conform with these changes.

Art. 1926—35. Transferred to art. 199(180)

Historical Note

Acts 1967, 60th Leg., p. 2073, ch. 774, §§ 1-4 changed the name of the Criminal Judicial District No. 6 of Harris County to the 180th Judicial District and the name of the Criminal District Court No. 6 of Harris County to the 180th District Court and are set out as notes under article 199(174). The text of article 1926—35 was transferred to article 199(180) to conform with these changes.

TARRANT COUNTY

Art. 1926—42a. Change of name to Criminal District Court No. 1 of Tarrant County

(a) The name of the Criminal District Court of Tarrant County, created by Chapter 80, General Laws, Acts of the 36th Legislature, 2nd Called Session, 1919 (Articles 52—64 through 52—87, Vernon's Texas Code of Criminal Procedure),¹ is changed to the Criminal District Court No. 1 of Tarrant County.

(b) Wherever the name "Criminal District Court of Tarrant County" appears in the statutes of this state, or in any document, the name refers to the Criminal District Court No. 1 of Tarrant County. Acts 1967, 60th Leg., p. 1792, ch. 682, § 1, eff. Aug. 28, 1967.

¹ See, now, articles 1926—41 and 1926—42.

Art. 1926—44. Criminal District Court No. 3 of Tarrant County

* * * * *

B. Terms of Court. The terms of the Criminal District Court No. 3 begin on the first Monday in April, the first Monday in July, the first Monday in October, and the first Monday in January of each year. Each term of court continues until the next succeeding term convenes. Sec. B amended by Acts 1967, 60th Leg., p. 1792, ch. 682, § 2, eff. Aug. 28, 1967.

* * * * *

F. Practice. (a) The rules of practice and procedure applicable to the District Courts of this state govern practice in the Criminal District Court No. 3, and the judge of said court shall have the same power as any other District Judge in Tarrant County.

(b) The judges of all three criminal district courts in Tarrant County may freely transfer causes to and from the dockets of their respective courts. The judges may also freely exchange benches and courtrooms with each other and with the judges of the 17th, 48th, 67th, 96th, and 153rd judicial districts and with any other District Court in Tarrant County, so that if a judge is ill, disqualified, or otherwise absent, another judge may hold court for him without the necessity of transferring the cause involved.

(c) The Criminal District Judges of Tarrant County shall each appoint two officers of each of the said courts to act as Bailiffs for said courts and no less than three (3) Bailiffs shall be assigned regularly to each of the Criminal District Courts of Tarrant County, Texas, with the judge of each court, respectively, appointing two (2) Bailiffs and the Sheriff of such county appointing one (1) Bailiff for each of said courts, and the Sheriff of such county shall appoint such Bailiff for each court in the same manner as is now authorized by law.

The Judges of County Criminal Courts Nos. 1 and 2 of Tarrant County shall each appoint one officer to act as a Bailiff for said courts and no less than two (2) Bailiffs shall be assigned regularly to each of the said County Criminal Courts, with the judge of each of said courts respectively appointing one (1) Bailiff for each of said courts and the Sheriff of Tarrant County shall appoint one (1) Bailiff for each of said courts in the same manner as now authorized by law. The Bailiffs appointed under the provisions hereof by the said courts shall be paid a salary out of the general fund of the county of such courts as may be set by the judges of said courts with the approval of the Commissioners Court of Tarrant County. The Bailiffs so appointed by each of the said courts of Tarrant County shall perform such duties as are required by the judges. The said Bailiffs thus appointed by each of the judges, under the provisions hereof, are subject to removal without cause at the will of the judge in whose court such Bailiff or Bailiffs may be assigned. Bailiffs thus appointed by any such judge or judges, under the provisions hereof shall be duly deputized by the Sheriff of such county upon the request of the Criminal District Judges in the manner now authorized by law, and such Bailiffs shall be in addition to all other deputies now authorized by law.

Acts 1965, 59th Leg., p. 895, ch. 442, § 10d, eff. Sept. 1, 1965. Sec. F amended by Acts 1967, 60th Leg., p. 1792, ch. 682, § 3, eff. Aug. 28, 1967.

JEFFERSON COUNTY**Art. 1926—63. Criminal Judicial District of Jefferson County**

Sec. 4. The Criminal District Attorney of Jefferson County shall be commissioned by the Governor and shall receive a salary of not more than Nineteen Thousand Eight Hundred Dollars (\$19,800) per annum, as shall be fixed by the Commissioners Court of Jefferson County, to be paid out of the Officer's Salary Fund of Jefferson County if adequate; if inadequate the Commissioners Court shall transfer necessary funds from the General Fund of the County to the Officer's Salary Fund.

Sec. 4 amended by Acts 1967, 60th Leg., p. 680, ch. 284, § 1, eff. Aug. 28, 1967.

Sections 2 and 3 of the amendatory act of 1967 provided:

"Sec. 2. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given ef-

fect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

"Sec. 3. All laws or parts of laws in conflict with the provisions of this Act are repealed to the extent of such conflict only."

TITLE 41—COURTS—COUNTY

CHAPTER FIVE—MISCELLANEOUS PROVISIONS

ACTS CREATING COUNTY COURTS AT LAW AND SIMILAR COURTS, AND AFFECTING PARTICULAR COUNTY COURTS, AND DECISIONS THEREUNDER

HARRIS COUNTY

- Art. 1970—110a.1. Change of name to Probate Court No. 1 of Harris County [New].
- 1970—110a.2. Probate Court No. 2 of Harris County [New].

HARRISON COUNTY

- 1970—223a. County Court at Law of Harrison County [New].

BEXAR COUNTY

- 1970—301h. Salaries of judges [New].

TRAVIS COUNTY

- Art. 1970—324c. Practice of law by judges of County Courts at Law of Travis County [New].

FRANKLIN COUNTY

- 1970—331b. Franklin County Court; jurisdiction [New].

BELL COUNTY [NEW]

- 1970—350. County Court at Law of Bell County [New].

GUADALUPE COUNTY [NEW]

- 1970—351. County Court at Law of Guadalupe County [New].

ACTS CREATING COUNTY COURTS AT LAW AND SIMILAR COURTS, AND AFFECTING PARTICULAR COUNTY COURTS, AND DECISIONS THEREUNDER

HARRIS COUNTY

Art. 1970—110a. Probate Court No. 1 of Harris County

Section 1. There is hereby created a County Court to be held in and for Harris County, to be called the Probate Court No. 1 of Harris County. Acts 1967, 60th Leg., p. 1836, ch. 712, § 1, eff. Aug. 28, 1967.

* * * * *

Sec. 9. The Judge of the Probate Court No. 1 of Harris County shall execute a bond in the sum of One Hundred Thousand Dollars (\$100,000), payable as required by law, and take the oath relating to county judges as provided by law.

Amended by Acts 1963, 58th Leg., p. 769, ch. 296, § 1, eff. Aug. 23, 1963; Acts 1967, 60th Leg., p. 1836, ch. 712, § 1, eff. Aug. 28, 1967.

* * * * *

Change of Name

The name of the Probate Court of Harris County was changed to Probate Court No. 1 of Harris County by Acts 1967, 60th Leg., p. 1836, ch. 712, § 1. See article 1970—110a.1.

Art. 1970—110a.1. Change of name to Probate Court No. 1 of Harris County

Article 1970—110a of Vernon's Annotated Civil Statutes shall be amended so that the Probate Court of Harris County shall hereafter be known as the Probate Court No. 1 of Harris County, Texas, and the seal of said Court shall hereafter be the same as that provided by law for county courts, except that the seal shall contain the words: "Probate

For Annotations and Historical Notes, see V.A.T.S.

Court No. 1 of Harris County, Texas.", and said seal shall be judicially noticed.

Acts 1967, 60th Leg., p. 1836, ch. 712, § 1, eff. Aug. 28, 1967.

Historical Note

Acts 1967, 60th Leg., p. 1835, ch. 712, §§ 2-16 are codified as article 1970—110a.2; sections 17 and 18 of the act, repealer and severability clauses, are set out as notes under article 1970—110a.2.

Title of Act:

An Act amending Article 1970—110a of Vernon's Annotated Civil Statutes changing the name of the Probate Court of Harris County to Probate Court No. 1 of Harris County, Texas; to establish the Probate Court No. 2 of Harris County, Texas; to define the jurisdiction thereof and to conform to such change the jurisdiction of the County Court of Harris County and the Probate Court No. 1 of Harris County, Texas; to provide for the transfer of matters and proceedings from, to, and among the courts with probate jurisdiction in Harris County, declaring the validity in all transferral cases of all writs and processes extant at the time of such transfer, and directing the order of filing and docketing by the County Clerk of all new matters and proceedings; to grant said Probate Court No. 2 of Harris County, Texas, certain powers, and clarify the powers of the County Court and the Judge thereof; to provide

for the practice and procedure in said Probate Court No. 2 of Harris County, Texas, the terms of said Court, the election, qualification and appointment of a Judge thereof, the execution of a bond and oath of office and the filling of vacancies on said Court; to authorize the sitting of an acting Judge under certain circumstances, and the election and appointment of a Special Judge; to designate the Presiding Judge of the Courts of Probate of Harris County and granting said Judge certain duties and authority; to authorize meetings of the Judges of courts with probate jurisdiction in Harris County and grant said Judges certain rule-making authority; to provide for a clerk of said Probate Court No. 2 of Harris County, Texas, for the duties of said Clerk, for the duties of the Sheriff as to such Court, and for a seal for said Court; to establish the fees and compensation to be paid the Judge thereof, and providing for the payment of such compensation; to provide for conflicts and unconstitutionality in this Act; to declare the provisions of this Act to be severable; and declaring an emergency. Acts 1967, 60th Leg., p. 1836, ch. 712.

Art. 1970—110a.2. Probate Court No. 2 of Harris County

Section 1. [Codified as art. 1970—110a.1].

Sec. 2. There is hereby created a County Court to be held in and for Harris County, to be called the "Probate Court No. 2 of Harris County, Texas."

Sec. 3. Said Probate Court No. 2 of Harris County shall have the general jurisdiction of a Probate Court within the limits of Harris County, concurrent with the jurisdiction of the County Court of Harris County, Texas, in such matters and proceedings, and also concurrent with and in all things equal to that heretofore conferred upon the Probate Court No. 1 of Harris County, Texas. It shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis and common drunkards, grant letters testamentary and of administration, settle accounts of executors, transact all business appertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis and common drunkards, including the settlement, partition and distribution of estates of deceased persons, lunacy proceedings and the apprenticing of minors as provided by law.

Sec. 4. On the first day of the initial term of said Probate Court No. 2 of Harris County, Texas, there shall be transferred to the docket of said Court, under the direction of the County Judge and by order entered on the Minutes of the County Court of Harris County, Texas, such number of such proceedings and matters then pending in the County Court of Harris County, Texas, as shall be, as near as may be, four-fifths in number of the total of all of same then pending, and all writs and processes theretofore issued by or out of said County Court of Harris County in such matters or proceedings shall be returnable to the Probate Court No. 2 of Harris County, Texas, as though originally issued therefrom. All such new matters and proceedings filed on said day, or thereafter filed, with the County Clerk of Harris County, irrespective of the Courts or Judge

to which the matter or proceeding is addressed, shall be filed by said Clerk alternately in said Probate Court No. 1 of Harris County and said Probate Court No. 2 of Harris County with every fifth case bearing the last number 5 or 0 being filed by said Clerk in the County Court of Harris County, in the order in which the same are deposited with said Clerk for filing, beginning first with the Probate Court No. 1 of Harris County, filing the next with the Probate Court No. 2 of Harris County, and continuing alternately thereafter except every fifth case so deposited shall be filed with the County Court of Harris County, and further, said Clerk shall keep separate dockets for each of said Courts. The County Judge of Harris County, in his discretion, may, by an order entered upon the Minutes of the County Court of Harris County, on or after the first day of the initial term of said Probate Court No. 2 of Harris County, transfer to said Probate Court No. 2 any such matter or proceeding then or thereafter pending in the County Court of Harris County and all processes extant at the time of such transfer shall be returned to and filed in the Court to which such transfer is made and shall be as valid and binding as though originally issued out of the Court to which such transfer may be made. Each of the Judges of the County Court and said Probate Courts No. 1 and 2 may, at any time, with the consent of the Judge of the County Court or the Judge of the Probate Court to which transfer is to be made by an order entered upon the Minutes of the County Court or of such Probate Court of Harris County, transfer to said County Court or other Probate Court any such matter or proceeding then or thereafter pending in such County or Probate Court of Harris County, and all processes extant at the time of such transfer shall be returnable to and filed in the County Court or the Probate Court to which such transfer is made and shall be as valid and binding as though originally issued out of the County Court or the Probate Court to which such transfer may be made.

Sec. 5. The County Court of Harris County shall retain, as heretofore, the powers and jurisdiction of said Court existing at the time of the passage of this Act, and shall exercise its powers and jurisdiction as a Probate Court with respect to all matters and proceedings of such nature, except those matters and proceedings provided in Section 4 of this Act to be transferred to and filed in said Probate Court No. 2 of Harris County and those matters and proceedings heretofore transferred to and filed either originally or subsequently, in the Probate Court No. 1 of Harris County in accordance with Section 4, Chapter 520, Acts of 1949, 51st Legislature, Regular Session. The County Judge of Harris County shall be the Judge of the County Court of Harris County, and all ex-officio duties of the County Judge of Harris County as they now exist shall be exercised by the County Judge of Harris County. Nothing contained in this Act shall be construed as in any wise impairing or affecting the jurisdiction of the County Civil Court at Law No. 1 of Harris County, or of the County Civil Court at Law No. 2 of Harris County, or the County Criminal Courts at Law Nos. 1, 2, 3, or 4 of Harris County, Texas.

Sec. 6. The practice and procedure in the Probate Court No. 2 of Harris County shall be the same as that provided by law generally for the county courts of this State; and all statutes and laws of the State as well as all Rules of Court relating to proceedings therefrom, shall, as to all matters within the jurisdiction of said Court, apply equally thereto.

Sec. 7. The Probate Court No. 2 of Harris County shall have power to issue writs of injunction, mandamus, execution, attachment, and all writs and process necessary to the exercise and enforcement of the jurisdiction of said Court, and also the power to punish for contempt under such provision as are or may be provided by the General Laws governing county courts throughout the State.

Sec. 8. The initial term of the Probate Court No. 2 shall begin on the first Monday next after the first day of the first calendar month follow-

ing the effective date of this Act and shall continue until and including Sunday next before the first Monday in January, of the following year. Thereafter there shall be two (2) terms of said Probate Court No. 2 of Harris County in each year, and the first of such terms shall be known as the January-June Terms, and shall begin on the first Monday in January and shall continue until and including Sunday next before the first Monday in July, and the second of such terms, which shall be known as the July-December Term, shall begin on the first Monday in July and shall continue until and including Sunday next before the first Monday in the following January.

Sec. 9. The term of office of the Judge of the Probate Court No. 2 of Harris County shall be for a period of four (4) years; the first full term of office of said Judge is to commence on January 1, 1969. A Judge of said Court shall be appointed by the Commissioners Court of Harris County as soon as practicable after the passage of this Act, who shall hold office from the date of his appointment until the General Election next before the first full term of office of said Judge, as herein provided and until his successor shall be duly elected and qualified. The Judge of said Court shall be well informed in the laws of the State, and shall have been a duly licensed and practicing member of the Bar of this State for not less than five (5) consecutive years.

Sec. 10. The Judge of the Probate Court No. 2 of Harris County shall execute a bond in the amount of \$100,000.00; take the oath of office as required by the laws relating to County Judges.

Sec. 11. Any vacancy in the office of the Judge of the Probate Court No. 2 of Harris County may be filled by the Commissioners Court of Harris County by the appointment of a Judge of said Court, who shall serve until the next General Election and until his successor shall be duly elected and qualified.

Sec. 12. In the case of the absence, disqualification or incapacity of the Judge of the Probate Court No. 2 of Harris County, the County Judge of Harris County or the Judge of the Probate Court No. 1 of Harris County, shall sit and act as Judge of said Court, and may hear and determine, either in his own courtroom or in the courtroom of said Court, any matter or proceeding there pending, and enter any order in such matters or proceedings as the Judge of said Court may enter if personally presiding therein.

Sec. 13. In case of the absence, disqualification or incapacity of the Judge of the Probate Court No. 2 of Harris County or the Judge of the Probate Court No. 1 of Harris County and the County Judge of Harris County, a Special Judge of the Probate Court No. 1 of Harris County or of the Probate Court No. 2 of Harris County as the need may demand, may be appointed or elected, as provided by the General Laws relating to county courts and to the Judge thereof.

Sec. 14. The Judge of the County Court of Harris County is designated as the Presiding Judge of the Courts of Probate of Harris County. It shall be the duty of the County Judge upon the creation of the Probate Court No. 2 to equalize as nearly as possible the dockets of the Probate Court No. 1 and the Probate Court No. 2 so that each Court will have two-fifths of the probate cases pending in Harris County. It shall be the duty of the presiding Judge of the Courts of Probate of Harris County, to call a conference two times a year for the purpose of consultation and counsel as to the state of business in probate matters in Harris County, Texas, and to arrange for the disposition of the business pending on the probate docket of each of the courts with probate jurisdiction in Harris County, Texas.

Sec. 15. The County Clerk of Harris County shall be the Clerk of the Probate Court No. 2 of Harris County. The seal of the Court shall be the same as that provided by law for county courts except that the seal shall contain the words "Probate Court No. 2 of Harris County, Texas.", and

said seal shall be judicially noticed. The Sheriff of Harris County shall, in person or by deputy, attend the Court when required by the Judge thereof.

Sec. 16. The Judge of the Probate Court No. 2 of Harris County shall collect the same fees as are now or hereafter established by law relating to County Judges or to matters within the jurisdiction of said Court, all of which shall be paid by him into the County Treasury as collected. From and after the date he becomes duly qualified thereafter, he shall receive an annual salary equal to the salary of the Judge of the Probate Court No. 1 of Harris County, Texas, and payable in like manner. Acts 1967, 60th Leg., p. 1836, ch. 712, eff. Aug. 28, 1967.

Historical Note

Acts 1967, 60th Leg., p. 1835, ch. 712, § 1 is codified as article 1970—110a.1; sections 17 and 18 of the act provided:

"Sec. 17. All laws and parts of laws in conflict with the provisions of this Act are hereby repealed to the extent of such conflict only. As to all other laws or parts of laws, this Act shall be cumulative.

"Sec. 18. The provisions of this Act are severable. If any provision of this Act or

the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act and the application of such provision to other persons or circumstances shall not thereby be rendered invalid or unconstitutional, nor be affected thereby."

Title of Act:
See article 1970—110a.1.

JEFFERSON COUNTY

Art. 1970—122. Salary of judge; assessment and collection of fees

The judge of the County Court of Jefferson County at Law shall receive a salary of not more than Nineteen Thousand Eight Hundred Dollars (\$19,800) per annum, which shall be paid in twelve (12) equal monthly installments out of the County Treasury of Jefferson County as fixed and ordered by the Commissioners Court of said county. The judge of the County Court of Jefferson County at Law shall assess the same fees as are now prescribed by law relating to county judges' fees, all of which shall be collected by the clerk of the court and paid into the County Treasury on collection and no part of which shall be paid to said judge, who shall instead draw a salary as herein provided. Amended by Acts 1967, 60th Leg., p. 179, ch. 94, § 1, emerg. eff. April 22, 1967.

Historical Note

Section 2 of the amendatory act of 1967 was a severability provision and section 3 thereof repealed conflicting laws to the extent of conflict.

Art. 1970—126a. County Court of Jefferson County at Law No. 2

Sec. 8. The judge of the County Court of Jefferson County at Law No. 2 shall receive a salary of not more than Nineteen Thousand Eight Hundred Dollars (\$19,800) per annum, which shall be paid in twelve (12) equal monthly installments out of the County Treasury of Jefferson County as fixed and ordered by the Commissioners Court of said county. The judge of the County Court of Jefferson County at Law No. 2 shall assess the same fees as are now prescribed by law relating to county judges' fees, all of which shall be collected by the clerk of the court and paid into the County Treasury on collection and no part of which shall be paid to said judge, who shall instead draw a salary as herein provided. Sec. 8 amended by Acts 1967, 60th Leg., p. 177, ch. 91, § 1, emerg. eff. April 22, 1967.

Historical Note

Section 2 of the 1967 amendatory act was of repealed conflicting laws and parts of a severability provision and section 3 there- laws.

HARRISON COUNTY

Art. 1970—223a. County Court at Law of Harrison County

Creation and jurisdiction

Section 1. (a) On the effective date of this Act, as provided in Section 8 of the Act, the County Court at Law of Harrison County is created. It sits in Marshall.

(b) The County Court at Law has the same jurisdiction over all causes and proceedings, civil, criminal, and probate, original and appellate, including eminent domain and lunacy proceedings, prescribed by law for county courts, and its jurisdiction is concurrent with that of the County Court of Harrison County.

(c) The County Court at Law, or its Judge, may issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, superseadeas, and all writs necessary for the enforcement of the jurisdiction of the court; and may issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of the Court, or of any other court in the county of inferior jurisdiction. The Court and Judge also have the power to punish for contempt as prescribed by law for county courts.

(d) The County Judge of Harrison County is the Judge of the County Court of Harrison County. All ex officio duties of the County Judge shall be exercised by the Judge of the County Court of Harrison County unless by this Act committed to the Judge of the County Court at Law of Harrison County.

(e) The Judge of the County Court at Law of Harrison County is a member of the Harrison County Juvenile Board.

Terms of court

Sec. 2. The terms of the County Court at Law of Harrison County are the same as those of the County Court of Harrison County.

Judge

Sec. 3. (a) At the next general election after the effective date of this Act there shall be elected a Judge of the County Court at Law of Harrison County who must have been a duly licensed and practicing member of the State Bar of Texas for not less than three years, be well informed in the laws of this state, and who must have resided in and been actively engaged in the practice of law in Harrison County for a period of not less than two years prior to the general election. The Judge elected holds office for either two years or four years, his first elected term ending in compliance with the provisions of Article 16, Section 65(a), Constitution of the State of Texas, and until his successor has been duly elected and has qualified. During his term of office, the Judge may not appear and plead as an attorney at law in the County Court at Law of Harrison County or in any court with jurisdiction inferior to that of the county court at law.

(b) When this Act becomes effective, the Commissioners Court of Harrison County shall appoint a Judge to the County Court at Law of Harrison County. The Judge appointed must have the qualifications prescribed in Subsection (a) of this Section and serves until January 1st of the year following the next general election and until his successor has been duly elected and qualified. Any vacancy occurring in the office of the Judge of the County Court at Law may be filled in like manner by

the Commissioners Court and the appointee holds office until January 1st of the year following the next general election and until his successor has been duly elected and qualified.

(c) The Judge of the County Court at Law shall execute a bond and take the oath of office prescribed by law for county judges. He may be removed from office in the same manner and for the same causes as a county judge.

(d) The Judge of the County Court at Law is entitled to receive the same salary as the Criminal District Attorney of Harrison County and, in addition to this salary, the Commissioners Court of Harrison County may pay him the full supplemental compensation paid to other members of the Harrison County Juvenile Board. Such salary and any additional compensation approved by the commissioners for his services on the Juvenile Board shall be paid in equal monthly installments out of the county treasury on order of the Commissioners Court. The Judge of the County Court at Law shall assess the fees prescribed by law for county judges, which shall be collected by the clerk of the court and paid into the county treasury, and which may not be paid to the Judge.

(e) A special judge of the County Court at Law may be appointed in the manner provided by law for the appointment of a special county judge when the Judge of the County Court at Law of Harrison County is disqualified. A special judge must have the same qualifications as the Judge of the County Court at Law and is entitled to the same rate of compensation as the regular judge.

Court officials and personnel

Sec. 4. (a) The County Clerk and Sheriff of Harrison County, Texas, shall serve as clerk and sheriff, respectively, of the County Court at Law of Harrison County. The Commissioners Court of Harrison County may employ as many additional deputy sheriffs and clerks as are necessary to serve the court created by this Act. Those serving shall perform the duties, and are entitled to the compensation, fees, and allowances, prescribed by law for their respective offices in Harrison County.

(b) The Judge of the County Court at Law may appoint an official court reporter, who must meet the qualifications prescribed by law for that office and who is entitled to the compensation fixed by the Commissioners Court of Harrison County, and shall serve at the pleasure of the Judge of the County Court at Law.

Practice

Sec. 5. (a) Practice in the County Court at Law of Harrison County shall conform to that prescribed by law for the County Court of Harrison County.

(b) The Judges of the County Court and the County Court at Law may transfer cases to and from the dockets of their respective courts so that the business may be equally distributed between them. However, no case may be transferred from one court to the other without the consent of the judge of the court to which it is transferred; and no case may be transferred to the County Court at Law unless it is within the jurisdiction of that Court.

(c) The County Judge and the Judge of the County Court at Law may freely exchange benches with each other so that if one is ill, disqualified, or otherwise absent, the other may hold court for him without the necessity of transferring the case involved. Either judge may hear all or any part of a case pending in the County Court or County Court at Law; and he may rule and enter orders on and continue, determine, or render judgment on all or any part of the case without the necessity of transferring it to his own docket. However, the Judge of the County Court at

For Annotations and Historical Notes, see V.A.T.S.

Law may not sit or act in a case unless it is within the jurisdiction of his court.

(d) The jurisdiction and authority now vested by law in the County Court of Harrison County and the judge thereof, for the drawing, selection and service of jurors shall also be exercised by the County Court at Law of Harrison County and the judge thereof; but jurors summoned for either of said courts may by order of the judge of the court in which they are summoned be transferred to the other court for service therein and may be used therein as if summoned for the court to which they may be thus transferred. Upon concurrence of the Judge of the County Court at Law of Harrison County and the Judge of the County Court of Harrison County jurors may be summoned for service in both courts and shall be used interchangeably in both such courts. All summons for petit jurors for all civil and criminal cases under existing laws at the time this Act takes effect, shall be as valid as if no change had been made and the persons constituting such jury panels shall be required to appear and serve at the ensuing term of said courts as fixed by this Act, and their acts as jurors shall be as valid as if they had been selected as jurors in the court for which they were originally drawn.

Representation of the State

Sec. 6. The Criminal District Attorney of Harrison County shall represent the State in all prosecutions in the County Court at Law of Harrison County, as provided by law for such prosecutions in County Court, and shall be entitled to the same fees as now prescribed by law for such prosecutions in the County Court.

Facilities and equipment

Sec 7. (a) The Commissioners Court of Harrison County shall furnish and equip a suitable courtroom and office space for the County Court at Law.

(b) The County Court at Law shall have a seal identical with the seal of the County Court at Harrison County, except that it contains the words "County Court at Law of Harrison County."

Effective date

Sec. 8. This Act becomes effective upon order of the Commissioners Court of Harrison County duly entered in its minutes.
Acts 1967, 60th Leg., p. 916, ch. 402, eff. Aug. 28, 1967.

Historical Note

Title of Act:

An Act creating the County Court at Law of Harrison County; providing for its jurisdiction, terms, personnel, administration, practice, and facilities; and declaring an emergency. Acts 1967, 60th Leg., p. 916, ch. 402.

DEXAR COUNTY

Art. 1970—301h. Salaries of judges

From and after the effective date of this Act the Judge of the County Court at Law No. 1, of Bexar County, Texas, and the Judge of the County Court at Law No. 2, of Bexar County, Texas, and the Judge of the County Court at Law No. 3, of Bexar County, Texas, and the Judge of the County Civil Court at Law of Bexar County, Texas, shall each receive an annual salary of not less than Sixteen Thousand Dollars (\$16,000) nor more than Eighteen Thousand Five Hundred Dollars (\$18,500). Such annual salary to be paid to each of said judges shall be determined and fixed by the Commissioners Court of Bexar County,

Texas, and, when so determined and fixed, such annual salary shall be paid to each of said judges in equal monthly installments by warrants drawn on the County Treasury of Bexar County, Texas, upon orders of the Commissioners Court of said county.

Acts 1967, 60th Leg., p. 769, ch. 322, § 1, emerg. eff. May 27, 1967.

Historical Note

Title of Act:

An Act to provide that the judges of the County Courts at Law Nos. 1, 2, and 3, and the County Civil Court at Law of Bexar County, Texas, shall each receive an annual salary of not less than Sixteen Thousand Dollars (\$16,000) nor more than Eighteen Thousand Five Hundred Dollars (\$18,500) to be determined and fixed by the

Commissioners Court of Bexar County, Texas, and when thus determined and fixed such annual salary shall be paid in twelve (12) equal monthly installments by warrants drawn upon the County Treasurer of Bexar County, Texas, upon orders by the Commissioners Court; and declaring an emergency. Acts 1967, 60th Leg., p. 769, ch. 322.

TRAVIS COUNTY

Art. 1970—324. County Court at Law No. 1 of Travis County

* * * * *

Text of section 17 effective January 1, 1968.

Sec. 17. The Judge of the County Court at Law No. 1 of Travis County, Texas, shall receive a salary of not less than Sixteen Thousand Five Hundred Dollars (\$16,500) per annum nor more than Nineteen Thousand Dollars (\$19,000) per annum to be fixed by the Commissioners Court of Travis County, and to be paid out of the Officers Salary Fund in equal monthly installments. The Judge of the County Court at Law No. 1 of Travis County shall assess the same fees and costs as are now prescribed by law for County Judges, to be deposited in the County Treasury as prescribed by law.

Sec. 17 amended by Acts 1965, 59th Leg., p. 175, ch. 69, § 3, eff. April 8, 1965; Acts 1967, 60th Leg., p. 1196, ch. 532, § 1, eff. Jan. 1, 1968.

Historical Note

Section 2 of the 1967 acts amended article 1970—324a, § 17; section 3 thereof is codified as article 1970—324c.

Art. 1970—324a. County Court at Law No. 2 of Travis County

* * * * *

Text of section 17 effective January 1, 1968.

Sec. 17. The Judge of the County Court at Law No. 2 of Travis County, Texas, shall receive a salary of not less than Sixteen Thousand Five Hundred Dollars (\$16,500) per annum nor more than Nineteen Thousand Dollars (\$19,000) per annum, to be fixed by the Commissioners Court of Travis County, and to be paid out of the Officers Salary Fund in equal monthly installments. The Judge of the County Court at Law No. 2 of Travis County shall assess the same fees and costs as are now prescribed by law for County Judges, to be deposited in the County Treasury as prescribed by law.

Sec. 17 amended by Acts 1965, 59th Leg., p. 175, ch. 69, § 5, eff. April 8, 1965; Acts 1967, 60th Leg., p. 1196, ch. 532, § 2, eff. Jan. 1, 1968.

Historical Note

Section 1 of the act of 1967 amended art. 1970—324, § 17; section 3 thereof is codified as article 1970—324c.

For Annotations and Historical Notes, see V.A.T.S.

Art. 1970—324c. Practice of law by judges of County Courts at Law of Travis County

The Judges of the County Court at Law No. 1 and the County Court at Law No. 2 of Travis County, Texas shall not engage in the private practice of law while holding the office of judge of said courts. Acts 1967, 60th Leg., p. 1196, ch. 532, § 3, eff. Jan. 1, 1968.

Historical Note

Sections 1 and 2 of the act of 1967 amended articles 1970—324, § 17 and 1970—324a, § 17, respectively.

FRANKLIN COUNTY

Art. 1970—331a. Repealed. Acts 1967, 60th Leg., p. 722, ch. 302, § 5. Eff. May 25, 1967

Historical Note

The repealed article, relating to the jurisdiction of the County Court of Franklin County, was added by Acts 1965, 59th Leg., p. 800, ch. 385. See, now, article 1970—331b.

Art. 1970—331b. Franklin County Court; jurisdiction

Section 1. The County Court of Franklin County shall retain and continue to have and exercise the general jurisdiction of probate courts, and all other jurisdiction now or hereafter conferred by the Constitution and laws of this state, except as hereinafter provided, and shall retain all jurisdiction and power to issue all writs necessary to the enforcement of its jurisdiction, and to punish contempts; but said county court shall have no civil jurisdiction except as to final judgments referred to in Section 2 hereof, and shall have no general jurisdiction in trial of all matters of eminent domain on appeal from the awards of commissioners.

Sec. 2. The district court or district courts having jurisdiction in Franklin County shall have and exercise jurisdiction in all matters and cases of a civil nature, but shall have and exercise the same jurisdiction over criminal matters and cases as such court or courts had and exercised prior to passage of this Act, and such district court or courts shall have the general jurisdiction in trial of all matters of eminent domain on appeal from the awards of commissioners, over which by the General Laws of the State of Texas now existing and hereinafter enacted the county court of said county would have had jurisdiction and all pending civil cases, including those of eminent domain appeals from the award of commissioners, be and the same are, hereby transferred to the district court or district courts having jurisdiction in Franklin County, Texas, and all writs and process heretofore issued by or out of said county court in all pending civil or eminent domain appeals from the awards of commissioners be, and the same are hereby, made returnable to the district court or district courts sitting in Franklin County, Texas. However, there shall not be transferred to said district court or district courts jurisdiction over any judgments either in civil cases or eminent domain cases, rendered prior to the time this Act takes effect and which shall have become final, but as to such judgments the said county court shall retain jurisdiction for the enforcement thereof by all appropriate process.

Sec. 3. The County Attorney of Franklin County shall represent the state in all misdemeanor cases before the County Court of Franklin County, Texas.

Sec. 4. The Clerk of the County Court of Franklin County, Texas, is and he is hereby required within 20 days after this Act takes effect to file with the clerk of the district court of said county all original papers

in cases here transferred to the said district court and all judges' dockets and certified copies of any interlocutory judgment, or other order entered in the minutes of the county court in said cases so transferred; and the district clerk shall immediately docket all such cases on the docket of the District Court of Franklin County, Texas, in the same manner and place as each stands on the docket of the county court. It shall not be necessary that the district clerk refile any papers theretofore filed by the county clerk, nor shall he receive any fees for the filing of the same, but papers in said case bearing the file mark of the county clerk, prior to the time of said transfer, shall be held to have been filed in the case as of the date filed without being refiled by the district clerk. Said county clerk in cases so transferred shall accompany the papers with a certified bill of cost, and against all cost deposits, if any, the county clerk shall charge accrued fees due him, and the remainder of the deposit he shall pay to the district clerk as a deposit in the particular case for which the same was deposited. Credit shall also be given the litigants for all jury fees paid in the county court.

Sec. 5. Chapter 385, Acts of the 59th Legislature, Regular Session, 1965 (Article 1970—331a, Vernon's Texas Civil Statutes), is repealed. Acts 1967, 60th Leg., p. 722, ch. 302, emerg. eff. May 25, 1967.

Historical Note

Title of Act:

An Act to diminish the civil jurisdiction of the County Court of Franklin County, Texas, and to conform the jurisdiction of the district court or district courts of such county to such change, repealing Chapter 385, Acts of the 59th Legislature, Regular Session, 1965 (Article 1970—331a, Vernon's Texas Civil Statutes); to preserve the jurisdiction and power of the County Court of Franklin County, Texas, over certain final judgment rendered prior to the passage of this Act; to require the county clerk of such county to transmit all papers

in pending civil cases and eminent domain appeals from awards of commissioners to the district clerk of said county; to continue in effect the filing date of papers previously filed in the county court in said pending cases, to fix fees that the district court of such county will be authorized to charge in connection with filing all papers so transmitted to him; to provide for the County Attorney of Franklin County, Texas, to represent the state in misdemeanor cases in county court; and declaring an emergency. Acts 1967, 60th Leg., p. 722, ch. 302.

GRAYSON COUNTY

Art. 1970—332. Grayson county; County Court at Law; jurisdiction; terms; judge; prosecutor; writs; clerk and court reporter

* * * * *

Sec. 16. The Judge of the County Court at Law of Grayson County shall receive a salary of not less than Three Thousand, Six Hundred Dollars (\$3,600) per year nor more than Six Thousand, Five Hundred Dollars (\$6,500) per year to be paid out of the County Treasury of Grayson County, Texas, on the order of the Commissioners Court of said County, and said salary shall be paid monthly in equal installments. The Judge of the County Court at Law of Grayson County shall assess the same fees as are now prescribed by law relating to the County Judge's fee, all of which shall be collected by the Clerk of the Court and shall be paid into the County Treasury on collection, no part of which shall be paid to the said Judge, but he shall draw the salary as above specified in this Section

Sec. 16 amended by Acts 1967, 60th Leg., p. 858, ch. 365, § 1, eff. Aug. 28, 1967.

* * * * *

Sec. 18A. The Judge of the County Court at Law of Grayson County may appoint an official shorthand reporter for his court in the manner now provided for district courts in this State who shall have the same qualifications and whose duties shall in every respect be the same as now provided by law. Said official shorthand reporter shall receive

For Annotations and Historical Notes, see V.A.T.S.

a salary of not more than Three Thousand, Seven Hundred Twenty Dollars (\$3,720) per year, said salary to be fixed, determined, set and allowed by the commissioners court of Grayson County, and shall be in addition to transcript fees, fees for statement of facts and all other fees. Said salary when so fixed and determined by the commissioners court shall be paid monthly out of the general fund, or the jury fund, or out of any fund available for the purpose as may be determined by the commissioners court, in the same manner as salaries of other county officers are paid. From and after passage of this Act, all provisions relating to official shorthand reporters and their duties in district courts shall in all respects govern, except that the salary of the official shorthand reporter as provided for in this Act shall be fixed and determined by the commissioners court of Grayson County.

Sec. 18A added by Acts 1967, 60th Leg., p. 859, ch. 365, § 2, eff. Aug. 28, 1967.

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NUECES COUNTY

Art. 1970—339. County Court at Law No. 1 of Nueces County

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Sec. 2. The County Court at Law No. I of Nueces County, Texas, shall have and exercise concurrent jurisdiction with the County Court of Nueces County, Texas, in all matters and causes, civil and criminal, original and appellate, over which the County Court of Nueces County, Texas, would have jurisdiction under the general laws of Texas. Such jurisdiction shall extend to all matters of eminent domain of which jurisdiction has heretofore been vested in the County Court of Nueces County or in the County Judge; provided, however, that nothing herein shall affect the jurisdiction of the commissioners court or of the County Judge of Nueces County as the presiding officer of such commissioners court, as to roads, bridges, and public highways which are now within the jurisdiction of the commissioners court or the presiding judge thereof. Said court shall also have the general jurisdiction of a probate court within the limits of Nueces County, Texas, concurrent with jurisdiction of the County Court in such matters and proceedings. County Court at Law No. I of Nueces County, Texas, shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis and common drunkards, grant letters testamentary and of administration, settle accounts of executors, and transact all business pertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the settlement, partition and distribution of estates of deceased persons, the apprenticing of minors as provided by law, and the conduct of lunacy proceedings.

Sec. 2 amended by Acts 1967, 60th Leg., p. 435, ch. 200, § 1, emerg. eff. May 15, 1967.

* * * * *

Sec. 4. The County Court of Nueces County shall have and retain concurrently with the County Court at Law No. I of Nueces County the general jurisdiction of a Probate Court with jurisdiction now conferred or which may be conferred by law in the future over probate matters, but shall have no other jurisdiction, civil or criminal, original or appellate. All ex officio duties of the County Judge shall be exercised and retained by the Judge of the County Court of Nueces County, except insofar as same shall by this Act be committed to the County Court at Law No. I of Nueces County.

Sec. 4 amended by Acts 1967, 60th Leg., p. 436, ch. 200, § 2, emerg. eff. May 15, 1967.

* * * * *

Sec. 6. There shall be elected in Nueces County by the qualified voters thereof a Judge of the County Court at Law No. I of Nueces County, who shall be a qualified voter in said county, a resident of said county, a regularly licensed attorney at law in this State, and who shall have been actively engaged in the practice of law for a period of not less than five (5) years next preceding the election to select such Judge. The Judge of the County Court at Law No. I shall hold his office for a term of four years, and until his successor shall have been duly elected and qualified. The present Judge of the County Court at Law No. I having been elected in 1966, he shall continue in such capacity for the full term of four years to which he was elected, and his successor shall be elected in the general election to be held in 1970 for the term of four years, and a like election shall be held every four years thereafter.

Sec. 6 amended by Acts 1967, 60th Leg., p. 436, ch. 200, § 3, emerg. eff. May 15, 1967.

* * * * *

Sec. 17. The Judge of the County Court at Law No. I of Nueces County shall receive a salary of not more than Fifteen Thousand Dollars per annum, to be paid out of the County Treasury as determined and fixed by order of the commissioners court, and said salary shall be paid monthly in equal installments. The Judge of the County Court at Law No. I of Nueces County shall assess the same fees as are now prescribed or may be established by law, relating to the County Judge's fees, all of which shall be collected by the Clerk of the Court and shall be paid into the County Treasury on collection, and no part of which shall be paid to said Judge, but he shall draw the salary as above specified in this section. Sec. 17 amended by Acts 1967, 60th Leg., p. 436, ch. 200, § 4, emerg. eff. May 15, 1967.

Historical Note

Acts 1967, 60th Leg., p. 435, ch. 200, §§ 1-4 amended sections 2, 4, 6 and 17 of this article; sections 5-8 of the act of 1967 amended sections 4, 6, 10 and 18 of article 1970—339A; sections 9-15 of the act of 1967 amended sections 2, 3, 6, 8, 13, 14 and 18 of article 2338—10, and sections 16-18 of the act of 1967 provided:

"Sec. 16. The division of functions, responsibilities, and jurisdiction between the Court of Domestic Relations and the County Court at Law No. II of Nueces County, Texas, as achieved in the foregoing sections of this Act, shall come into legal existence on July 1, 1967, and the present consolidated court shall maintain its present legal status, perform its present legal duties, and shall receive its present compensation until on and after said date. The present Judge now holding the consolidated position as Judge of both of said courts shall continue thereafter as Judge of the Domestic Relations Court of Nueces County, serving in that capacity for the full term of years to which he was elected in 1966. A Judge for the County Court at Law No. II of Nueces County shall be appointed by the commissioners court of Nueces County as soon as practicable after the effective date of this Act, and the person

so appointed shall qualify for such office on July 1, 1967, or as soon thereafter as practicable, and shall hold office until December 31, 1968. Candidates for the position of Judge of the County Court at Law No. II shall be nominated by the respective political parties of Texas in the political primaries to be held in May and June of 1968 in the same manner and under the same legal provisions as govern the holding of all other primary elections, and the selection of a Judge for the full term of four years shall occur in the general election to be held in 1968, and every four years thereafter.

"Sec. 17. The provisions of this Act shall be severable. Should any section, paragraph, sentence, clause, or other part hereof, be declared for any reason unconstitutional or void, such declaration shall not affect or impair the remaining provisions hereof, and the Legislature specifically declares that it would have passed this Act notwithstanding the absence of such portion as may be declared unconstitutional or void.

"Sec. 18. All laws or parts of laws in conflict herewith are hereby repealed to the extent of such conflict."

For Annotations and Historical Notes, see V.A.T.S.

Art. 1970—339A. County Court at Law No. 2 of Nueces County

* * * * *

Sec. 4. The County Court of Nueces County shall have and retain concurrently with the County Court at Law No. II of Nueces County the general jurisdiction of a Probate Court with jurisdiction now conferred or which may be conferred by law in the future over probate matters, but shall have no other jurisdiction, civil or criminal, original or appellate. All ex officio duties of the County Judge shall be exercised and retained by the Judge of the County Court of Nueces County, except insofar as same shall by this Act be committed to the County Court at Law No. II of Nueces County.

Sec. 4 amended by Acts 1967, 60th Leg., p. 437, ch. 200, § 5, emerg. eff. May 15, 1967.

* * * * *

Sec. 6. There shall be elected in Nueces County by the qualified voters thereof a Judge of the County Court at Law No. II of Nueces County, who shall be a qualified voter in said county, a resident of said County, a regularly licensed attorney at law in this State, and who shall have been actively engaged in the practice of law for a period of not less than five (5) years next preceding the election to select such Judge. The Judge of the County Court at Law No. II of Nueces County shall hold his office for a term of four years, and until his successor shall have been duly elected and qualified. As soon as practicable after the effective date of this Act, the commissioners court of Nueces County shall appoint a suitable person to be Judge of the County Court at Law No. II, who shall take office on July 1, 1967 and shall hold office until December 31, 1968 and until his successor has been duly elected and qualified. His successor shall be elected in the general election to be held in 1968, for the term of four years, and a like election shall be held every four years thereafter.

Sec. 6 amended by Acts 1967, 60th Leg., p. 437, ch. 200, § 6, emerg. eff. May 15, 1967.

* * * * *

Sec. 10. Any vacancy in the office of the Judge of the County Court at Law No. II of Nueces County shall be filled by appointment by the commissioners court of Nueces County, and the Judge so appointed shall hold office until the next general election and until his successor is duly elected and qualified.

Sec. 10 amended by Acts 1967, 60th Leg., p. 437, ch. 200, § 7, emerg. eff. May 15, 1967.

* * * * *

Sec. 18. The Judge of the County Court at Law No. II of Nueces County shall receive a salary of not more than Fifteen Thousand Dollars per annum, to be paid out of the County Treasury as determined and fixed by order of the commissioners court, and said salary shall be paid monthly in equal installments. The Judge of the County Court at Law No. II of Nueces County shall assess the same fees as are now prescribed or may be established by law, relating to County Judge's fees, all of which shall be collected by the Clerk of the Court and shall be paid into the County Treasury on collection, and no part of which shall be paid to said Judge, but he shall draw the salary as above specified in this section.

Sec. 18 amended by Acts 1967, 60th Leg., p. 437, ch. 200, § 8, emerg. eff. May 15, 1967.

* * * * *

Historical Note

Acts 1967, 60th Leg., p. 435, ch. 200, §§ 1967 amended sections 4, 6, 10 and 18 of 1-4 amended sections 2, 4, 6 and 17 of ar- this article; sections 9-15 of the act of ticle 1970—339; sections 5-8 of the act of 1967 amended sections 2, 3, 6, 8, 13, 14 and

18 of article 2338—10, and sections 16—18 of the act of 1967 provided an effective date, prescribed procedures for effectuating the separation of the Court of Domestic Relations of Nueces County from the County

Court at Law No. 2 of Nueces County, provided a severability clause and repealed conflicting laws and are set out as notes under article 1970—339.

TARRANT COUNTY

Art. 1970—345. Tarrant County Probate Court

* * * * *

Sec. 14. The Judge of the Probate Court of Tarrant County shall collect the same fees as are now or hereafter may be established by law relating to County Judges as to matters within the jurisdiction of said Court, all of which shall be paid by him into the County Treasury as collected, and from and after the effective date of this Act, the Judge of said Court shall receive, upon qualifying, an annual salary to be fixed by order of the Commissioners Court of Tarrant County, of not less than Sixteen Thousand Dollars (\$16,000), payable out of the County Treasury by the Commissioners Court.

Sec. 14 amended by Acts 1967, 60th Leg., p. 2093, ch. 782, § 1, eff. Aug. 28, 1967.

* * * * *

BELL COUNTY [NEW]

Art. 1970—350. County Court at Law of Bell County

Creation and jurisdiction

Section 1. (a) On the effective date of this Act (as provided in Section 6), the County Court at Law of Bell County is created.

(b) The County Court at Law has the same jurisdiction over all causes and proceedings, civil, criminal, and probate, original and appellate, prescribed by law for county courts, and its jurisdiction is concurrent with that of the County Court of Bell County.

(c) The County Court at Law, or its judge, may issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, superedeas, and all writs necessary for the enforcement of the jurisdiction of the court; and may issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of the court, or of any other court of inferior jurisdiction in the county. The court and judge also have the power to punish for contempt as prescribed by law for county courts.

(d) The County Judge of Bell County is the Judge of the County Court of Bell County. All ex officio duties of the County Judge shall be exercised by the Judge of the County Court of Bell County unless by this Act committed to the Judge of the County Court at Law.

Terms of Court

Sec. 2. The Commissioners Court of Bell County by order duly entered of record, shall prescribe not less than four terms each year for the County Court at Law of Bell County.

Judge

Sec. 3. (a) At the next general election after the effective date of this Act there shall be elected a Judge of the County Court at Law of Bell County who must have been a duly licensed and practicing member of the State Bar of Texas for not less than three years, be well informed in the laws of this state, and who must have resided and been actively engaged in the practice of law in Bell County for a period of not less than two years prior to the general election. The Judge elected holds office for four years and until his successor has been duly elected and qualified.

For Annotations and Historical Notes, see V.A.T.S.

During his term of office the Judge may not appear and plead as an attorney at law in any court of record in this state.

(b) If any vacancy occurs in the office of the Judge of the County Court at Law, the Commissioners Court shall appoint the Judge of the County Court at Law who must have the same qualifications prescribed in Subsection (a) of this Section and the appointee holds office until January 1st of the year following the next general election and until his successor has been duly elected and qualified.

(c) The Judge of the County Court at Law shall execute a bond and take the oath of office prescribed by law for county judges. He may be removed from office in the same manner and for the same causes as a county judge.

(d) The Judge of the County Court at Law shall receive a salary in an amount determined by the Commissioners Court not to exceed the salary prescribed by the Commissioners Court for the County Judge of Bell County. Such salary shall be paid in equal monthly installments out of the county treasury on order of the Commissioners Court. The Judge of the County Court at Law shall assess the fees prescribed by law for county judges, which shall be collected by the clerk of the court and paid into the county treasury, and which may not be paid to the Judge.

(e) A special judge of the County Court at Law may be appointed in the manner provided by law for the appointment of a special county judge. A special judge must have the same qualifications, and is entitled to the same rate of compensation, as the regular judge.

Court officials

Sec. 4. (a) The County Attorney, County Clerk, and Sheriff of Bell County, Texas shall serve as County Attorney, Clerk, and Sheriff, respectively, of the County Court at Law of Bell County. Those serving shall perform the duties, and are entitled to the compensation, fees, and allowances, prescribed by law for their respective offices in Bell County.

(b) The Judge of the County Court at Law may appoint an official court reporter, who must meet the qualifications prescribed by law for that office and who is entitled to the compensation fixed by the Commissioners Court of Bell County.

Practice

Sec. 5. (a) Practice in the County Court at Law of Bell County shall conform to that prescribed by law for the County Court of Bell County.

(b) The Judges of the County Court and the County Court at Law may transfer cases to and from the dockets of their respective courts so that the business may be equally distributed between them. However, no case may be transferred from one court to the other without the consent of the judge of the court to which it is transferred; and no case may be transferred to the County Court at Law unless it is within the jurisdiction of that Court.

(c) Jurors regularly impaneled for the week by the District Courts of Bell County, Texas, may at the request of either the Judge of the County Court or of the County Court at Law, be made available by the District Judges in the numbers requested and shall serve for the week in either or both the County Court or the County Court at Law.

Effective date

Sec. 6. The Act becomes effective upon order of the Commissioners Court of Bell County duly entered in its minutes.
Acts 1967, 60th Leg., p. 457, ch. 208, eff. Aug. 28, 1967.

Historical Note

Title of Act: jurisdiction, terms, personnel, and practice;
An Act creating the County Court at and declaring an emergency. Acts 1967,
Law of Bell County; providing for its ju- 60th Leg., p. 457, ch. 208.

GUADALUPE COUNTY [NEW]

Art. 1970—351. County Court at Law of Guadalupe County

Creation and jurisdiction

Section 1. (a) The County Court at Law of Guadalupe County is created on the effective date of this Act provided in Section 7. It sits in Seguin.

(b) The county court at law has the same jurisdiction over all causes and proceedings, civil, criminal, original and appellate, prescribed by law for county courts, and its jurisdiction is concurrent with that of the County Court of Guadalupe County. However, the county court at law does not have jurisdiction over eminent domain proceedings or over causes and proceedings concerning roads, bridges, and public highways which are now within the jurisdiction of the Commissioners Court or County Court of Guadalupe County.

(c) The county court at law, or its judge, may issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, superseas, and all writs necessary for the enforcement of the jurisdiction of the court; and may issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of the court, or of any other court in the county of inferior jurisdiction. The court and judge also have the same power to punish for contempt prescribed by law for county courts.

(d) The County Judge of Guadalupe County is the Judge of the County Court of Guadalupe County. All ex officio duties of the county judge shall be exercised by the Judge of the County Court of Guadalupe County unless by this Act committed to the Judge of the County Court at Law of Guadalupe County.

Terms of court

Sec. 2. The terms of the County Court at Law of Guadalupe County are the same as those of the County Court of Guadalupe County.

Judge

Sec. 3. (a) At the general election in November 1970, a Judge of the County Court at Law of Guadalupe County shall be elected if this Act has taken effect in accordance with Section 7.

(b) To be eligible for the office of Judge of the County Court at Law of Guadalupe County, a person must be 30 years old or older, have been a duly licensed and practicing member of the State Bar of Texas for not less than five years before the election, and have resided and been actively engaged in the practice of law in Guadalupe County for a period of not less than two years before the election.

(c) The judge elected holds office for four years and until a successor has been duly elected and qualified.

(d) Any vacancy occurring in the office of the judge of the county court at law shall be filled by the commissioners court appointing a person with the qualifications prescribed in Subsection (b) of this section. The appointee holds office until the next general election and until a successor has been duly elected and qualified. The appointee is entitled to the same compensation as his predecessor.

(e) The Judge of the County Court at Law of Guadalupe County shall execute a bond and take the oath of office prescribed by law for county

For Annotations and Historical Notes, see V.A.T.S.

judges. He may be removed from office in the same manner and for the same causes as a county judge.

(f) The Commissioners Court of Guadalupe County shall fix the salary of the Judge of the County Court at Law of Guadalupe County.

(g) When the Judge of the County Court at Law of Guadalupe County is disqualified, the Commissioners Court of Guadalupe County shall appoint a special judge. A special judge must have the same qualifications, and is entitled to the same rate of compensation, as the regular judge.

Court officials and personnel

Sec. 4. (a) The County Attorney, County Clerk, and Sheriff of Guadalupe County shall serve as County Attorney, Clerk, and Sheriff, respectively, for the County Court at Law of Guadalupe County. The Commissioners Court of Guadalupe County may employ as many assistant county attorneys, deputy sheriffs, and bailiffs as are necessary to serve the court created by this Act. Those serving shall perform the duties, and are entitled to the compensation, fees, and allowances, prescribed by law for their respective offices in Guadalupe County.

(b) The judge of the county court at law may appoint an official court reporter, who must have the qualifications prescribed by law for district court reporters, who serves at the pleasure of the judge, and who is entitled to the compensation fixed by the Commissioners Court of Guadalupe County.

Practice

Sec. 5. (a) Practice in the County Court at Law of Guadalupe County shall conform to that prescribed by law for the County Court of Guadalupe County.

(b) The judges of the county court and the county court at law may transfer cases to and from the dockets of their respective courts so that the business may be equally distributed between them. However, no case may be transferred from one court to the other without the consent of the judge of the court to which it is transferred; and no case may be transferred to the County Court at Law of Guadalupe County unless it is within the jurisdiction of that court.

(c) The county judge and the judge of the county court at law may freely exchange benches and courtrooms with each other so that if one is ill, disqualified, or otherwise absent, the other may hold court for him without the necessity of transferring the case involved. Either judge may hear all or any part of a case pending in the county court or county court at law; and he may rule and enter orders on and continue, determine, or render judgment on all or any part of the case without the necessity of transferring it to his own docket. However, the judge of the county court at law may not sit or act in a case unless it is within the jurisdiction of his court.

(d) Jurors regularly impaneled for the week by the district courts whose districts include Guadalupe County may, at the request of either the Judge of the County Court or County Court at Law of Guadalupe County, be made available by the district judges in the numbers requested and shall serve for the week in either or both the county court or county court at law.

Facilities and equipment

Sec. 6. (a) The Commissioners Court of Guadalupe County shall furnish and equip a suitable courtroom and office space for the county court at law.

(b) The county court at law has a seal identical with the seal of the County Court of Guadalupe County except that it contains the words "County Court at Law of Guadalupe County."

Effective date

Sec. 7. (a) This Act takes effect when the Commissioners Court of Guadalupe County appoints a judge to the County Court at Law of Guadalupe County.

(b) The judge appointed must have the qualifications prescribed in Section 3(b) of this Act and serves until December 31, 1970, and until a successor has been duly elected and qualified.

Acts 1967, 60th Leg., p. 2056, ch. 761, emerg. eff. June 18, 1967.

Historical Note

Title of Act:

An Act creating the County Court at Law of Guadalupe County; providing for its jurisdiction, terms, personnel, adminis-

tration, practice, and facilities; and declaring an emergency. Acts 1967, 60th Leg. p. 2056, ch. 761.

TITLE 42—COURTS—PRACTICE IN DISTRICT AND COUNTY

CHAPTER ONE—INSTITUTION, PARTIES AND VENUE

Art. 1983. For wife's separate property or special community property

Repeal

Acts 1967, 60th Leg., p. 735, ch. 309, § 6 repealed this article effective January 1, 1968.

Section 1 of Acts 1967, 60th Leg., p. 735, ch. 309 revised and amended chapters 2 and 3 of Title 75; sections 2 and 3 of the act amended articles 1064, 5518, 5519, 5535, 6632 and 6647; section 4 of the act added article 3.49—3 to V.A.T.S. Insurance Code; section 5 of the act amended article 5460; and sections 6-8, which also repealed articles

1300, 1985, 4611, 4612, 4616, 6605, 6608 and 6648-6651, validated certain acknowledgements of married women and provided an effective date, are set out as notes under article 4610.

For provisions relating to suits by spouses effective January 1, 1968, see article 4626.

Art. 1985. Suits against the wife

Repeal

Acts 1967, 60th Leg., p. 735, ch. 309, § 6 repealed this article effective January 1, 1968.

Section 1 of Acts 1967, 60th Leg., p. 735, ch. 309 revised and amended chapters 2 and 3 of Title 75; sections 2 and 3 of the act amended articles 1064, 5518, 5519, 5535, 6632 and 6647; section 4 of the act added article 3.49—3 to V.A.T.S. Insurance Code; section 5 of the act amended article 5460; and sections 6-8, which repealed articles

1300, 1983, 4611, 4612, 4616, 6605, 6608 and 6648-6651, validated certain acknowledgements of married women and provided an effective date, are set out as notes under article 4610.

For provisions relating to suits by spouses effective January 1, 1968, see article 4626.

Art. 1995. [1830] [1194] [1198] Venue, general rule

No person who is an inhabitant of this State shall be sued out of the county in which he has his domicile except in the following cases:

1. Repealed. Acts 1967, 60th Leg., p. 951, ch. 419, § 1, eff. Aug. 28, 1967.

* * * * *

CHAPTER SEVEN—THE JURY

Art. 2094. Selecting names for jury wheel

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(e) The provisions of Subsection (a) of this Article also apply to a county having a population of at least 16,700, but not more than 17,200 and containing a city having a population of at least 8,000 but not more than 8,950.

Subsec. (e) amended by Acts 1967, 60th Leg., p. 524, ch. 228, § 1, eff. Aug. 28, 1967.

* * * * *

(k) The provisions of Subsection (a) of this Article also apply to a county having a population of at least 12,530 but not more than 12,690.

Subsec. (k) added by Acts 1967, 60th Leg., p. 363, ch. 174, § 1, eff. Aug. 28, 1967.

Addition of subsection (k) by Acts 1967, 60th Leg., p. 452, ch. 205 and by Acts 1967, 60th Leg., p. 1217, ch. 548, see subsections (k) post.

(k) The provisions of Subsection (a) of this Article also apply to a county having a population of not less than 5,900 but not more than 6,200, and having two district courts.

Subsec. (k) added by Acts 1967, 60th Leg., p. 452, ch. 205, § 1, eff. Aug. 28, 1967.

Addition of subsection (k) by Acts 1967, 60th Leg., p. 363, ch. 174 and by Acts 1967, 60th Leg., p. 1217, ch. 548, see subsections (k) ante and post.

(k) The provisions of Subsection (a) of this Article also apply to a county having a population of not less than 10,375 but not more than 10,600.

Subsec. (k) added by Acts 1967, 60th Leg., p. 1218, ch. 548, § 1, eff. Aug. 28, 1967.

Addition of subsection (k) by Acts 1967, 60th Leg., p. 363, ch. 174, § 1 and by Acts 1967, 60th Leg., p. 452, ch. 205, § 1, see subsections (k), ante.

* * * * *

(m) The provisions of Subsection (a) of this Article also apply to a county having a population of at least 23,000 but not more than 23,600.

Subsec. (m) added by Acts 1967, 60th Leg., p. 300, ch. 143, § 1, eff. Aug. 28, 1967.

(n) The provisions of Subsection (a) of this Article also apply to a county having a population of at least 19,300 but not more than 19,500.

Subsec. (n) added by Acts 1967, 60th Leg., p. 1846, ch. 718, § 1, eff. Aug. 28, 1967.

Art. 2101. Interchangeable juries

The provisions of this article shall be applicable only to such counties of this State as may now maintain three or more district courts, or in which three or more district courts may be hereafter established. A criminal court in any county with jurisdiction in felony cases shall be considered a district court within the meaning of this article. The "Interchangeable Jury Law" shall not apply to a selection of jurors in lunacy cases or in capital cases.

* * * * *

5. This Article is also applicable to a county that has two district courts and a domestic relations court.

Sec. 5 added by Acts 1967, 60th Leg., p. 520, ch. 224, § 1, eff. Aug. 28, 1967.

Art. 2135. [5118] [3142] [3013] Jury service

All competent jurors are liable to jury service, except the following persons:

1. All persons over sixty-five years of age.
2. All ministers of the gospel engaged in the active discharge of their ministerial duties.
3. All physicians, dentists, veterinarians, chiropractors, optometrists, and attorneys and spouses of attorneys engaged in actual practice.
4. All railroad station agents, conductors, engineers and firemen of railroad companies when engaged in the regular and actual discharge of their respective positions.

For Annotations and Historical Notes, see V.A.T.S.

5. All members of the National Guard of this State under the provisions of the title "Militia" during periods of time when they are actually on active duty.

6. In cities and towns having a population of one thousand or more inhabitants, according to the last preceding United States Census, the active members of organized fire companies, not to exceed twenty to each one thousand of such inhabitants.

7. All females who have legal custody of a child or children under the age of sixteen years.

8. All registered, practical and vocational nurses actively engaged in the practice of their profession.

9. Any practitioner who treats the sick by prayer or spiritual means in accordance with the tenets, teachings or practice of any well-established church or denomination, or a nurse who cares for the sick who are under treatment by such spiritual means, or a reader whose duty is to conduct regular religious services of such church or denomination.

10. All licensed morticians who are actively engaged in the practice of their profession.

11. All registered pharmacists who are actively engaged in the practice of their profession.

12. Agents and patrolmen engaged in forestry protection work employed by the State Department of Forestry when engaged in the actual discharge of their duties.

13. The spouse of any person who is summoned to serve on the same jury panel; provided, however, that only one of the spouses, either the husband or the wife, may claim exemption on this ground, and if both the husband and the wife seek to claim the exemption, the court shall decide which shall be entitled to it.

14. All school teachers, which shall include public, parochial and private school teachers provided, however, all school teachers shall be liable to jury service during summer months or other extended periods of time when they are not actually teaching.
Amended by Acts 1965, 59th Leg., p. 455, ch. 232, § 1, eff. Aug. 30, 1965; Acts 1967, 60th Leg., p. 2044, ch. 753, § 1, eff. Aug. 28, 1967.

Art. 2137. [5121] Filing of exemptions

Section 1. All persons summoned as jurors in any court of this State, who are exempt by statutory law from jury service, may, if they so desire to claim their exemptions, make oath before any officer authorized by law to administer oaths, or before the officers summoning such persons, stating their exemptions, and file said affidavit at any time before the convening of said court with the clerk of said court, which shall constitute sufficient excuse without appearing in person.

Sec. 2. Any person wishing to claim any statutory exemption under Article 2135 in counties employing the jury wheel system may do so by filing a sworn statement stating the nature of and claiming such exemption with the sheriff, the tax assessor-collector, or the district or county clerk of the county of his residence, in which event no card for such person shall be placed in the jury wheel for the ensuing year.

Amended by Acts 1967, 60th Leg., p. 1107, ch. 489, § 1, eff. Aug. 28, 1967.

CHAPTER THIRTEEN—GENERAL PROVISIONS

3. OFFICIAL COURT REPORTER

Art.	Art.
2326j—3a. Appointment and compensation of reporters in 53rd, 98th, 126th, 147th and 167th judicial districts [New].	2326j—54. Appointment and compensation of reporter for 27th Judicial District [New].
2326j—4a. Compensation of reporters in 47th and 108th judicial districts [New].	2326j—55. Compensation of reporter for 43rd Judicial District [New].
2326j—13. Compensation of reporters for 23rd and 130th Judicial Districts [New].	2326j—56. Compensation of reporters for 8th, 40th and 123rd Judicial Districts [New].
2326j—32a. Appointment and compensation of reporters for 117th, 94th, 28th, 105th Judicial Districts, and for Court of Domestic Relations and County Courts at Law Nos. 1 and 2 of Nueces County [New].	2326j—57. Compensation of reporter for 19th, 54th and 74th Judicial Districts [New].
2326j—36. Compensation of reporter for 124th Judicial District [New].	2326j—58. Compensation of reporter for 85th Judicial District [New].
2326j—51a. Compensation of reporter for 2nd 38th Judicial District [New].	2326j—59. Compensation of reporter for 156th Judicial District [New].
	2326j—60. Compensation of reporter for 52nd Judicial District [New].
	2326j—61. Compensation of reporter for 32nd Judicial District [New].
	2326j—62. Compensation of reporter for 46th Judicial District [New].

3. OFFICIAL COURT REPORTER

Art. 2326j—1. Appointment and compensation of reporters in 10th, 56th and 122nd judicial districts

The Judges of the Tenth, Fifty-sixth, and One Hundred Twenty-second Judicial Districts of Texas, composed of the County of Galveston, shall each appoint an official shorthand reporter for his respective Judicial District in the manner now provided for District Courts in this state; who shall have the same qualifications and whose duties shall in every respect be the same as now provided by law. Each of said official shorthand reporters shall receive a salary of not less than Eighty-four Hundred Dollars (\$8,400) per annum, nor more than Eleven Thousand Four Hundred Dollars (\$11,400) per annum, said salary to be fixed and determined by the District Judges of the Tenth, Fifty-sixth and One Hundred Twenty-second Judicial Districts composed of Galveston County, and said salary shall be in addition to transcript fees which shall not be more than thirty cents (30¢) per one hundred (100) words. Said salary when so fixed and determined by the District Judges of said respective Judicial Districts shall be paid monthly out of the General Fund, or the Jury Fund, or out of any fund available for the purpose as may be determined by the County Commissioners Court. From and after the passage of this Act all provisions relating to official shorthand reporters and their duties in District Courts shall in all respects govern except that the salary of the official shorthand reporters as provided for in this Act shall be fixed and determined by the District Judges of said Judicial Districts and not otherwise; and the transcript fees shall be as provided for in this Act, and not otherwise.

Amended by Acts 1967, 60th Leg., p. 1012, ch. 442, § 1, eff. Aug. 28, 1967.

Art. 2326j—3a. Appointment and compensation of reporters in 53rd, 98th, 126th, 147th and 167th judicial districts

The judges of the District Courts of the 53rd, 126th, and 167th Judicial Districts of Texas, and the judge of the 98th District Court and the judge of the 147th District Court of Travis County shall each

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appoint an official shorthand reporter for his respective judicial district or court in the manner now provided for district courts in this state, who shall have the same qualifications and whose duties shall in every respect be the same as now provided by law. Said official shorthand reporter shall receive not less than Six Thousand, Six Hundred Dollars (\$6,600.00) per annum, nor more than Ten Thousand, Five Hundred Dollars (\$10,500.00) per annum, said salary to be fixed and determined by the judges of the 53rd, 98th, 126th, and 167th District Courts of Travis County, and the judge of the 147th District Court of Travis County, and shall be in addition to transcript fees, fees for statements of fact and all other fees. Said salary, when so fixed and determined by the district judges of said respective courts, shall be paid monthly out of the general fund or the jury fund, or out of any fund available for the purpose as may be determined by the Commissioners Court. From and after passage of this Act, all provisions relating to official shorthand reporters and their duties in district courts shall in all respects govern, except that the salary of the official shorthand reporters as provided for in this Act shall be fixed and determined by the district judges of the 53rd, 98th, 126th, and 167th District Courts of Travis County, and the judge for the 147th District Court of Travis County, and not otherwise.

Acts 1967, 60th Leg., p. 903, ch. 394, § 1, emerg. eff. June 8, 1967.

Historical Note

Section 2 of the act of 1967 repealed all conflicting laws and parts of laws and section 3 thereof was a severability provision.

Title of Act:

An Act relating to the appointment, qualification, duties and compensation of official shorthand reporters for the District Courts of the 53rd, 126th, and 167th Judicial Districts of Texas, for the 98th Dis-

trict Court of Travis County and for the 147th District Court of Travis County; fixing maximum and minimum salaries to be paid in addition to compensation for transcripts, statements of fact and other fees; repealing all laws or parts of laws in conflict; providing a saving clause; and declaring an emergency. Acts 1967, 60th Leg., p. 903, ch. 394.

Art. 2326j—4a. Compensation of reporters in 47th and 108th judicial districts

Section 1. From and after the passage of this Act, each of the official shorthand reporters of the 47th Judicial District of Texas, composed of the counties of Potter, Randall, and Armstrong, and of the 108th Judicial District of Texas, composed of the County of Potter, shall receive a salary of not less than \$6,600, nor more than \$10,500 per annum; the specific amount, within said limits, to be determined, fixed and set by order of each of the respective judges of said two above named judicial districts. From and after the time that the judge shall have entered his respective order as aforesaid, in the minutes of the court in each county of his district, and shall have filed a copy of such order with the commissioners court of each county in his judicial district, the salaries so determined, fixed and set shall be paid monthly by and in proportion for each county of each of said judicial districts as provided by law, out of the general fund, or out of any other fund available for the purpose.

Sec. 2. From and after the passage of this Act, all provisions of the law relating to the appointment, qualifications, and duties of official shorthand reporters in this state, and as to allowance to them of transcript fees and hotel and traveling expense, shall govern; save and except that when the salaries of the official shorthand reporters for the 47th and 108th Judicial Districts shall have been determined, fixed and set by the judge of each said district, in the manner and within the amount limits as in this Act provided, said salaries shall be paid to said official shorthand reporters as in this Act provided, and not otherwise.

Acts 1967, 60th Leg., p. 867, ch. 373, emerg. eff. June 8, 1967.

Historical Note

Title of Act: An Act relating to and fixing minimum and maximum salaries of the official shorthand reporters for the 47th and the 108th	Judicial Districts of Texas; with saving clause; and declaring an emergency. Acts 1967, 60th Leg., p. 867, ch. 373.
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Art. 2326j—5. Compensation of reporter in 79th Judicial District

The official shorthand reporter of the 79th Judicial District of Texas, shall receive a salary of not more than Eleven Thousand Five Hundred Dollars (\$11,500.00) per annum, in addition to the compensation for transcription fees as provided by law. Such salary shall be paid monthly upon approval of the judge of the 79th Judicial District Court, and shall be paid by the Commissioners Court of each of the counties comprising the 79th Judicial District of Texas. Such salary shall be payable out of the General Fund, Officers Salary Fund, the Jury Fund, or any fund available for that purpose.

Amended by Acts 1967, 60th Leg., p. 819, ch. 345, § 1, eff. Aug. 28, 1967.

Art. 2326j—10. Appointment and compensation of reporters in 70th and 161st judicial districts

The judges of the District Courts of the 70th and 161st Judicial Districts of Texas, and the Judge of the County Court At Law, Ector County, Texas, shall each appoint an Official Shorthand Reporter for his respective Judicial District or Court in the manner now provided for District Courts and County Courts At Law in this State, who shall have the same qualifications and whose duties shall in every respect be the same as now provided by law. Said Official Shorthand Reporters shall each receive a salary of not more than nine thousand six hundred dollars (\$9,600.00) per annum, said salary to be fixed, determined, set, and allowed by the Judge of the Court for which said reporter serves, and said salary shall be in addition to transcript fees, fees for statements of fact and all other fees. Said salary when so fixed and determined by the judges of said respective courts shall be paid monthly out of the general fund, or the jury fund, or out of any fund available for the purpose as may be determined by the County Commissioners Court. From and after passage of this Act all provisions relating to Official Shorthand Reporters and their duties in District Courts and County Courts at Law shall in all respects govern, except that the salary of the Official Shorthand Reporters as provided for in this Act shall be fixed and determined by the District Judges of the 70th and 161st District Courts, and the Judge of the County Court At Law, of Ector County, Texas, and not otherwise.

Amended by Acts 1967, 60th Leg., p. 1219, ch. 551, § 1, eff. Aug. 28, 1967.

Art. 2326j—13. Compensation of reporters for 23rd and 130th Judicial Districts

Section 1. That the Official Shorthand Reporters of the 23rd Judicial District of Texas and the 130th Judicial District of Texas, composed of the counties of Brazoria, Fort Bend, Matagorda, and Wharton may receive a maximum salary of Eleven Thousand Five Hundred Dollars (\$11,500) per annum, in addition to all traveling expenses, transcript fees and all other compensation now provided by law to be paid to said Official Shorthand Reporters, the specific amount of said salaries to be fixed by the District Judges of such Judicial Districts.

Sec. 2. The salaries of the Official Shorthand Reporters as herein fixed shall be paid monthly by the respective counties composing any of said Judicial Districts in accordance with the proportion fixed, made and determined by the District Judges of said Judicial Districts as to the

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amount to be paid monthly by each county in the Judicial Districts. Such salaries shall be paid out of the general fund or out of the jury fund, or out of any fund available for the purpose.

Acts 1967, 60th Leg., p. 1164, ch. 518, emerg. eff. June 14, 1967.

Historical Note

Acts 1967, 60th Leg., p. 1164, ch. 518, §§ 3, 4 provided:

"Sec. 3. If any section, paragraph, sentence, clause, phrase, or part of this Act be held for any reason to be invalid, such invalidity shall not affect the remainder of this Act.

"Sec. 4. All laws or parts of laws in conflict herewith are hereby repealed to the extent of such conflict only."

Title of Act:

An Act providing for the compensation of the Official Shorthand Reporters of the 23rd

Judicial District of Texas and the 130th Judicial District of Texas; providing for the manner of payment; providing that if any section, paragraph, sentence, clause, phrase, or any part of this Act be invalid, such invalidity shall not affect the remainder thereof; repealing all laws and parts of laws in conflict to the extent of such conflict only; and declaring an emergency. Acts 1967, 60th Leg., p. 1164, ch. 518.

Art. 2326j—19. Compensation of reporter for 29th Judicial District

Section 1. The Court Reporter of the 29th Judicial District of Texas shall receive a salary of not less than \$4,800 per annum and not more than \$12,000 per annum as fixed and determined by the District Judge of the 29th Judicial District Court, and shall be paid monthly by the Commissioners Court of each of the counties comprising the 29th Judicial District of Texas in accordance with the proportion fixed, made and determined by the District Judge of said Judicial District as to the amount to be paid monthly by each county in the 29th Judicial District, or in the proportion for each county of the 29th Judicial District as provided by law.

Said reporter shall, in addition, receive allowances for his actual and necessary traveling, meals and hotel expenses while actually engaged in the discharge of his duties; such expenses will be paid by the respective counties of the Judicial District for which they are incurred, each county paying the expense incidental to its own regular or special term of court, and said expenses shall be paid to the official shorthand reporter by the Commissioners Court of the county out of the General Fund.

Sec. 1 amended by Acts 1967, 60th Leg., p. 1266, ch. 567, § 1, emerg. eff. June 15, 1967.

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Art. 2326j—32. Repealed. Acts 1967, 60th Leg., p. 985, ch. 428, § 4. Eff. Aug. 28, 1967

See, now, article 2326j—32a.

Art. 2326j—32a. Appointment and compensation of reporters for 117th, 94th, 28th, 105th Judicial Districts, and for Court of Domestic Relations and County Courts at Law Nos. 1 and 2 of Nueces County

Section 1. The Judges of the District Courts of the 117th, 94th, 28th and 105th Judicial Districts of Texas, the Judge of the Court of Domestic Relations, and the Judges of County Court at Law No. 1 and County Court at Law No. 2, Nueces County, Texas, shall each appoint an official shorthand reporter for his respective Judicial District or Court in the manner now provided for District Courts and County Courts at Law in this State, who shall have the qualifications and whose duties shall in every respect be the same as now provided by law. Said official shorthand reporters shall receive a salary of not more than Ten Thousand Two Hundred Dollars (\$10,200) per annum, said salary to be fixed and determined by the Judges of the District Courts of the 117th, 94th, 28th and 105th

Judicial Districts of Texas, with any amount in excess of Nine Thousand Two Hundred Dollars (\$9,200) to be subject to the consent and approval of the commissioners courts of the counties composing said Judicial Districts, and the respective Judges of the Court of Domestic Relations, County Court at Law No. 1 and County Court at Law No. 2 of Nueces County, Texas, with any amount in excess of Nine Thousand Two Hundred Dollars (\$9,200) to be subject to the consent and approval of the commissioners court of Nueces County, Texas; and shall be in addition to transcript fees, fees for statements of facts and all other fees.

Sec. 2. Where any of said Judicial Districts include more than one county, the salary of the official shorthand reporter for such Judicial Districts shall be paid by the counties composing such Judicial Districts in accordance with the proportion that the population of each county bears to the total population of the Judicial District as shown by the last preceding Federal Census. Such salaries shall be paid in equal monthly installments, and may be paid out of the general fund or any other fund available for such purpose as may be determined by the county commissioners court.

Sec. 3. From and after passage of this Act all provisions relating to official shorthand reporters and their duties in District Courts shall in all respects govern, except that the salary of the official shorthand reporters for the 117th, 94th, 28th and 105th Judicial Districts of Texas, and the Court of Domestic Relations, County Court at Law No. 1 and County Court at Law No. 2 of Nueces County, Texas, shall be fixed and determined as provided in this Act.

Sec. 4. Acts 1963, 58th Legislature, page 784, Chapter 302 (codified as Article 2326j—32, Vernon's Texas Civil Statutes of the State of Texas), is hereby repealed.

Added by Acts 1967, 60th Leg., p. 984, ch. 428, eff. Aug. 28, 1967.

Historical Note

Title of Act:

An Act providing for the compensation of the official shorthand reporters of the 117th, 94th, 28th and 105th Judicial Districts Courts, the Court of Domestic Relations of Nueces County, Texas, and the County Courts at Law Nos. 1 and 2 of

Nueces County, Texas; providing the manner of payment; repealing Acts 1963, 58th Legislature, page 784, Chapter 302 (codified as Article 2326j—32, Vernon's Texas Civil Statutes of the State of Texas); and declaring an emergency. Acts 1967, 60th Leg., p. 984, ch. 428.

Art. 2326j—36. Compensation of reporter for 124th Judicial District

Section 1. The official shorthand reporter for the 124th Judicial District of Texas shall receive a salary of not less than \$4,800 nor more than \$9,600 per annum, said salary to be fixed, determined, and set by the Judge of the 124th District Court and shall be in addition to transcript fees, fees for statements of facts, and all other fees. From and after the time that said judge shall have entered an order in the minutes of said court, which order shall be a public record and open for inspection, stating specifically the amount of salary to be paid to said reporter, and shall have filed a copy of said order with the Commissioners Court of Gregg County, the salary so determined, fixed, and set shall be paid monthly out of the general fund or the jury fund or any fund available for the purpose. Provided, however, that any amount in excess of \$4,800 per annum shall be subject to the approval of the Commissioners Court of Gregg County.

Sec. 2. From and after the passage of this Act, all provisions of the law relating to the appointment, qualifications, and duties of official shorthand reporters in this state, and as to allowances to them of transcript fees and hotel and traveling expense, shall govern, except that when the salary of the official shorthand reporter for the 124th Judicial District shall have been determined in the manner and within

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the limits prescribed by this Act, said salary shall be paid to said official shorthand reporter as provided in this Act, and not otherwise.

Acts 1967, 60th Leg., p. 586, ch. 264, eff. Aug. 28, 1967.

Title of Act:

An Act prescribing the minimum and maximum salary to be paid to the official shorthand reporter for the 124th Judicial

District; prescribing the method of fixing and paying such salary; and declaring an emergency. Acts 1967, 60th Leg., p. 586, ch. 264.

Art. 2326j—51a. Compensation of reporter for 2nd 38th Judicial District

The official shorthand reporter of the 2nd 38th Judicial District of Texas shall receive a salary of not to exceed \$8,500 per annum, in addition to the compensation for transcription fees as provided by law. Such salary shall be paid monthly upon approval of the Judge of the 2nd 38th Judicial District Court, and shall be paid by the commissioners court of each of the counties comprising the 2nd 38th Judicial District of Texas. Such salary shall be payable out of the general fund, officers salary fund, the jury fund or any fund available for that purpose.

Acts 1967, 60th Leg., p. 1091, ch. 480, § 1, eff. Aug. 28, 1967.

Title of Act:

An Act providing for the compensation of the official shorthand reporter of the 2nd 38th Judicial District Court of Texas;

providing the manner of payment; and declaring an emergency. Acts 1967, 60th Leg., p. 1091, ch. 480.

Art. 2326j—52. Compensation of reporters for 17th, 48th, 67th, 96th and 153rd Judicial Districts and of criminal district and county criminal courts

Section 1. The Judges of the 17th, 48th, 67th, 96th, and 153rd Judicial Districts and of Criminal District Court,¹ Criminal District Court No. 2, and Criminal District Court No. 3, and the Judges of the County Court at Law, County Criminal Court No. 1, County Criminal Court No. 2, and County Criminal Court No. 3, all of such judicial districts and courts being in Tarrant County, Texas, shall each appoint an official shorthand reporter for such court or judicial district, in the manner now provided for appointment of official shorthand reporters in this State. Such appointment shall be evidenced by an order entered on the minutes of each such court. Such appointment when once made shall continue in effect from year to year unless otherwise ordered by the judge of the court in which such reporter serves. The salary compensation of such reporter shall be not less than Eight Thousand, Five Hundred Dollars (\$8,500) and not more than Eleven Thousand, Five Hundred Dollars (\$11,500) per annum, and the amount of such salary compensation shall be determined, fixed, and the payment thereof authorized by the Judge of each such court, within the minimum and maximum amounts herein provided, and such salary compensation shall be paid semi-monthly out of the General Fund, Officers Salary Fund, or out of any fund available for the purpose, as shall be determined by the Commissioner's Court of Tarrant County.

Sec. 1 amended by Acts 1967, 60th Leg., p. 2042, ch. 751, § 1, emerg. eff. June 18, 1967.

¹ Name changed to Criminal District Court No. 1 of Tarrant County. See article 1926—42a.

Art. 2326j—54. Appointment and compensation of reporter for 27th Judicial District

Section 1. The judge of the 27th Judicial District of Texas, composed of Bell, Lampasas, and Mills counties, shall appoint an official shorthand reporter for the district in the manner provided for district courts.

Sec. 2. The reporter shall have the qualifications and duties provided by general law.

Sec. 3. The reporter is entitled to receive as compensation transcript fees and an annual salary of not less than \$7,800 nor more than \$9,600, payable monthly, as authorized by the district judge with the approval of the commissioners court of each county in the district.

Sec. 4. The commissioners court of each county in the district shall determine whether to pay that county's part of the reporter's salary from the general fund, the jury fund, or other fund available for the purpose. Acts 1967, 60th Leg., p. 29, ch. 10, eff. Jan. 1, 1968.

Historical Note

Section 5 of the act of 1967 provided that the act takes effect on January 1, 1968.

Title of Act:

An Act relating to the appointment compensation, and duties of a shorthand reporter for the 27th Judicial District of Texas; and declaring an emergency. Acts 1967, 60th Leg., p. 29, ch. 10.

Art. 2326j—55. Compensation of reporter for 43rd Judicial District

Section 1. From and after the passage of this Act the official shorthand reporter for the 43rd Judicial District of Texas shall receive a salary of not less than Four Thousand Eight Hundred Dollars (\$4,800) per annum, nor more than Nine Thousand Six Hundred Dollars (\$9,600) per annum, which shall be determined, fixed and set by the judge of said district; and from and after the time that said judge shall have entered an order in the minutes of the court, in each county of said district, which order shall be a public record and open for inspection, stating specifically the amount of salary to be paid to said reporter, and shall have filed a copy of said order with each Commissioners Court of the district, the salary so determined, fixed and set shall be paid monthly, by and in the proportion for each county of the district as provided by law, out of the General Fund, or out of the Jury Fund, or out of any fund available for the purpose.

Sec. 2. From and after the passage of this Act, all provisions of the law relating to the appointment, qualifications and duties of official shorthand reporters in this state, and as to allowances to them of transcript fees and hotel and traveling expense, shall govern, save and except that when the salary of the official shorthand reporter for the 43rd Judicial District shall have been determined, fixed and set by the judge of said district, in the manner and within the amount limits as in this Act provided, said salary shall be paid to said official shorthand reporter as in this Act provided, and not otherwise.

Acts 1967, 60th Leg., p. 44, ch. 22, emerg. eff. March 21, 1967.

Title of Act:

An Act relating to and fixing minimum and maximum salary of the official short-

hand reporter for the 43rd Judicial District of Texas; and declaring an emergency. Acts 1967, 60th Leg., p. 44, ch. 22.

Art. 2326j—56. Compensation of reporters for 8th, 40th and 123rd Judicial Districts

Section 1. Each of the official shorthand reporters for the 8th Judicial District, the 40th Judicial District, and the 123rd Judicial District shall receive a salary of not less than \$6,600 nor more than \$9,000 per annum, said salary to be fixed, determined and set by the judge of each District Court and shall be in addition to transcript fees, fees for statements of facts and all other fees. From and after the time that said judge shall have entered an order in the minutes of said court, which order shall be a public record and open for inspection, stating specifically the amount of salary to be paid to said reporter, and shall have filed a copy of said order with the Commissioners Court of each county within said district, the salary so determined, fixed, and set shall be paid monthly out of the general fund or the jury fund or any fund available for the purpose, by the counties composing the judicial district in

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accordance with the proportion that the population of each county bears to the total population of the judicial district according to the last preceding Federal Census.

Sec. 2. In addition to the duties required in the District Court, the reporter for the 40th Judicial District shall also, when available and required, report cases tried in the County Court of Ellis County, Texas.

Sec. 3. From and after the passage of this Act, all provisions of the law relating to the appointment, qualifications, and duties of official shorthand reporters in this state, and as to allowances to them of transcript fees and hotel and traveling expenses, shall govern, except that when the salary of any one of the official shorthand reporters for the 8th, 40th, or the 123rd Judicial District shall have been determined in the manner and within the limits prescribed by this Act, said salary shall be paid to said official shorthand reporter as provided in this Act, and not otherwise.

Acts 1967, 60th Leg., p. 555, ch. 242, emerg. eff. May 22, 1967.

Title of Act:

An Act prescribing the minimum and maximum salary to be paid to each of the official shorthand reporters for the 8th, 40th, and the 123rd Judicial District; prescribing the method of fixing and pay-

ing such salary; providing for additional duties by the reporter of the 40th Judicial District in the County Court of Ellis County, Texas; and declaring an emergency. Acts 1967, 60th Leg., p. 555, ch. 242.

Art. 2326j—57. Compensation of reporter for 19th, 54th and 74th Judicial Districts

Section 1. The official shorthand reporters for the 19th, 54th, and 74th Judicial Districts shall each receive a salary of not more than \$8,500 a year. Within this limit, the commissioners court of McLennan County shall determine the salary of each reporter by order entered in its minutes and shall pay the salary in the manner provided by law.

Sec. 2. This Act does not change the salary of any official shorthand reporter who is not specified in this Act.

Acts 1967, 60th Leg., p. 801, ch. 335, eff. Aug. 28, 1967.

Title of Act:

An Act relating to the compensation of the official shorthand reporters for the

19th, 54th, and 74th Judicial Districts of Texas; and declaring an emergency. Acts 1967, 60th Leg., p. 801, ch. 335.

Art. 2326j—58. Compensation of reporter for 85th Judicial District

The official shorthand reporter for the 85th Judicial District of Texas shall receive a salary of not more than \$8,400 a year. The salary of the shorthand reporter shall be determined by the judge of the district court the reporter serves. The judge shall enter an order in the minutes of the court stating specifically the amount of the salary to be paid to the reporter and file a copy of the order with the Commissioners Court of the county. The Commissioners Court shall pay the salary of the shorthand reporter as provided by law.

Acts 1967, 60th Leg., p. 806, ch. 341, § 1, eff. Aug. 28, 1967.

Art. 2326j—59. Compensation of reporter for 156th Judicial District

Section 1. From and after the passage of this Act the official shorthand reporter for the 156th Judicial District of Texas, composed of the counties of Aransas, Bee, Live Oak, McMullen and San Patricio, shall receive a salary of not less than \$6,600 per annum, nor more than \$8,600 per annum, which shall be determined, fixed, and set by the judge of said district; and from and after the time that said judge shall have entered an order in the minutes of the court, in each county of said district, which order shall be a public record and open for inspection, stating specifically the amount of salary to be paid to said reporter, and shall have filed a copy of said order with each commissioners court of the district, the salary so determined, fixed, and set shall be paid monthly, by and in the proportion

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hand reporters in this state, and as to allowances to them of transcript fees and hotel and traveling expense, shall govern, save and except that when the salary of the official shorthand reporter for the 32nd Judicial District shall have been determined, fixed and set by the judge of said district, in the manner and within the amount limits as in this Act provided, said salary shall be paid to said official shorthand reporter as in this Act provided, and not otherwise.

Acts 1967, 60th Leg., p. 1209, ch. 544, eff. Aug. 28, 1967.

Title of Act: Judicial District; and declaring an emergency. Acts 1967, 60th Leg., p. 1209, ch. 544.
An Act relating to compensation of the official shorthand reporter of the 32nd

Art. 2326j—62. Compensation of reporter for 46th Judicial District

Section 1. From and after the passage of this Act the Official Shorthand Reporter for the 46th Judicial District of Texas, composed of Wilbarger, Hardeman and Foard Counties, shall receive a salary of not less than Nine Thousand, Six Hundred Dollars (\$9,600) and not more than Eleven Thousand Dollars (\$11,000) per annum which shall be determined, fixed and set by the Judge of said District; and from and after the time that said Judge shall have entered an order in the minutes of the court, in each county of said District, which order shall be made a public record and open for inspection, stating specifically the amount of salary to be paid said reporter, and shall have filed a copy of said order with each Commissioners Court of the District, the salary so determined, fixed and set shall be paid monthly, by and in the proportion for each county of the District as provided by law, out of the General Fund, or out of the Jury Fund, or out of any fund available for the purpose.

Sec. 2. From and after the passage of this Act, all provisions of the law relating to the appointment, qualifications and duties of official shorthand reporters in this state, and as to allowances to them of transcript fees and hotel and travel expenses, shall govern, save and except that when the salary of the Official Shorthand Reporter for the 46th Judicial District of Texas shall have been determined, fixed and set by the Judge of said District, said salary shall be paid to said Official Shorthand Reporter as in this Act provided, and not otherwise.

Acts 1967, 60th Leg., p. 1210, ch. 545, eff. Aug. 28, 1967.

Title of Act: hand Reporter for the 46th Judicial District of Texas; and declaring an emergency. Acts 1967, 60th Leg., p. 1210, ch. 545.
An Act relating to fixing the minimum and maximum salary of the Official Short-

Art. 2327d. Shorthand reporters for county judges and for certain judges of probate court

* * * * *

Sec. 1A. For the purpose of preserving a record of all hearings had before the County Judge or any Judge of a Probate Court in counties having a population of not less than one million two hundred thousand (1,200,000) inhabitants according to the last preceding Federal Census, or any future Federal Census, the County Judge or any Judge of a Probate Court in such counties may elect to appoint an official shorthand reporter in any case pending before any of such courts. The official shorthand reporter so appointed shall be well skilled in his profession, shall be a sworn officer of the Court and shall hold office for the duration of the case in which he was appointed to serve. The County Judge or the Judge of the Probate Courts of such counties shall set the compensation to be paid to the official shorthand reporter appointed in such courts, and such compensation shall be in addition to compensation for transcript fees as provided by law, and shall be paid out of the General Fund of such counties.

Sec. 1A added by Acts 1967, 60th Leg., p. 1204, ch. 539, § 1, emerg. eff. June 14, 1967.

TITLE 43—COURTS—JUVENILE

Art. 2338—9b. Court of Domestic Relations No. 3 of Dallas County [New].

Art. 2338—15b. Court of Domestic Relations No. 3 of Tarrant County [New].

Art. 2338—1. Delinquent children; juvenile court established in each county; jurisdiction

* * * * *

Definitions

Sec. 3. In this Act, unless the context requires a different definition, the word "court" means the juvenile court; the word "judge" means the judge of the juvenile court; the word "child" means any female person over the age of ten years and under the age of eighteen years and any male person over the age of ten years and under the age of seventeen years. The term "delinquent child" means any child who

(a) violates any penal law of this state of the grade of felony; or

(b) violates any penal law of this state of the grade of misdemeanor where the punishment prescribed for such offense may be by confinement in jail; or

(c) habitually violates any penal law of this state of the grade of misdemeanor where the punishment prescribed for such offense is by pecuniary fine only; or

(d) habitually violates any penal ordinance of a political subdivision of this state; or

(e) habitually violates a compulsory school attendance law of this state; or

(f) habitually so deports himself as to injure or endanger the morals or health of himself or others; or

(g) habitually associates with vicious and immoral persons.

Sec. 3 amended by Acts 1965, 59th Leg., p. 1256, ch. 577, § 1, eff. Aug. 30, 1965; Acts 1967, 60th Leg., p. 1082, ch. 475, § 2, eff. Aug. 28, 1967.

* * * * *

Jurisdiction

Sec. 5. (a) The juvenile court has exclusive original jurisdiction in proceedings governing any delinquent child. However, in those cases specified in Section 6 of this Act, the juvenile court may waive jurisdiction to the appropriate district court or criminal district court. The juvenile court is considered in session at all times.

(b) Nothing in this Act deprives other courts of the right to determine custody of children either upon writs of habeas corpus or when such custody is incidental to the determination of cases pending in those courts.

(c) When the juvenile court obtains jurisdiction of a delinquent child, its jurisdiction continues until the child is discharged by the court or until he becomes twenty-one years of age unless committed to the control of the agency of the state charged with the care, training, control of, or parole of delinquent children. The court's continued jurisdiction does not prejudice or bar subsequent or additional proceedings against the child under the provisions of this Act.

(d) Nothing in this Act prevents criminal proceedings against a child for perjury.

Sec. 5 amended by Acts 1965, 59th Leg., p. 1256, ch. 577, § 2, eff. Aug. 30, 1965; Acts 1967, 60th Leg., p. 1083, ch. 475, § 3, eff. Aug. 28, 1967.

Transfer and waiver of jurisdiction

Sec. 6. (a) When a child under the jurisdiction of a court moves from one county to another the court may transfer the case to the court in the county of the child's residence if the transfer is in the child's best interest. The transferring court shall forward transcripts of records in the case to the judge of the receiving court, who shall file them in the office of his clerk.

(b) If a child is charged with the violation of a penal law of the grade of felony and was fifteen years of age or older at the time of the commission of the alleged offense, the juvenile court may, within a reasonable time after the alleged offense, waive jurisdiction by following the requirements set out in Subsections (c) through (j) of this section, and transfer the child to the appropriate district court or criminal district court for criminal proceedings.

(c) The juvenile court shall conduct an informal hearing under Section 13 of this Act on the issue of waiver of jurisdiction.

(d) Prior to the hearing, the juvenile court shall order and obtain a complete diagnostic study, social evaluation, and full investigation of the child, his circumstances, and the circumstances of the alleged offense.

(e) The juvenile court shall appoint counsel for any child who does not have retained counsel, and shall allow counsel at least ten days to prepare for the hearing. The presence of counsel at the hearing may not be avoided or waived. Appointed counsel is entitled to a fee for each day actually spent in court in the amount and from the same source as specified in Article 26.05 of the Code of Criminal Procedure, or any future amendment of that article.

(f) The juvenile court shall give counsel access to all the records relating to the child including the report of the investigation that must precede the hearing in the possession of the court, its staff, or employees. The juvenile court may refuse to reveal the source of any information if it finds that revelation would be injurious to the child or would prejudice the future availability of similar information. If the court refuses to reveal the source of any information and the child or his counsel objects to the refusal, the court shall preserve the identity of the source and make it available to the district or criminal district court if the child is transferred for criminal proceedings.

(g) After full investigation and hearing the juvenile court shall retain jurisdiction of the case unless it determines that, because of the seriousness of the offense or the background of the offender, the welfare of the community requires criminal proceedings.

(h) In making the determination under Subsection (g) of this section, the court shall consider, among other matters:

(1) whether the alleged offense was against person or property, with greater weight in favor of waiver given to offenses against the person;

(2) whether the alleged offense was committed in an aggressive and premeditated manner;

(3) whether there is evidence upon which a grand jury may be expected to return an indictment;

(4) the sophistication and maturity of the child;

(5) the record and previous history of the child;

(6) the prospects of adequate protection of the public and the likelihood of reasonable rehabilitation of the child by use of procedures, services, and facilities currently available to the juvenile court.

(i) If the juvenile court retains jurisdiction, the child is not subject to prosecution at any time for any offense alleged in the petition or for

any offense within the knowledge of the juvenile judge as evidenced by anything in the record of the proceeding.

(j) If the juvenile court waives jurisdiction it shall certify its action, including the written order and findings of the court and accompanied by a complaint against the child, and transfer the child to the appropriate district court or criminal district court for criminal proceedings. Upon transfer of the child for criminal proceedings he shall be dealt with as an adult and in accordance with the Code of Criminal Procedure. The transfer of custody is an arrest. However, the examining trial shall be conducted by the district court or criminal district court which may remand the child to the jurisdiction of the juvenile court.

(k) If the child's case is brought to the attention of the grand jury and the grand jury does not indict for the offense charged in the complaint forwarded by the juvenile court, the district court or criminal district court shall certify the grand jury's failure to indict to the juvenile court. Upon receipt of the certification the juvenile court may resume jurisdiction of the child.

Sec. 6 amended by Acts 1965, 59th Leg., p. 1256, ch. 577, § 3, eff. Aug. 30, 1965; Acts 1967, 60th Leg., p. 1083, ch. 475, § 4, eff. Aug. 28, 1967.

* * * * *

Transfer from other courts

Sec. 12. If, while a criminal charge or indictment is pending against any person in a court other than a juvenile court, it is ascertained that the person is a child at the time of the trial for the alleged offense, it is the duty of the court in which the case is pending to transfer the child immediately together with all papers, documents, and records of testimony connected with the case to the juvenile court of the county unless the child is being held under the authority of Section 6 of this Act. The transferring court shall order the child to be taken forthwith to the place of detention designated by the juvenile court, or to the juvenile court itself, or to release the child to the custody of a probation officer or any suitable person to appear before the juvenile court or the probation department of the county at a time designated. The receiving juvenile court shall set the case for hearing and dispose of the case as if it had been instituted in that court originally. Unless the child is subsequently transferred by the juvenile court as provided by Section 6 of this Act, he is not subject to prosecution at any later date for the alleged offense.

Sec. 12 amended by Acts 1965, 59th Leg., p. 1256, ch. 577, § 4, eff. Aug. 30, 1965; Acts 1967, 60th Leg., p. 1084, ch. 475, § 5, eff. Aug. 28, 1967.

Hearing, judgment

Sec. 13. (a) The judge may conduct the hearing of any case in an informal manner and may adjourn the hearing from time to time. In the hearing the general public may be excluded. All cases involving children shall be heard separately from the trial of cases against adults.

(b) If no jury is demanded, the judge shall proceed with the hearing. No jury may be allowed in the hearing provided in Section 6 of this Act. When the proceeding is with a jury, the verdict shall state whether the child is a "delinquent child" within the meaning of this Act.

(c) If the judge or jury finds that the child is delinquent, or otherwise within the provisions of this Act, the court may by order duly entered proceed as follows:

(1) place the child on probation or under supervision in his own home or in the custody of a relative or other fit person, upon such terms as the court shall determine;

(2) commit the child to a suitable public institution or agency or to a suitable private institution or agency authorized to care for children;

For Annotations and Historical Notes, see V.A.T.S.

or place the child in a suitable family home or parental home for an indeterminate period of time, not extending beyond the time the child shall reach the age of twenty-one years;

(3) make such further disposition as the court may deem to be for the best interest of the child, except as herein otherwise provided.

(d) No adjudication upon the status of any child in the jurisdiction of the juvenile court shall operate to impose any of the civil disabilities ordinarily imposed by conviction, nor shall any child be deemed a criminal by reason of such adjudication, nor shall such adjudication be deemed a conviction, nor shall any child be charged with or convicted of any crime except perjury in any court except as provided in Section 6 of this Act.

(e) The disposition of a child or any evidence given in the court shall not be admissible as evidence against the child in any case or proceeding in any court other than the juvenile court, nor shall such disposition or evidence operate to disqualify a child in any further civil service examination, appointment or application. However, nothing in this subsection prevents a showing before the district court or the grand jury that the child has been transferred for criminal proceedings under Section 6 of this Act.

(f) Whenever the court commits a child to any institution or agency, it shall transmit with the order of commitment a summary of its information concerning such child and give in the order of commitment the birth date of the child or attach thereto a certified copy of the birth certificate." Sec. 13 amended by Acts 1965, 59th Leg., p. 1256, ch. 577, § 5, eff. Aug. 30, 1965; Acts 1967, 60th Leg., p. 1085, ch. 475, § 6, eff. Aug. 28, 1967.

Historical Note

Acts 1967, 60th Leg., p. 1082, ch. 475, §§ 2-7 amended sections 3, 5, 6, 12, 13 of this article and Vernon's Ann.P.C. art. 30; sections 1 and 8 of the act of 1967 provided:

"Section 1. Purpose. The purpose of this Act is to give the juvenile court exclusive jurisdiction in cases where children below the age of 15 years violate penal laws of the grade of felony; and to provide a procedure and grounds for the juvenile court to waive jurisdiction and transfer children for criminal proceedings in cases involving offenses committed by children 15 years of age or older; and to prevent children being proceeded against in both the juvenile court and district

court or criminal district court for offenses committed while of juvenile age. This Act is necessary because a portion of a similar Act was declared unconstitutional in *Foster v. State*, 400 S.W.2d 562 (Tex. Crim.App.1966), because the court was unable to determine the purpose and intent of the Legislature.

"Sec. 8. Severability. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable."

Art. 2338—3. Court of Domestic Relations; Potter county

* * * * *

Qualifications of judge; salary; jurisdiction of court

Sec. 2. (a) The Judge of the Court of Domestic Relations hereby established shall have such qualifications as are fixed by the Juvenile Board herein provided for.

(b) The Court of Domestic Relations for Potter County shall have the jurisdiction concurrent with the District Courts in Potter County of all cases involving adoptions, removal of disability of minority and coverture, wife and child desertion, delinquent, neglected or dependent child proceedings, Reciprocal Support Act and all jurisdiction, powers and authority now or hereafter placed in the District or County Courts under the juvenile and child welfare laws of this State; and of all divorce and marriage annulment cases, including the adjustment of property rights and custody and support of minor children involved

therein, alimony pending final hearing, and any and every other matter incident to divorce or annulment proceedings as well as independent actions involving child custody or support of minors, change of name of persons; and all other cases involving justiciable controversies and differences between spouses, or between parents, or between them, or one of them, and their minor children, or between any of these and third persons, corporations, trustees or other legal entities, which are now, or may hereafter be, within the jurisdiction of the District or County Courts; all cases in which children are alleged or charged to be dependent and neglected children or delinquent children as provided by law, of all suits for trial of title to land and for the enforcement of liens thereon, of all suits for trial of the right of property, and said Court and the Judges thereof shall have power to issue writs of habeas corpus, mandamus, injunction, and all writs necessary to enforce their jurisdiction.

Sec. 2 amended by Acts 1967, 60th Leg., p. 1243, ch. 565, § 1, eff. Aug. 28, 1967.

* * * * *

Court of record; duties of clerk; docket and records

Sec. 4. The said Court of Domestic Relations shall be a court of record, shall sit and hold court at the county seat of Potter County, shall have a seal and maintain all necessary dockets, records and minutes therein. The District Clerk of Potter County shall also act as clerk for the Court of Domestic Relations and shall assume and perform all duties required by law of clerks of county and district courts as well as any other duties as may be assigned to him by the Judge of the Court of Domestic Relations. The District Clerk shall immediately prepare a civil and criminal docket for such Court and shall docket thereon all cases and proceedings transferred to or filed in such Court. The clerk of the Court of Domestic Relations of Potter County shall transfer all his records for said Court to the District Clerk of Potter County upon the effective date of this Act.

Sec. 4 amended by Acts 1967, 60th Leg., p. 1243, ch. 565, § 1, eff. Aug. 28, 1967.

* * * * *

Election of judge; duties of board; special Judge

Sec. 6. (a) A Judge for the Court of Domestic Relations for Potter County shall be elected for a four (4) year term at the general election in November 1968 and every four (4) years thereafter.

(b) Said Judge shall be subject to removal from office for the same reasons and in the same manner as is provided by the Constitution and laws of this State for the removal of county officers.

(c) Said Juvenile Board and its members shall give counsel and advice to the Judge of the Court of Domestic Relations when deemed necessary or when sought by him, and cooperate with him in the administration of the affairs of said Court.

(d) In the event of the disqualification of the Judge to try a particular case, or because of the illness, inability, failure or refusal of said Judge to hold court at any time, said Juvenile Board shall select a special Judge who shall hold the court and proceed with the business thereof.

Sec. 6 amended by Acts 1967, 60th Leg., p. 1243, ch. 565, § 1, eff. Aug. 28, 1967.

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Acts 1967, 60th Leg., p. 1242, ch. 565, §§ 2-18 amended articles 2338-5, 2338-7 to 2338-11a and 2338-13 to 2338-20.

For Annotations and Historical Notes, see V.A.T.S.

Art. 2338—5. Court of Domestic Relations for Harris County

* * * * *

Jurisdiction

Sec. 3. The Court of Domestic Relations for Harris County shall have the jurisdiction concurrent with the District Courts in Harris County of all cases involving adoptions, removal of disability of minority and coverture, wife and child desertion, delinquent, neglected or dependent child proceedings, Reciprocal Support Act and all jurisdiction, powers and authority now or hereafter placed in the District or County Courts under the juvenile and child welfare laws of this State; and of all divorce and marriage annulment cases, including the adjustment of property rights and custody and support of minor children involved therein, alimony pending final hearing, and any and every other matter incident to divorce or annulment proceedings as well as independent actions involving child custody or support of minors, change of name of persons; and all other cases involving justiciable controversies and differences between spouses, or between parents, or between them, or one of them, and their minor children, or between any of these and third persons, corporations, trustees or other legal entities, which are now, or may hereafter be, within the jurisdiction of the District or County Courts; all cases in which children are alleged or charged to be dependent and neglected children or delinquent children as provided by law, of all suits for trial of title to land and for the enforcement of liens thereon, of all suits for trial of the right of property, and said Court and the Judges thereof shall have power to issue writs of habeas corpus, mandamus, injunction, and all writs necessary to enforce their jurisdiction.

Sec. 3 amended by Acts 1967, 60th Leg., p. 1244, ch. 565, § 2, eff. Aug. 28, 1967.

* * * * *

Acts 1967, 60th Leg., p. 1242, ch. 565.

§§ 1, 3-18 amended articles 2338—3, 2338—7
to 2338—11a and 2338—13 to 2338—20.

Art. 2338—7. Court of Domestic Relations for Hutchinson County

* * * * *

Jurisdiction

Sec. 3. The Court of Domestic Relations for Hutchinson County shall have the jurisdiction concurrent with the District Courts in Hutchinson County of all cases involving adoptions, removal of disability of minority and coverture, wife and child desertion, delinquent, neglected or dependent child proceedings, Reciprocal Support Act and all jurisdiction, powers and authority now or hereafter placed in the District or County Courts under the juvenile and child welfare laws of this State; and of all divorce and marriage annulment cases, including the adjustment of property rights and custody and support of minor children involved herein, alimony pending final hearing, and any and every other matter incident to divorce or annulment proceedings as well as independent actions involving child custody or support of minors, change of name of persons; and all other cases involving justiciable controversies and differences between spouses, or between parents, or between them, or one of them, and their minor children, or between any of these and third persons, corporations, trustees or other legal entities, which are now, or may hereafter be, within the jurisdiction of the District or County Courts; all cases in which children are alleged or charged to be dependent and neglected children or delinquent

children as provided by law, of all suits for trial of title to land and for the enforcement of liens thereon, of all suits for trial of the right of property, and said Court and the Judges thereof shall have power to issue writs of habeas corpus, mandamus, injunction, and all writs necessary to enforce their jurisdiction.

Sec. 3 amended by Acts 1967, 60th Leg., p. 1244, ch. 565, § 3, eff. Aug. 28, 1967.

* * * * *

Qualifications of Judge; term of office; vacancies; compensation; special Judge; disqualification; oath of office; exchange of benches

Sec. 5. The Judge of the Court of Domestic Relations shall have the same qualifications as District Judges of this State and shall be elected for a term of four (4) years as provided by the Constitution and laws of this State. In the event of a vacancy, created by death or resignation, of the office, the Governor shall appoint as Judge of the Court of Domestic Relations a suitable person having the qualifications provided by the Constitution and laws of this State of District Judges, who shall hold office for the unexpired term or until the next general election after said appointment. The Judge of the Court of Domestic Relations shall receive such total compensation as allowed other District Judges by the laws of this State from the State and counties, which shall be paid by the Commissioners Court of Hutchinson County out of the general fund, the officers' salary fund, jury fund, or any other available fund of the county, which said annual salary shall be paid to the Judge of the Court of Domestic Relations in equal monthly installments. If the Judge be absent, a Special Judge, possessing the qualifications herein set out, may be elected by the Bar as provided by law for election of a Special Judge in District Courts. If the Judge be disqualified in a cause and the parties fail to agree upon a Special Judge to try the cause, the Judge shall certify his disqualification to the Commissioners Court of Hutchinson County, Texas, and the Commissioners Court shall appoint a Special Judge in such cause; a Special Judge shall be paid the sum of Fifty Dollars (\$50.00) for each and every day he actually serves as such. The Judge of the Court of Domestic Relations shall qualify by subscribing to and filing with the Commissioners Court of Hutchinson County the official oath of office. The Judge of the Court of Domestic Relations may hold Court for or with any other District Judge; and the Judges of such Courts may exchange benches whenever they deem it expedient.

Sec. 5 amended by Acts 1967, 60th Leg., p. 1844, ch. 717, § 1, emerg. eff. June 17, 1967.

Shorthand reporter

Sec. 6. The Judge of the Court of Domestic Relations shall appoint an Official Shorthand Reporter who shall have the qualifications required by law of Official Shorthand Reporters. Such reporters shall perform such duties as are required by law. The compensation of such reporters shall be fixed by the Judge of the Court of Domestic Relations at not less than Six Thousand Six Hundred Dollars (\$6,600.00) per annum nor more than Eleven Thousand Five Hundred Dollars (\$11,500.00) per annum, in addition to the compensation for transcripts, statements of fact, and other fees. Said reporters shall receive such travel and expense allowances as set by the Judge of the Court of Domestic Relations. The appointment of such court reporter, the annual salary and expenses, including travel, of such reporter as fixed by the Judge of the Court of Domestic Relations shall be evidenced by an Order entered in the Minutes of such Court, which appointment, salary, and expenses so fixed shall continue in effect from year to year unless and until changed by Order of the Judge of the Court of Domestic Relations. A certified copy of Order appointing such

For Annotations and Historical Notes, see V.A.T.S.

court reporter and fixing the salary and expenses to be paid such reporter shall be transmitted to the Commissioners Court of Hutchinson County, who shall annually make provision for the payment of any such salary and expenses out of the general fund, the officers' salary fund, the jury fund, or out of such other fund as may be available. The salary and expenses of such reporter shall be paid in twelve (12) equal monthly installments, and shall be in addition to transcript fees, fees for statements of fact, and other fees.

Sec. 6 amended by Acts 1967, 60th Leg., p. 1844, ch. 717, § 1, emerg. eff. June 17, 1967.

District clerk for court; dockets; transfer of cases

Sec. 7. The District Clerk of Hutchinson County shall also act as District Clerk for the Court of Domestic Relations and shall assume and perform all duties required by law of Clerks of County and District Courts, as well as any other duties as may be assigned to him by the Judge of the Court of Domestic Relations. The compensation of such District Clerk shall be fixed as provided by law at not less than Ten Thousand Dollars (\$10,000.00) per annum and not more than that provided by law for District Clerks. The District Clerk shall provide and prepare a civil and criminal docket for such Court and shall docket thereon all cases or proceedings transferred to or filed in such Court. The County Judge of Hutchinson County and the Judge of the 84th Judicial District, in their discretion, may transfer to the Court of Domestic Relations all cases of which the Court of Domestic Relations is given jurisdiction by this Act.

Sec. 7 amended by Acts 1967, 60th Leg., p. 1845, ch. 717, § 1, emerg. eff. June 17, 1967.

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Acts 1967, 60th Leg., p. 1242, ch. 565, §§ 1, 2, 4-18 amended articles 2338-3, 2338-5, 2338-8 to 2338-11a and 2338-13 to 2338-20.
Acts 1967, 60th Leg., p. 1844, ch. 717, § 1 amended sections 5-7 of this article; section 2 thereof provided: "The provisions of this Act are severable, and if any section, or part thereof, shall be held unconstitu-
tional or void by any court of competent jurisdiction for any reason, such holding shall not affect the validity of any other section or part of this Act, and the same shall remain and be in full force and effect, and the Legislature hereby declares that it would have passed the remaining part or parts of this Act."

Art. 2338—8. Court of Domestic Relations for Smith County

* * * * *

Jurisdiction

Sec. 2. (a) The Court of Domestic Relations for Smith County shall have the jurisdiction concurrent with the District Courts in Smith County of all cases involving adoptions, removal of disability of minority and coverture, wife and child desertion, delinquent, neglected or dependent child proceedings, Reciprocal Support Act and all jurisdiction, powers and authority now or hereafter placed in the District or County Courts under the juvenile and child welfare laws of this State; and of all divorce and marriage annulment cases, including the adjustment of property rights and custody and support of minor children involved therein, alimony pending final hearing, and any and every other matter incident to divorce or annulment proceedings as well as independent actions involving child custody or support of minors, change of name of persons; and all other cases involving justiciable controversies and differences between spouses, or between parents, or between them, or one of them, and their minor children, or between any of these and third persons, corporations, trustees or other legal entities, which are now, or may hereafter be, within the jurisdiction of the District or County Courts; all cases in which children are alleged or

charged to be dependent and neglected children or delinquent children as provided by law, of all suits for trial of title to land and for the enforcement of liens thereon, of all suits for trial of the right of property, and said Court and the Judges thereof shall have power to issue writs of habeas corpus, mandamus, injunction, and all writs necessary to enforce their jurisdiction.

(b) The Juvenile Board of Smith County may designate the Court of Domestic Relations as the Juvenile Court of said County.

Sec. 2 amended by Acts 1967, 60th Leg., p. 1245, ch. 565, § 4, eff. Aug. 28, 1967.

* * * * *

Salary of judge; oath of office

Sec. 5. The Judge of the Court of Domestic Relations hereby established shall be paid by the Commissioners Court of Smith County, the same salary paid to the District Judge by the State of Texas, same to be paid out of the General Fund of the County in twelve (12) equal monthly installments. The Judge of the Court of Domestic Relations of Smith County shall take an oath of office as required by law relating to County Judges.

Sec. 5 amended by Acts 1967, 60th Leg., p. 1184, ch. 529, § 1, emerg. eff. June 14, 1967.

* * * * *

Acts 1967, 60th Leg., p. 1242, ch. 565, §§ 1-3, 5-18 amended articles 2338-3, 2338-5, 2338-7, 2338-9 to 2338-11a and 2338-13 to 2338-20.

Acts 1967, 60th Leg., p. 1184, ch. 529, §§ 2-4, amended art. 326k-22, §§ 4-6, Criminal district attorney for Smith County, see art. 326k-22.

Art. 2338—9. Juvenile Court and Court of Domestic Relations for Dallas County

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Jurisdiction of Juvenile Court

Sec. 3. The Juvenile Court for Dallas County shall have the jurisdiction concurrent with the District Courts in Dallas County of all cases involving adoptions, removal of disability of minority and coverture, wife and child desertion, delinquent, neglected or dependent child proceedings, Reciprocal Support Act and all jurisdiction, powers and authority now or hereafter placed in the district or County Courts under the juvenile and child welfare laws of this State; and of all divorce and marriage annulment cases, including the adjustment of property rights and custody and support of minor children involved therein, alimony pending final hearing, and any and every other matter incident to divorce or annulment proceedings as well as independent actions involving child custody or support of minors, change of name of persons; and all other cases involving justiciable controversies and differences between spouses, or between parents, or between them, or one of them, and their minor children, or between any of these and third persons, corporations, trustees or other legal entities, which are now, or may thereafter be, within the jurisdiction of the District or County Courts; all cases in which children are alleged or charged to be dependent and neglected children or delinquent children as provided by law, of all suits for trial of title to land and for the enforcement of liens thereon, of all suits for trial of the right of property, and said Court and the Judges thereof shall have power to issue writs of habeas corpus, mandamus, injunction, and all writs necessary to enforce their jurisdiction.

Sec. 3 amended by Acts 1967, 60th Leg., p. 1245, ch. 565, § 5, eff. Aug. 28, 1967.

* * * * *

Jurisdiction of domestic relations court

Sec. 8. The court of Domestic Relations for Dallas County shall have the jurisdiction concurrent with the District Courts in Dallas County of all cases involving adoptions, removal of disability of minority and coverture, wife and child desertion, delinquent, neglected or dependent child proceedings, Reciprocal Support Act and all jurisdiction, powers and authority now or hereafter placed in the District or County Courts under the juvenile and child welfare laws of this State; and of all divorce and marriage annulment cases, including the adjustment of property rights and custody and support of minor children involved therein, alimony pending final hearing, and any and every other matter incident to divorce or annulment proceedings as well as independent actions involving child custody or support of minors, change of name of persons; and all other cases involving justiciable controversies and differences between spouses, or between parents, or between them, or one of them, and their minor children, or between any of these and third persons, corporations, trustees or other legal entities, which are now, or may hereafter be, within the jurisdiction of the District or County Courts; all cases in which children are alleged or charged to be dependent and neglected children or delinquent children as provided by law, of all suits for trial of title to land and for the enforcement of liens thereon, of all suits for trial of the right of property, and said Court and the Judges thereof shall have power to issue writs of habeas corpus, mandamus, injunction, and all writs necessary to enforce their jurisdiction.

Sec. 8 amended by Acts 1967, 60th Leg., p. 1246, ch. 565, § 5, eff. Aug. 28, 1967.

* * * * *

Authority of district court judges to hear pending cases; assignment and compensation of district judges

Sec. 21. Judges of all District Courts of this State may sit for, hear and decide cases pending in the Juvenile Court and the Court of Domestic Relations as the sitting for, hearing and deciding of cases is now or may hereafter be authorized by law for all District Courts of Dallas County. Judges of other district courts under the jurisdiction of the Administrative Judicial District may be assigned to the Court of Domestic Relations and the Juvenile Court of Dallas County pursuant to the provisions of Chapter 156, Acts of the 40th Legislature, Regular Session, 1927 (Article 200a, Vernon's Texas Civil Statutes), and a Judge so assigned by the Presiding Judge shall be paid for his services in the same manner as provided by the Constitution and laws of this State for the payment of District Judges assigned to sit for other District Judges.

Sec. 21 amended by Acts 1967, 60th Leg., p. 723, ch. 303, § 1, emerg. eff. May 26, 1967.

* * * * *

Acts 1967, 60th Leg., p. 723, ch. 303, § 1 amended section 21 of this article; section 2 thereof amended article 2338—9a. Acts 1967, 60th Leg., p. 1242, ch. 565, §§ 1-4, 6-18 amended articles 2338—3, 2338—5, 2338—7, 2338—8, 2338—9a to 2338—11a and 2338—13 to 2338—20.

Art. 2338—9a. Court of Domestic Relations No. 2 of Dallas County

* * * * *

Authority of district court judges to hear pending cases; assignment and compensation of district judges

Sec. 3a. Judges of all District Courts of this State may sit for, hear and decide cases pending in the Court of Domestic Relations No. 2 as the sitting for, hearing and deciding of cases is now or may hereafter be

authorized by law for all District Courts of Dallas County. Judges of other district courts under the jurisdiction of the Administrative Judicial District may be assigned to the Court of Domestic Relations No. 2 pursuant to the provisions of Chapter 156, Acts of the 40th Legislature, Regular Session, 1927 (Article 200a, Vernon's Texas Civil Statutes), and a Judge so assigned by the Presiding Judge shall be paid for his services in the same manner as provided by the Constitution and laws of this State for the payment of District Judges assigned to sit for other District Judges. Sec. 3a added by Acts 1967, 60th Leg., p. 724, ch. 303, § 2, emerg. eff. May 26, 1967.

* * * * *

Jurisdiction

Sec. 5. The Court of Domestic Relations No. 2 for Dallas County shall have the jurisdiction concurrent with the District Courts in Dallas County of all cases involving adoptions, removal of disability of minority and coverture, wife and child desertion, delinquent, neglected or dependent child proceedings, Reciprocal Support Act and all jurisdiction, powers and authority now or hereafter placed in the District or County Courts under the juvenile and child welfare laws of this State; and of all divorce and marriage annulment cases, including the adjustment of property rights and custody and support of minor children involved therein, alimony pending final hearing, and any and every other matter incident to divorce or annulment proceedings as well as independent actions involving child custody or support of minors, change of name of persons; and all other cases involving justiciable controversies and differences between spouses, or between parents, or between them, or one of them, and their minor children, or between any of these and third persons, corporations, trustees or other legal entities, which are now, or may hereafter be, within the jurisdiction of the District or County Courts; all cases in which children are alleged or charged to be dependent and neglected children or delinquent children as provided by law, of all suits for trial of title to land and for the enforcement of liens thereon, of all suits for trial of the right of property, and said Court and the Judges thereof shall have power to issue writs of habeas corpus, mandamus, injunction, and all writs necessary to enforce their jurisdiction.

Sec. 5 amended by Acts 1967, 60th Leg., p. 1246, ch. 565, § 6, eff. Aug. 28, 1967.

* * * * *

Acts 1967, 60th Leg., p. 728, ch. 303, § 1 amended article 2338—9, 5, 2338—7 to 2338—9, 2338—10 to 2338—11a and 2338—13 to 2338—20.

Acts 1967, 60th Leg., p. 1242, ch. 565, §§ 1-5, 7-18 amended articles 2338—3, 2338—

Art. 2338—9b. Court of Domestic Relations No. 3 of Dallas County

Creation of Court

Section 1. There is hereby created a Domestic Relations Court in and for Dallas County to be known as Court of Domestic Relations No. 3 of Dallas County.

Qualifications of judge; salary

Sec. 2. The Judge of the Court of Domestic Relations No. 3 of Dallas County hereby established, shall be an attorney licensed to practice law in this state. The judge of said court shall be paid a salary which shall be equal to the total salary paid to a District Judge of Dallas County. Said salary shall be paid out of the General Fund of Dallas County in twelve (12) equal monthly installments.

**Appointment of judge; term of office; vacancies;
 disqualification; special judge**

Sec. 3. The Judge of the Court of Domestic Relations No. 3 of Dallas County hereby established, shall be appointed by the Governor by and with the advice and consent of the Senate immediately upon the taking effect of this Act; said judge so appointed shall be a suitable person to be judge of said court and shall hold office until the next General Election and until his successor shall be duly elected and qualified. Thereafter, the term of office of the Judge of the Court of Domestic Relations No. 3 of Dallas County shall be for four (4) years and said judge shall be appointed and elected as provided by the Constitution and Laws of the state for the election or appointment of District Judges. Vacancies in the office shall be filled by appointment by the Governor by and with the consent and advice of the Senate. In the event of disqualification of the judge of said court to try a particular case or because of the illness, inability, failure or refusal of said judge to hold court at any time, the Juvenile Board of said county shall select a special judge who shall hold the court and proceed with the business thereof.

**Dependent, neglected, or delinquent children; prosecution or
 defense of cases by district attorney**

Sec. 4. The District Attorney of Dallas County shall prosecute or defend all cases involving children alleged to be dependent, neglected or delinquent or in support cases coming under the Reciprocal Support Act.

Concurrent jurisdiction of court

Sec. 5. Jurisdiction. Said Court of Domestic Relations No. 3 shall have jurisdiction concurrent with the District Courts and Courts of Domestic Relations situated in said county of all cases involving adoptions, removal of disability of minority and coverture, wife and child desertion, delinquent, neglected or dependent child proceedings, Reciprocal Support Act and all jurisdiction, powers and authority now or hereafter placed in the District or County Courts under the juvenile and child welfare laws of this state; and of all divorce and marriage annulment cases, including the adjustment of property rights and custody and support of minor children involved therein, alimony pending final hearing, and any and every other matter incident to divorce or annulment proceedings as well as independent actions involving child custody or support of minors, change of name of persons; and all other cases involving justiciable controversies and differences between spouses, or between parents, or between them or one of them, and their minor children, or between any of these and third persons, corporations, trustees or other legal entities, which are now, or may hereafter be, within the jurisdiction of the District or County Courts; all cases in which children are alleged or charged to be dependent and neglected children or delinquent children as provided by law, of all suits for trial of title to land and for the enforcement of liens thereon, of all suits for trial of the right of property, and said court and the judges thereof shall have power to issue writs of habeas corpus, mandamus, injunction, and all writs necessary to enforce their jurisdiction. All cases enumerated or included above may be instituted in or transferred to said court.

Division and transfer of cases

Sec. 6. Immediately after this Act takes effect the divorce cases now pending in the Court of Domestic Relations of Dallas County and the Court of Domestic Relations No. 2 of Dallas County shall be equally divided and one-third of such divorce cases shall be transferred to this court. Thereafter the cases shall be filed in numerical order dividing the cases

in such way that each court shall have the same number of cases, or said cases shall be assigned according to the rules promulgated by the District Judges of Dallas County. By and with the consent of the Judge of the Court of Domestic Relations No. 3 and the Juvenile Court, cases within the jurisdiction of these respective courts may be transferred from one court to the other and the Judges of the Court of Domestic Relations, the Court of Domestic Relations No. 2, the Court of Domestic Relations No. 3, and the Juvenile Court of Dallas County may sit for each other in cases coming within the jurisdiction of such courts. All District Courts of Dallas County may likewise sit for, hear and decide cases pending in said Court of Domestic Relations No. 3 as the sitting for, hearing and deciding of cases is now and may hereafter be authorized by law for all District Courts of Dallas County.

Court of Record; place of sitting; seal; dockets and records

Sec. 7. The Court of Domestic Relations No. 3 of Dallas County shall be a court of record and shall sit and hold court at the county seat of Dallas County, shall have a seal and maintain all necessary dockets, records and minutes therein.

Probation department, sheriff and constables; performance of duties

Sec. 8. It shall be the duty of the Probation Department, the sheriff and constables of Dallas County to furnish said Court of Domestic Relations No. 3 of Dallas County such service in the line of their respective duties as shall be required by said court, and all sheriffs and constables within the State of Texas shall render the same service with reference to process and writs from said Court of Domestic Relations No. 2 of Dallas County as is required of them by law with reference to process and writs from District Courts.

Writs and orders; contempt

Sec. 9. The said Court of Domestic Relations No. 3 of Dallas County and the judge thereof, shall have the power to issue writs of habeas corpus and mandamus, injunctions, restraining orders, orders of sale, executions, writs of possession and restitution, and any and all other writs as now or hereafter may be issued under the laws of this state by District Courts, when necessary or proper in cases or matters in which said Court of Domestic Relations No. 3 of Dallas County has jurisdiction, and also shall have power to punish for contempt as provided for District Courts of Dallas County.

Terms of court

Sec. 10. The terms of the Court of Domestic Relations No. 3 of Dallas County shall begin on the first Monday in January and July of each year, respectively, and each term of said court shall continue until the convening of the next successive term.

Membership of judge on juvenile board; compensation

Sec. 11. The Judge of the Court of Domestic Relations No. 3 of Dallas County shall be a member of the Juvenile Board of Dallas County, which shall hereafter be composed of the judges of the several district courts and Criminal District Court of Dallas County, the Judges of the Courts of Domestic Relations of Dallas County, the Juvenile Court of Dallas County, and the County Judge of Dallas County.

The Judges of the District Courts and Criminal District Courts shall continue to receive such compensation for their services as members of the Juvenile Board and for such other administrative duties as are now or may hereafter be required, from county funds, as they are entitled to

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receive under General or Special Law. The members of the Juvenile Board shall continue to have the same authority as is now provided by law, and such Juvenile Board may assign the Judge of the Court of Domestic Relations No. 3 of Dallas County to handle the duties of the Juvenile Court and in like manner assign the Judges of the Juvenile Court to handle the duties of Domestic Relations Courts of Dallas County.

Court reporter; bailiff

Sec. 12. The Judge of the Court of Domestic Relations No. 3 of Dallas County shall have authority to appoint a court reporter, who shall receive the same compensation as provided by law for court reporters of District Courts in Dallas County. A bailiff shall be designated by the Sheriff of Dallas County to serve said court as in other courts of the county.

Clerk

Sec. 13. The district clerk of Dallas County shall also act as District Clerk for the Court of Domestic Relations No. 3 of Dallas County.

Attendance of sheriff; execution of process; fees

Sec. 14. The sheriff of Dallas County shall attend either in person or by deputy the Court of Domestic Relations No. 3 of Dallas County as required by law in Dallas County or when required by the judge thereof, and the sheriffs and constables of the several counties of this state, when executing process out of said court, shall receive fees provided by General Law for executing process out of District Courts.

Appeals

Sec. 15. Appeals in all civil cases from judgments and orders of the Court of Domestic Relations No. 3 of Dallas County shall be to the Court of Civil Appeals for the Fifth Supreme Judicial District as now or hereafter provided for appeals from District and County Courts and in all criminal cases appeals shall be to the Court of Criminal Appeals.

Practice and procedure

Sec. 16. The practice and procedure, rules of evidence, selection of juries, issuance of process and all other matters pertaining to the conduct of trials and hearings in the Court of Domestic Relations No. 3 of Dallas County, shall be governed by provisions of this Act and the laws and rules pertaining to District Courts; provided that juries shall be composed of twelve (12) members.

Partial invalidity

Sec. 17. If any Section, clause or part of this Act shall be held invalid, it is hereby declared to be the intention of the Legislature that the remainder thereof not held invalid shall remain in effect, and the validity of the remainder of this Act shall not be affected thereby. Laws relating to the handling of juvenile cases not in conflict with this Act shall govern the investigation of juvenile cases, hearings and disposition of cases.

Acts 1967, 60th Leg., p. 2085, ch. 780, eff. Aug. 28, 1967.

Title of Act:

An Act providing for a Court of Domestic Relations in and for Dallas County to be known as Court of Domestic Relations No. 3 of Dallas County; setting the qualifications of the judge; setting the salary of the Judge; providing for appointment, term of office, vacancies, disqualification; setting jurisdiction of said

court; providing for a transfer of cases; making it a court of record, and providing for keeping of dockets; providing for duties of Probation Department, sheriff and constables for said court; setting the terms of the court; providing for judge of said court to be a member of the Juvenile Board; providing for a court reporter, bailiff and clerk; providing for services of

a sheriff; providing for appeal from said court; providing that practice and procedure shall be same as any other district

courts; providing a severance clause; and declaring an emergency. Acts 1967, 60th Leg., p. 2085, ch. 780.

Art. 2338—10. Court of Domestic Relations for Nueces County

* * * * *

Judge; election; qualifications and term; salary

Sec. 2. There shall be elected in Nueces County by the qualified voters thereof a Judge of the Court of Domestic Relations of Nueces County, who shall be a qualified voter in said county, a resident of said county, and a regularly licensed attorney at law in this State, and who shall have been actively engaged in the practice of law for a period of not less than five (5) years next preceding the election to select such Judge. The Judge of the Court of Domestic Relations of Nueces County shall hold office for a term of four years, and until his successor shall have been elected and qualified. The Judge of the Court of Domestic Relations shall receive a salary of not more than Sixteen Thousand Dollars per annum, to be paid out of the County Treasury as determined and fixed by order of the commissioners court, and said salary shall be paid monthly in equal installments. The Judge of the Court of Domestic Relations shall be a member of the Juvenile Board of Nueces County, and for this additional work as a member of the Juvenile Board he shall be allowed compensation in like manner as other members of said Juvenile Board, such compensation to be determined and fixed by order of the commissioners court and to be paid in addition to any other compensation to which he is entitled under the provisions of law.

Sec. 2 amended by Acts 1967, 60th Leg., p. 438, ch. 200, § 9, emerg. eff. May 15, 1967.

Jurisdiction

Sec. 3. The Court of Domestic Relations shall have jurisdiction concurrent with the District Courts of Nueces County of all cases involving adoptions, removal of disability of minority and coverture, wife and child desertion, delinquent, neglect or dependent child proceedings, Reciprocal Support Act and all jurisdiction, powers and authority now or hereafter placed in the District or County Courts under the Juvenile and Child Welfare Laws of this State; and all divorce and marriage annulment cases, including the adjustment of property rights and custody and support of minor children involved therein, alimony pending final hearing, and any and every other matter incident to divorce or annulment proceedings and the adjudication of title to land when such adjudication is incident to a divorce or other proceeding within the jurisdiction of the Court of Domestic Relations, as well as dependent actions involving child custody or support of minors, change of name of persons; and all other cases involving justiciable controversies and differences between spouses, or between parents, or between them or one of them and their minor children, which are now or may be hereafter within the jurisdiction of the District or County Courts; and all cases in which children are alleged or charged to be dependent and neglected children, or delinquent children, as provided by law. All cases enumerated or included above shall be instituted in or transferred to the Court of Domestic Relations.

Sec. 3 amended by Acts 1967, 60th Leg., p. 438, ch. 200, § 10, emerg. eff. May 15, 1967.

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Amendment of section 3 of this article by Acts 1967, 60th Leg., p. 1247, ch. 565, § 7, see section 3, post.

Jurisdiction

Sec. 3. The Court of Domestic Relations for Nueces County shall have the jurisdiction concurrent with the District Courts in Nueces County of all cases involving adoptions, removal of disability of minority and coverture, wife and child desertion, delinquent, neglected or dependent child proceedings, Reciprocal Support Act and all jurisdiction, powers and authority now or hereafter placed in the District or County Courts under the juvenile and child welfare laws of this State; and of all divorce and marriage annulment cases, including the adjustment of property rights and custody and support of minor children involved therein, alimony pending final hearing, and any and every other matter incident to divorce or annulment proceedings as well as independent actions involving child custody or support of minors, change of name of persons; and all other cases involving justiciable controversies and differences between spouses, or between parents, or between them, or one of them, and their minor children, or between any of these and third persons, corporations, trustees or other legal entities, which are now, or may hereafter be, within the jurisdiction of the District or County Courts; all cases in which children are alleged or charged to be dependent and neglected children or delinquent children as provided by law, of all suits for trial of title to land and for the enforcement of liens thereon, of all suits for trial of the right of property, and said Court and the Judges thereof shall have power to issue writs of habeas corpus, mandamus, injunction, and all writs necessary to enforce their jurisdiction.

Sec. 3 amended by Acts 1967, 60th Leg., p. 1247, ch. 565, § 7, eff. Aug. 28, 1967.

* * * * *

Amendment of section 3 of this article by Acts 1967, 60th Leg., p. 438, ch. 200, § 10, see section 3, ante.

Disqualification of judge and congested docket; assignment of cases; selection of special judge

Sec. 6. Should the Judge of the Court of Domestic Relations be disqualified to try a particular case or should he be unable to do so by reason of illness or other cause, or should the docket of his court become so congested as to make it improbable that he can dispose of all matters pending thereon, such fact shall be brought to the attention of the presiding judge of the District Courts of Nueces County by any practicing lawyer of Nueces County, whereupon such matters as require attention shall be promptly assigned by the presiding judge to one of the District Courts of Nueces County for action and disposition in the same manner as other matters are assigned to the several District Courts of said County. All cases within the jurisdiction of the Court of Domestic Relations which are set for trial as contested matters in accordance with the local rules of the District Courts of Nueces County, shall be treated and assigned to courts for trial in the same manner as other civil cases of a contested nature, with no distinction being made between domestic relations matters and other civil cases insofar as contested trials are concerned; and it shall be the duty of the several District Courts of Nueces County to accept assignment of contested cases within the jurisdiction of the Court of Domestic Relations when such cases are assigned to them by the presiding judge, in the same manner and to the same extent that their responsibility extends to other contested civil cases. In the event that it should ever become necessary to select a special judge for the Court of Domestic Relations, such special judge shall be selected in the manner provided by law for the selection of a special judge of the district court.

Sec. 6 amended by Acts 1967, 60th Leg., p. 439, ch. 200, § 11, emerg. eff. May 15, 1967.

* * * * *

Writ and orders; contempt

Sec. 8. The Court of Domestic Relations of Nueces County shall be a Court of Record, shall sit and hold court at the County Seat of Nueces County, shall have a seal, and shall maintain all necessary dockets, records and minutes pertaining to the activities of such court.

Sec. 8 amended by Acts 1967, 60th Leg., p. 439, ch. 200, § 12, emerg. eff. May 15, 1967.

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Shorthand reporter

Sec. 13. The Judge of the Court of Domestic Relations is authorized to appoint an official shorthand reporter for such court. Such official shorthand reporter shall receive the same compensation provided for in Article 2326, Revised Civil Statutes of Texas. The Judge of the Court of Domestic Relations shall have the authority to terminate the employment of such official shorthand reporter at any time.

Sec. 13 amended by Acts 1967, 60th Leg., p. 439, ch. 200, § 13, emerg. eff. May 15, 1967.

Removal

Sec. 14. The Judge of the Court of Domestic Relations of Nueces County may be removed from office in the same manner and for the same causes as a County Judge may be removed under the laws of this State.

Sec. 14 amended by Acts 1967, 60th Leg., p. 439, ch. 200, § 14, emerg. eff. May 15, 1967.

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Effect of act on other laws

Sec. 18. Nothing in this Act shall repeal, modify, amend or impair in any way the provisions of Acts 1954, 53rd Legislature, 1st Called Session, Page 42, Chapter 14, as amended by Acts 1955, 54th Legislature, Page 5, Chapter 5.¹

Sec. 18 amended by Acts 1967, 60th Leg., p. 440, ch. 200, § 15, emerg. eff. May 15, 1967.

¹ Articles 1970—339, 1970—339A.

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Acts 1967, 60th Leg., p. 435, ch. 200, §§ 1-4 amended article 1970—339, §§ 2, 4, 6 and 17; sections 5-8 of the act of 1967 amended article 1970—339A, §§ 4, 6, 10 and 18; sections 9-15 of the act of 1967 amended sections 2, 3, 6, 8, 13, 14 and 18 of this article and sections 16-18 of the act of 1967 provided an effective date, prescribed procedures for effectuating the separation of

the court of Domestic Relations of Nueces County from the county court at Law No. 2 of Nueces County, provided a severability clause and repealed conflicting laws and are set out as notes under article 1970—339.

Acts 1967, 60th Leg., p. 1242, ch. 565, §§ 1-6, 8-18 amended articles 2338—3, 2338—5, 2338—7 to 2338—9a, 2338—11, 2338—11a and 2338—13 to 2338—20.

Art. 2338—11. Courts of Domestic Relations for Harris County

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Jurisdiction

Sec. 3. The Court of Domestic Relations No. 2 for Harris County, and the Court of Domestic Relations No. 3 for Harris County, shall have the jurisdiction concurrent with the District Courts in Harris County of all cases involving adoptions, removal of disability of minority and coverture, wife and child desertion, delinquent, neglected or dependent child proceedings, Reciprocal Support Act and all jurisdiction, powers and authority now or hereafter placed in the District or County Courts under the juvenile and child welfare laws of this State; and of all divorce and

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marriage annulment cases, including the adjustment of property rights and custody and support of minor children involved therein, alimony pending final hearing, and any and every other matter incident to divorce or annulment proceedings as well as independent actions involving child custody or support of minors, change of name of persons; and all other cases involving justiciable controversies and differences between spouses, or between parents, or between them, or one of them, and their minor children, or between any of these and third persons, corporations, trustees or other legal entities, which are or may hereafter be, within the jurisdiction of the District or County Courts; all cases in which children are alleged or charged to be dependent and neglected children or delinquent children as provided by law, of all suits for trial of title to land and for the enforcement of liens thereon, of all suits for trial of the right of property, and said Court and the Judges thereof shall have power to issue writs of habeas corpus, mandamus, injunction, and all writs necessary to enforce their jurisdiction.

Sec. 3 amended by Acts 1967, 60th Leg., p. 1247, ch. 565, § 8, eff. Aug. 28, 1967.

* * * * *
 Acts 1967, 60th Leg., p. 1242, ch. 565, 5, 2338—7 to 2338—9a, 2338—11a and 2338—
 §§ 1-7, 9-18 amended articles 2338—3, 2338— 13 to 2338—20.

Art. 2338—11a. Court of Domestic Relations No. 4 for Harris County

* * * * *

Jurisdiction

Sec. 3. The Court of Domestic Relations No. 4 for Harris County shall have the jurisdiction concurrent with the District Courts in Harris County of all cases involving adoptions, removal of disability of minority and coverture, wife and child desertion, delinquent, neglected or dependent child proceedings, Reciprocal Support Act and all jurisdiction, powers and authority now or hereafter placed in the District or County Courts under the juvenile and child welfare laws of this State; and of all divorce and marriage annulment cases, including the adjustment of property rights and custody and support of minor children involved therein, alimony pending final hearing, and any and every other matter incident to divorce or annulment proceedings as well as independent actions involving child custody or support of minors, change of name of persons; and all other cases involving justiciable controversies and differences between spouses, or between parents, or between them, or one of them, and their minor children, or between any of these and third persons, corporations, trustees or other legal entities, which are now, or may hereafter be, within the jurisdiction of the District or County Courts; all cases in which children are alleged or charged to be dependent and neglected children or delinquent children as provided by law, of all suits for trial of title to land and for the enforcement of liens thereon, of all suits for trial of the right of property, and said Court and the Judges thereof shall have power to issue writs of habeas corpus, mandamus, injunction, and all writs necessary to enforce their jurisdiction.

Sec. 3 amended by Acts 1967, 60th Leg., p. 1248, ch. 565, § 9, eff. Aug. 28, 1967.

Acts 1967, 60th Leg., p. 1242, ch. 565, 2338—5, 2338—7 to 2338—11 and 2338—13 to
 §§ 1-8, 10-18 amended articles 2338—3, 2338—20.

Art. 2338—13. Court of Domestic Relations for Gregg County

* * * * *

Jurisdiction

Sec. 2. The Court of Domestic Relations for Gregg County shall have the jurisdiction concurrent with the District Courts in Gregg County

of all cases involving adoptions, removal of disability of minority and coverture, wife and child desertion, delinquent, neglected or dependent child proceedings, Reciprocal Support Act and all jurisdiction, powers and authority now or hereafter placed in the District or County Courts under the juvenile and child welfare laws of this State; and of all divorce and marriage annulment cases, including the adjustment of property rights and custody and support of minor children involved therein, alimony pending final hearing, and any and every other matter incident to divorce or annulment proceedings as well as independent actions involving child custody or support of minors, change of name of persons; and all other cases involving justiciable controversies and differences between spouses, or between parents, or between them, or one of them, and their minor children, or between any of these and third persons, corporations, trustees or other legal entities, which are now, or may hereafter be, within the jurisdiction of the District or County Courts; all cases in which children are alleged or charged to be dependent and neglected children or delinquent children as provided by law; and said Court and the Judges thereof shall have power to issue writs of habeas corpus, mandamus, injunction, and all writs necessary to enforce their jurisdiction.

Sec. 2 amended by Acts 1967, 60th Leg., p. 1248, ch. 565, § 10, eff. Aug. 28, 1967.

* * * * *
 Acts 1967, 60th Leg., p. 1242, ch. 565, 2338—5, 2338—7 to 2338—11a and 2338—14
 §§ 1-9, 11-18 amended articles 2338—3, to 2338—20.

Art. 2338—14. Court of Domestic Relations for Jefferson County

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Jurisdiction

Sec. 3. The Court of Domestic Relations for Jefferson County shall have the jurisdiction concurrent with the District Courts in Jefferson County of all cases involving adoptions, removal of disability of minority and coverture, wife and child desertion, delinquent, neglected or dependent child proceedings, Reciprocal Support Act and all jurisdiction, powers and authority now or hereafter placed in the District or County Courts under the juvenile and child welfare laws of this State; and of all divorce and marriage annulment cases, including the adjustment of property rights and custody and support of minor children involved therein, alimony pending final hearing, and any and every other matter incident to divorce or annulment proceedings as well as independent actions, involving child custody or support of minors, change of name of persons; and all other cases involving justiciable controversies and differences between spouses, or between parents, or between them, or one of them, and their minor children, or between any of these and third persons, corporations, trustees or other legal entities, which are now, or may hereafter be, within the jurisdiction of the District or County Courts; all cases in which children are alleged or charged to be dependent and neglected children or delinquent children as provided by law, of all suits for trial of title to land and for the enforcement of liens thereon, of all suits for trial of the right of property, and said Court and the Judges thereof shall have power to issue writs of habeas corpus, mandamus, injunction, and all writs necessary to enforce their jurisdiction.

Sec. 3 amended by Acts 1967, 60th Leg., p. 1249, ch. 565, § 11, eff. Aug. 28, 1967.

* * * * *
 Acts 1967, 60th Leg., p. 1242, ch. 565, 2338—5, 2338—7 to 2338—11a, 2338—13 and
 §§ 1-10, 12-18 amended articles 2338—3, 2338—15 to 2338—20.

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Art. 2338—15. Court of Domestic Relations No. 1 of Tarrant County**Creation of court**

Section 1. There is hereby created a Court of Domestic Relations Number 1 in and for Tarrant County, Texas.

Change of name

Sec. 1a. The name of the Court of Domestic Relations in and for Tarrant County, Texas, is changed to the Court of Domestic Relations Number 1 of Tarrant County. Added Acts 1965, 59th Leg., p. 1623, ch. 694, § 1, eff. Aug. 30, 1965.

Qualifications of judge; salary; juvenile board

Sec. 2. The Judge of the Court of Domestic Relations Number 1 shall be at least twenty-five (25) years of age and licensed to practice law in this state, who has been a practicing attorney or a judge of a court for four (4) years and a resident of Tarrant County for two (2) years next before his election or appointment. He shall reside in Tarrant County during his term of office. He shall be paid a salary which shall be equal to the total salary paid by the County of Tarrant and State of Texas to any one judge of a District Court of Tarrant County, Texas. His salary shall be paid out of the General Fund of Tarrant County in twelve (12) equal monthly installments. He shall be a member of the Juvenile Board of Tarrant County, which shall hereafter be composed of the Judges of the several District Courts and Criminal District Courts of Tarrant County, the County Judge of Tarrant County, and the Judge of the Court of Domestic Relations Number 1 of Tarrant County and the Judge of the Court of Domestic Relations Number 2 of Tarrant County, which Juvenile Board shall be authorized to designate the Courts of Domestic Relations as the Juvenile Courts of Tarrant County; Judges of the District Courts and Criminal District Courts of Tarrant County shall continue to receive such compensation for all judicial and administrative services required of them including the services as members of the Juvenile Board and otherwise from county funds as they are now entitled to receive or may hereafter be authorized to receive under General or Special Law.

Jurisdiction

Sec. 3. Said Court of Domestic Relations Number 1 shall have jurisdiction within the limits of Tarrant County, concurrent with the District Courts and Courts of Domestic Relations sitting in said county of all cases involving adoptions, birth records, removal of disability of minority and coverture, change of name of persons, delinquent child proceedings, neglected or dependent child proceedings, and all jurisdiction, powers and authority now or hereafter placed in the District Courts or Courts of Domestic Relations under the juvenile and child-welfare laws of this state; and all divorce and marriage annulment cases, including the adjustment of property rights and custody, visitation and support of minor children involved therein, alimony pending final hearing and any and every other matter incident to divorce or annulment proceedings as well as independent actions involving child custody, visitation, support, or reciprocal support cases, contempt actions arising out of failure to pay child support and all other cases involving justiciable controversies and difference between spouses, or between parents, or between them or one of them, and their minor children, which are now, or may hereafter be, within the jurisdiction of the District Courts or Courts of Domestic Relations of Tarrant County; and all cases in which children are alleged or charged to be dependent, neglected or delinquent children as provided by law. All

cases enumerated or included above may be instituted in or transferred to said court.

Sec. 3 amended by Acts 1965, 59th Leg., p. 1623, ch. 694, § 2, eff. Aug. 30, 1965; Acts 1967, 60th Leg., p. 1150, ch. 510, § 1, eff. Aug. 28, 1967.

Amendment of section 3 of this article by Acts 1967, 60th Leg., p. 1249, ch. 565, § 12, see section 3, post.

Jurisdiction

Sec. 3. The Court of Domestic Relations for Tarrant County shall have the jurisdiction concurrent with the District Courts in Tarrant County of all cases involving adoptions, removal of disability of minority and coverture, wife and child desertion, delinquent, neglected or dependent child proceedings, Reciprocal Support Act, and all jurisdiction, powers and authority now or hereafter placed in the District or County Courts under the juvenile and child welfare laws of this State; and of all divorce and marriage annulment cases, including the adjustment of property rights and custody and support of minor children involved therein, alimony pending final hearing, and any and every other matter incident to divorce or annulment proceedings as well as independent actions involving child custody or support of minors, change of name of persons; and all other cases involving justiciable controversies and differences between spouses, or between parents, or between them, or one of them, and their minor children, or between any of these and third persons, corporations, trustees or other legal entities, which are now, or may hereafter be, within the jurisdiction of the District or County Courts; all cases in which children are alleged or charged to be dependent and neglected children or delinquent children as provided by law, of all suits for trial of title to land and for the enforcement of liens thereon, of all suits for trial of the right of property, and said Court and the Judges thereof shall have power to issue writs of habeas corpus, mandamus, injunction, and all writs necessary to enforce their jurisdiction.

Sec. 3 amended by Acts 1965, 59th Leg., p. 1623, ch. 694, § 2, eff. Aug. 30, 1965; Acts 1967, 60th Leg., p. 1249, ch. 565, § 12, eff. Aug. 28, 1967.

Amendment of section 3 of this article by Acts 1967, 60th Leg., p. 1150, ch. 510, § 1, see section 3, ante.

Transfer of cases and papers

Sec. 4. The District Courts of Tarrant County may transfer to said Court of Domestic Relations any and all cases, in their respective courts of which cases said Court of Domestic Relations is hereby given jurisdiction, including all filed papers, reports, records, and certified copies of all orders theretofore entered in said cases.

Writs and process in transferred cases

Sec. 5. All writs and process issued by or out of a District Court prior to the time any case is transferred by said court to the Court of Domestic Relations Number 1 shall be returned and filed in the Court of Domestic Relations Number 1 and shall be as valid and binding upon the parties to such transferred cases as though such writ or process had been issued out of the Court of Domestic Relations Number 1, and all waivers of process, and other instruments executed prior to the transfer of any case shall also be as valid and binding as though executed after such transfer.

Court of record; place of sitting; seal; dockets and records; clerks

Sec. 6. The said Court of Domestic Relations Number 1 shall be a court of record, shall sit and hold court at the county seat of Tarrant County, shall have a seal and maintain all necessary dockets, records and minutes therein. The District Clerk of Tarrant County shall serve as the clerk of said court. He shall keep a fair record of all acts done and pro-

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ceedings had in said court and shall perform all such duties as are required generally of District Clerks insofar as the same may be applicable in this court. The seal of said court shall have a star of five points with the words "Court of Domestic Relations Number 1, Tarrant County, Texas" engraved thereon.

Election of judge; removal; vacancies

Sec. 7. The Judge of the Court of Domestic Relations Number 1 of Tarrant County is elected in accordance with the terms of Section 65, Article XVI, Constitution of the State of Texas. He is subject to removal for the same reasons and in the same manner as is provided by the Constitution and laws of this state for removal of District Judges. Vacancies in the office shall be filled by appointment by the governor.

Cooperation of juvenile board; filing of cases

Sec. 8. The Juvenile Board and its members shall give counsel and advice to the Judge of the Court of Domestic Relations Number 1 when deemed necessary or when sought by him, and shall cooperate with him in the administration of the affairs of said court, and shall provide for the filing of any or all cases within the jurisdiction of the Courts of Domestic Relations in either the Court of Domestic Relations Number 1 or the Court of Domestic Relations No. 2, or in any one or more of the District Courts of Tarrant County.

Transfer of cases to district court, criminal district court or court of domestic relations

Sec. 9. All cases, applications, complaints, and all other matters over which the Court of Domestic Relations Number 1 is herein given jurisdiction may be transferred to or instituted in said court; said court and the Judge thereof may transfer any such cases, complaints, or other matters to any District Court, Criminal District Court or Court of Domestic Relations of Tarrant County having jurisdiction thereof under the laws of the State of Texas, with the consent of the Judge of such court, and the Judge of such District Court, Criminal District Court or Court of Domestic Relations may try all such cases, complaints, or other matters which may be so transferred. Any Judge of a District Court, Criminal District Court or Court of Domestic Relations of Tarrant County may preside as Judge of the Juvenile Court and of the Court of Domestic Relations Number 1 and hear and determine all such cases, complaints, or other matters over which the Judge of such District Courts, Criminal District Courts or Court of Domestic Relations has jurisdiction under the laws of the State of Texas, with the same authority to act as presiding Judge over all such cases, complaints, or other matters for all purposes, and to the same extent as the Judge of the Court of Domestic Relations Number 1 and such Judge of a District Court, Criminal District Court or Court of Domestic Relations of Tarrant County, Texas, may sit in his own courtroom, the Juvenile Courtroom, the courtroom of any other District Court or Court of Domestic Relations within the county, or the Court of Domestic Relations Number 1 and hear and determine any cases, complaint, or matter pending in the Court of Domestic Relations Number 1. In the event of disqualification of the Judge of the Court of Domestic Relations Number 1 to try a particular case or because of illness, inability, failure or refusal of said Judge to hold court at any time, the Juvenile Board may select a special judge who shall hold the court and proceed with the business thereof, or said Juvenile Board may request the presiding judge of the Eighth Administrative Judicial District of Texas to assign a judge to handle the business of said court pursuant to the provisions of Article 200a of the Revised Civil Statutes of Texas, and said judge so selected by the board or assigned by the presiding judge shall be paid

for his services in the same manner as provided by the Constitution and laws of this state for the payment of District Judges assigned to sit for other District Judges. The Judge of such Court of Domestic Relations Number 1 may, in any case, matter or proceeding pending in any District Court or Court of Domestic Relations of Tarrant County, or which case, matter or proceeding said Court of Domestic Relations Number 1 would have potential jurisdiction, in the courtroom of such Court of Domestic Relations Number 1 or in the Juvenile Courtroom, or in the courtroom of any District Court or Court of Domestic Relations of Tarrant County, sit and hear and determine any such case, matter or proceeding pending therein, and enter any order or judgment, or do any other thing, which the Judge of such District Court or Court of Domestic Relations would have authority under law to do.

Boards and officers; duties

Sec. 10. It shall be the duty of all officers, agents, and employees of the Probation Department, Child Welfare Board, County Welfare Office, County Health Officer and Sheriff and Constables of Tarrant County to furnish to said court such services in the line of their respective duties as shall be required by said court, and all sheriffs and constables within the State of Texas shall render the same services and perform the same duties with reference to process and writs from said Court of Domestic Relations as is required of them by law with reference to process and writs from District Courts.

Court reporter; bailiff

Sec. 11. The Judge of the Court of Domestic Relations Number 1 and Court of Domestic Relations No. 2 shall have authority to appoint a court reporter necessary for the operations of the Courts of Domestic Relations, who shall receive the same compensation as provided by law for court reporters of District Courts in Tarrant County and the court reporter's salary shall be paid by the Commissioners Court of Tarrant County from appropriate county funds. If the said Judges of the Courts of Domestic Relations fail to agree upon the appointment within thirty (30) days after a vacancy occurs, the Juvenile Board shall have authority to appoint a court reporter for said Courts of Domestic Relations. A bailiff shall be designated by the Sheriff of Tarrant County to serve the court as in other courts of the county.

Sec. 11 amended by Acts 1965, 59th Leg., p. 1623, ch. 694, § 3, eff. Aug. 30, 1965.

Divorce; custody of children; investigations

Sec. 12. In all suits for divorce where it appears from the petition or otherwise that the parties to such suit have a child or children under the age of eighteen (18) years, and in any other cases involving the custody of any child or children, the said court or Judge thereof, in its or his discretion, may require such juvenile officer or investigator to make a thorough and complete investigation as to the necessities, environment and surroundings of the child or children and of the disposition that should be made of such child or children, and to make report thereof to the court, and if desired by the court, to produce such evidence on any hearing in such case as may have been developed in connection with such investigation.

Writs and orders; contempt

Sec. 13. The said court and the Judge thereof shall have the power to issue writs of habeas corpus and mandamus, injunctions, temporary injunctions, restraining orders, orders of sale, execution, writs of posses-

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sion and restitution, and any and all other writs as now or hereafter may be issued under the laws of this state by District Courts, when necessary or proper in cases or matters in which said Court of Domestic Relations has jurisdiction, and also shall have power to punish for contempt.

Terms of court

Sec. 14. The first term of such Court of Domestic Relations shall begin when the Judge thereof is duly selected and qualified, and remain in session until the first day of the following September; and its term shall thereafter begin on the first day of September of each year and remain in session continuously to and including the thirty-first day of August of the next year.

Appeals

Sec. 15. Appeals in all civil cases from judgments and orders of said court shall be to the Court of Civil Appeals of the Second Supreme Judicial District as now or hereafter provided for appeals from District and County Courts and in all criminal cases appeals shall be to the Court of Criminal Appeals.

Practice and procedure

Sec. 16. The practice and procedure, rules of evidence, selection of juries, issuance of process and all other matters pertaining to the conduct of trials and hearings in said court shall be governed by provisions of this Act and the laws and rules pertaining to District Courts; provided that juries shall be composed of twelve (12) members.

Amended by Acts 1967, 60th Leg., p. 1153, ch. 510, § 1, eff. Aug. 28, 1967.

Acts 1967, 60th Leg., p. 1242, ch. 565, 2338—5, 2338—7 to 2338—11a, 2338—13, 2338—§§ 1-11, 13-18 amended articles 2338—3, 14 and 2338—15a to 2338—20.

Art. 2338—15a. Court of Domestic Relations No. 2 of Tarrant County

Creation of court

Section 1. There is hereby created a Court of Domestic Relations No. 2 of Tarrant County, Texas.

Qualifications of judge; salary; juvenile board

Sec. 2. The Judge of the Court of Domestic Relations No. 2 shall be at least twenty-five (25) years of age and licensed to practice law in this state, who has been a practicing attorney or a judge of a court for four (4) years and a resident of Tarrant County for two (2) years next before his election or appointment. He shall reside in Tarrant County during his term of office. He shall be paid a salary which shall be equal to the total salary paid by the County of Tarrant and State of Texas to any one judge of a District Court of Tarrant County, Texas. His salary shall be paid out of the General Fund of Tarrant County in twelve (12) equal monthly installments. He shall be a member of the Juvenile Board of Tarrant County, which shall hereafter be composed of the Judges of the several District Courts and Criminal District Courts of Tarrant County, the County Judge of Tarrant County, and the Judge of the Court of Domestic Relations No. 1 of Tarrant County and the Judge of the Court of Domestic Relations No. 2 of Tarrant County, which Juvenile Board shall be authorized to designate the Courts of Domestic Relations as the Juvenile Courts of Tarrant County; Judges of the District Courts and Criminal District Courts of Tarrant County shall continue to receive such compensation for all judicial and administrative services required of them including the services as members of the Juvenile Board and otherwise from county funds as they are now entitled to receive or may hereafter be authorized to receive under General or Special Law.

Jurisdiction

Sec. 3. Said Court of Domestic Relations No. 2 shall have jurisdiction within the limits of Tarrant County concurrent with the District Courts and Courts of Domestic Relations sitting in said county of all cases involving adoptions, birth records, removal of disability of minority, and coverture, change of name of persons, delinquent child proceedings, neglected or dependent child proceedings, and all jurisdiction, powers and authority now or hereafter placed in the District Courts or Courts of Domestic Relations under the juvenile and child-welfare laws of this state; and of all divorce and marriage annulment cases, including the adjustment of property rights and custody, visitation and support of minor children involved therein, alimony pending final hearing and any and every other matter incident to divorce or annulment proceedings as well as independent actions involving child custody, visitation, support, or reciprocal support cases, contempt actions arising out of failure to pay child support and all other cases involving justiciable controversies and difference between spouses, or between parents, or between them or one of them, and their minor children, which are now, or may hereafter be, within the jurisdiction of the District Courts or Domestic Relations Courts of Tarrant County; and all cases in which children are alleged or charged to be dependent, neglected or delinquent children as provided by law. All cases enumerated or included above may be instituted in or transferred to said court.

Acts 1965, 59th Leg., p. 548, ch. 278, eff. Aug. 30, 1965. Sec. 3 amended by Acts 1967, 60th Leg., p. 1146, ch. 509, § 1, eff. Aug. 28, 1967.

Amendment of section 3 of this article by Acts 1967, 60th Leg., p. 1250, ch. 565, § 13, see section 3, post.

Jurisdiction

Sec. 3. The Court of Domestic Relations No. 2 for Tarrant County shall have the jurisdiction concurrent with the District Courts in Tarrant County of all cases involving adoptions, removal of disability of minority and coverture, wife and child desertion, delinquent, neglected or dependent child proceedings, Reciprocal Support Act and all jurisdiction, powers and authority now or hereafter placed in the District or County Courts under the juvenile and child welfare laws of this State; and of all divorce and marriage annulment cases, including the adjustment of property rights and custody and support of minor children involved therein, alimony pending final hearing, and any and every other matter incident to divorce or annulment proceedings as well as independent actions involving child custody or support of minors, change of name of persons; and all other cases involving justiciable controversies and differences between spouses, or between parents, or between them, or one of them, and their minor children, or between any of these and third persons, corporations, trustees or other legal entities, which are now, or may hereafter be, within the jurisdiction of the District or County Courts; all cases in which children are alleged or charged to be dependent and neglected children or delinquent children as provided by law, of all suits for trial of title to land and for the enforcement of liens thereon, of all suits for trial of the right of property, and said Court and the Judges thereof shall have power to issue writs of habeas corpus, mandamus, injunction, and all writs necessary to enforce their jurisdiction.

Acts 1965, 59th Leg., p. 548, ch. 278, eff. Aug. 30, 1965. Sec. 3 amended by Acts 1967, 60th Leg., p. 1250, ch. 565, § 13, eff. Aug. 28, 1967.

Amendment of section 3 of this article by Acts 1967, 60th Leg., p. 1146, ch. 509, § 1, see section 3, ante.

Transfer of cases and papers

Sec. 4. The District Courts and Courts of Domestic Relations of Tarrant County may transfer to said Court of Domestic Relations No. 2 any and all cases, in their respective courts of which cases said Court of Domestic Relations No. 2 is hereby given jurisdiction, including all filed papers, reports, records, and certified copies of all orders theretofore entered in said cases.

Writs and process in transferred cases

Sec. 5. All writs and process issued by or out of a District Court or Court of Domestic Relations prior to the time any case is transferred by said court to the Court of Domestic Relations No. 2 shall be returned and filed in the Court of Domestic Relations No. 2 and shall be as valid and binding upon the parties to such transferred cases as though such writ or process had been issued out of the Court of Domestic Relations No. 2 and all waivers of process, and other instruments executed prior to the transfer of any case shall also be as valid and binding as though executed after such transfer.

Court of record; place of sitting; dockets and records; clerks

Sec. 6. The said Court of Domestic Relations No. 2 shall be a court of record, shall sit and hold court at the county seat of Tarrant County, shall have a seal and maintain all necessary dockets, records and minutes therein. The District Clerk of Tarrant County shall serve as the clerk of said court. He shall keep a fair record of all acts done and proceedings had in said court and shall perform all such duties as are required generally of District Clerks insofar as the same may be applicable in this court. The seal of said court shall have a star of five points with the words "Court of Domestic Relations No. 2 of Tarrant County, Texas" engraved thereon.

Election of judge; removal; vacancies

Sec. 7. The Judge of the Court of Domestic Relations Number 2 of Tarrant County is elected in accordance with the terms of Section 65, Article XVI, Constitution of the State of Texas. He is subject to removal for the same reasons and in the same manner as is provided by the Constitution and laws of this state for removal of District Judges. Vacancies in the office shall be filled by appointment by the Governor.

Cooperation of juvenile board; filing of cases

Sec. 8. The Juvenile Board and its members shall give counsel and advice to the Judge of the Court of Domestic Relations No. 2 when deemed necessary or when sought by him, and shall cooperate with him in the administration of the affairs of said court, and shall provide for the filing of any or all cases within the jurisdiction of the Courts of Domestic Relations in either the Court of Domestic Relations No. 1 or the Court of Domestic Relations No. 2, or in any one or more of the District Courts of Tarrant County.

Transfer of cases to district court, criminal district court or court of domestic relations

Sec. 9. All cases, applications, complaints, and all other matters over which the Court of Domestic Relations No. 2 is herein given jurisdiction may be transferred to or instituted in said court; said court and the Judge thereof may transfer any such cases, complaints, or other matters to any District Court, Criminal District Court or Court of Domestic Relations of Tarrant County having jurisdiction thereof under the laws of the State of Texas, with the consent of the Judge of such court, and the Judge of

such District Court, Criminal District Court or Court of Domestic Relations may try all such cases, complaints, or other matters which may be so transferred. Any Judge of a District Court, Criminal District Court or Court of Domestic Relations of Tarrant County may preside as Judge of the Juvenile Court and of the Court of Domestic Relations No. 2 and hear and determine all such cases, complaints, or other matters over which the Judge of such District Courts, Criminal District Courts or Court of Domestic Relations has jurisdiction under the laws of the State of Texas, with the same authority to act as presiding Judge over all such cases, complaints, or other matters for all purposes, and to the same extent as the Judge of the Court of Domestic Relations No. 2 and such Judge of a District Court, Criminal District Court or Court of Domestic Relations of Tarrant County, Texas, may sit in his own courtroom, the Juvenile Courtroom, the courtroom of any other District Court or Court of Domestic Relations within the county, or the Court of Domestic Relations No. 2 and hear and determine any cases, complaints, or matter pending in the Court of Domestic Relations No. 2. In the event of disqualification of the Judge of the Court of Domestic Relations No. 2 to try a particular case or because of illness, inability, failure or refusal of said Judge to hold court at any time, the Juvenile Board may select a special judge who shall hold the court and proceed with the business thereof, or said Juvenile Board may request the Presiding Judge of the Eighth Administrative Judicial District of Texas to assign a judge to handle the business of said court pursuant to the provisions of Article 200a of the Revised Civil Statutes of Texas, and said judge so selected by the board or assigned by the presiding judge shall be paid for his services in the same manner as provided by the Constitution and laws of this state for the payment of District Judges assigned to sit for other District Judges. The Judge of such Court of Domestic Relations No. 2 may, in any case, matter or proceeding pending in any District Court or Court of Domestic Relations of Tarrant County, or which case, matter or proceeding said Court of Domestic Relations No. 2 would have potential jurisdiction, in the courtroom of such Court of Domestic Relations No. 2 or in the Juvenile Courtroom, or in the courtroom of any District Court or Court of Domestic Relations of Tarrant County, sit and hear and determine any such case, matter or proceeding pending therein, and enter any order or judgment, or do any other thing, which the Judge of such District Court or Court of Domestic Relations would have authority under law to do.

Boards and officers; duties

Sec. 10. It shall be the duty of all officers, agents, and employees of the Probation Department, Child Welfare Board, County Welfare Office, County Health Officer and Sheriff and Constables of Tarrant County to furnish to said court such services in the line of their respective duties as shall be required by said court, and all sheriffs and constables within the State of Texas shall render the same services and perform the same duties with reference to process and writs from said Court of Domestic Relations No. 2 as is required of them by law with reference to process and writs from District Courts.

Court reporter; bailiff

Sec. 11. The Judge of the Court of Domestic Relations No. 1 and Court of Domestic Relations No. 2 shall have authority to appoint a court reporter necessary for the operations of the Courts of Domestic Relations, who shall receive the same compensation as provided by law for court reporters of District Courts in Tarrant County and the court reporter's salary shall be paid by the Commissioners Court of Tarrant County from appropriate county funds. If the said Judges of the Courts of Domestic Relations fail to agree upon the appointment within thirty (30) days after a vacancy occurs, the Juvenile Board shall have authority to appoint a

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court reporter for said Courts of Domestic Relations. A bailiff shall be designated by the Sheriff of Tarrant County to serve the court as in other courts of the County.

Divorce; custody of children; investigations

Sec. 12. In all suits for divorce where it appears from the petition or otherwise that the parties to such suit have a child or children under the age of 18 years, and in any other cases involving the custody of any child or children, the said court or Judge thereof, in its or his discretion, may require such juvenile officer or investigator to make a thorough and complete investigation as to the necessities, environment and surroundings of the child or children and of the disposition that should be made of such child or children, and to make report thereof to the court, and if desired by the court, to produce such evidence on any hearing in such case as may have been developed in connection with such investigation.

Writs and orders; contempt

Sec. 13. The said court and the Judge thereof shall have the power to issue writs of habeas corpus and mandamus, injunctions, temporary injunctions, restraining orders, orders of sale, execution, writs of possession and restitution, and any and all other writs as now or hereafter may be issued under the laws of this state by District Courts, when necessary or proper in cases or matters in which said Court of Domestic Relations No. 2 has jurisdiction, and also shall have power to punish for contempt.

Terms of court

Sec. 14. The first term of such Court of Domestic Relations No. 2 shall begin when the Judge thereof is appointed and qualified, and remain in session until the first day of the following September; and its term shall thereafter begin on the first day of September of each year and remain in session continuously to and including the thirty-first day of August of the next year.

Appeals

Sec. 15. Appeals in all civil cases from judgments and orders of said court shall be to the Court of Civil Appeals of the Second Supreme Judicial District as now or hereafter provided for appeals from District and County Courts and in all criminal cases appeals shall be to the Court of Criminal Appeals.

Practice and procedure

Sec. 16. The practice and procedure, rules of evidence, selection of juries, issuance of process and all other matters pertaining to the conduct of trials and hearings in said court shall be governed by provisions of this Act and the laws and rules pertaining to District Courts; provided that juries shall be composed of 12 members.

Acts 1965, 59th Leg., p. 548, ch. 278, eff. Aug. 30, 1965. Amended by Acts 1967, 60th Leg., p. 1146, ch. 509, § 1, eff. Aug. 28, 1967.

Acts 1967, 60th Leg., p. 1242, ch. 565, 2338—5, 2338—7 to 2338—11a, 2338—13 to §§ 1-12, 14-20 amended articles 2338—3, 2338—15 and 2338—16 to 2338—20.

Art. 2338—15b. Court of Domestic Relations No. 3 of Tarrant County

Creation of court

Section 1. There is hereby created a Court of Domestic Relations No. 3 in and for Tarrant County, Texas.

Qualifications of Judge; Juvenile Board

Sec. 2. The Judge of the Court of Domestic Relations No. 3 hereby established shall be at least twenty-five (25) years of age and licensed to practice law in this state, who has been a practicing attorney or a judge of a court for four (4) years and a resident of Tarrant County for two (2) years next before his election or appointment. He shall reside in Tarrant County during his term of office. He shall be paid a salary which shall be equal to the total salary paid by the County of Tarrant and State of Texas to any one judge of a District Court of Tarrant County, Texas. His salary shall be paid out of the General Fund of Tarrant County in twelve (12) equal monthly installments. He shall be a member of the Juvenile Board of Tarrant County, which shall hereafter be composed of the Judges of the several District Courts and Criminal District Courts of Tarrant County, the County Judge of Tarrant County, and the Judges of the Courts of Domestic Relations for Tarrant County, which Juvenile Board shall be authorized to designate the Courts of Domestic Relations as the Juvenile Court of Tarrant County; Judges of the District Courts and Criminal District Courts of Tarrant County shall continue to receive such compensation for all judicial and administrative services required of them including the services as members of the Juvenile Board and otherwise from county funds as they are now entitled to receive or may hereafter be authorized to receive under General or Special Law.

Jurisdiction

Sec. 3. The Court of Domestic Relations No. 3 for Tarrant County shall have the jurisdiction concurrent with the District Courts in Tarrant County of all cases involving adoptions, removal of disability of minority and coverture, wife and child desertion, delinquent, neglected or dependent child proceedings, Reciprocal Support Act and all jurisdiction, powers and authority now or hereafter placed in the District or County Courts under the juvenile and child welfare laws of this state; and of all divorce and marriage annulment cases, including the adjustment of property rights and custody and support of minor children involved therein, alimony pending final hearing, and any and every other matter incident to divorce or annulment proceedings as well as independent actions involving child custody or support of minors, change of name of persons; and all other cases involving justiciable controversies and differences between spouses, or between parents, or between them, or one of them, and their minor children, or between any of these and third persons, corporations, trustees or other legal entities, which are now, or may hereafter be, within the jurisdiction of the District or County Courts; all cases in which children are alleged or charged to be dependent and neglected children or delinquent children as provided by law, of all suits for trial of title to land and for the enforcement of liens thereon, of all suits for trial of the right of property, and said Court and the Judges thereof shall have power to issue writs of habeas corpus, mandamus, injunction, and all writs necessary to enforce their jurisdiction.

Transfer of cases and papers

Sec. 4. The District Courts of Tarrant County may transfer to said Court of Domestic Relations No. 3 any and all cases, in their respective courts of which cases said Court of Domestic Relations No. 3 is hereby given jurisdiction, including all filed papers, reports, records, and certified copies of all orders theretofore entered in said cases.

Writs and process in transferred cases

Sec. 5. All writs and process issued by or out of a District Court prior to the time any case is transferred by said Court to the Court of

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Domestic Relations No. 3 shall be returned and filed in the Court of Domestic Relations No. 3 and shall be as valid and binding upon the parties to such transferred cases as though such writ or process had been issued out of the Court of Domestic Relations No. 3, and all waivers of process, and other instruments executed prior to the transfer of any case shall also be as valid and binding as though executed after such transfer.

Court of record; place of sitting; dockets and records; clerks; seal

Sec. 6. The said Court of Domestic Relations No. 3 shall be a court of record, shall sit and hold court at the county seat of Tarrant County, shall have a seal and maintain all necessary dockets, records and minutes therein. The District Clerk of Tarrant County shall serve as the Clerk of said Court. He shall keep a fair record of all acts done and proceedings had in said Court and shall perform all such duties as are required generally of District Clerks insofar as the same may be applicable in this Court. The seal of said Court shall have a star of five points with the words "Court of Domestic Relations No. 3, Tarrant County, Texas" engraved thereon.

Election of judge; term of office; removal; vacancies

Sec. 7. (a) At the next general election following the effective date of this Act there shall be elected the Judge of the Court of Domestic Relations No. 3 of Tarrant County. The term of office shall be for a period of four (4) years. The first term shall commence on the first day of January after a general election. The Judge is subject to removal from office for the same reasons and in the same manner as is provided by the Constitution and laws of this state for the removal of District Judges.

(b) When this Act becomes effective, the Governor shall appoint a Judge to the Court of Domestic Relations No. 3 of Tarrant County. The Judge appointed serves until the next general election and until his successor is duly elected and qualified. Any vacancy in the office is filled in like manner and the appointee holds office until the next general election and until his successor is duly elected and qualified.

Cooperation by juvenile board; priority to cases; Juvenile court

Sec. 8. The Juvenile Board and its members shall give counsel and advice to the Judge of the Court of Domestic Relations No. 3 when deemed necessary or when sought by him, and shall cooperate with him in the administration of the affairs of said Court, and shall provide for the filing of any or all cases within the jurisdiction of the Courts of Domestic Relations in either the Court of Domestic Relations No. 1, the Court of Domestic Relations No. 2 or the Court of Domestic Relations No. 3, or in any one or more of the District Courts of Tarrant County. The Juvenile Board shall designate one of the Courts of Domestic Relations as the Juvenile Court of Tarrant County. The judge of said Juvenile Court must give priority to all cases and controversies involving juveniles. Said court so designated as the Juvenile Court may also be officially styled as the Juvenile Court of Tarrant County, Texas, and said Court may have a seal which shall be a star of five points with the words "Juvenile Court of Tarrant County, Texas," engraved thereon.

Transfer of cases to district or criminal district court or to court of domestic relations

Sec. 9. All cases, applications, complaints, and all other matters over which the Court of Domestic Relations No. 3 is herein given jurisdiction may be transferred to or instituted in said Court; said Court and the Judge thereof may transfer any such cases, complaints,

or other matters to any District Court, Criminal District Court or Court of Domestic Relations of Tarrant County having jurisdiction thereof under the laws of the State of Texas, with the consent of the Judge of such Court, and the Judge of such District Court, Criminal District Court or Court of Domestic Relations may try all such cases, complaints, or other matters which may be so transferred. Any Judge of a District Court, Criminal District Court or Court of Domestic Relations of Tarrant County may preside as Judge of the Juvenile Court and of the Court of Domestic Relations No. 3 and hear and determine all such cases, complaints, or other matters over which the Judge of such District Courts, Criminal District Courts or Court of Domestic Relations has jurisdiction under the laws of the State of Texas, with the same authority to act as presiding Judge over all such cases, complaints, or other matters for all purposes, and to the same extent as the Judge of the Court of Domestic Relations No. 3 and such Judge of a District Court, Criminal District Court, or Court of Domestic Relations of Tarrant County, Texas, may sit in his own courtroom, the Juvenile Courtroom, the courtroom of any other District Court or Court of Domestic Relations within the County, or the Court of Domestic Relations No. 3 and hear and determine any cases, complaint, or matter pending in the Court of Domestic Relations No. 3. In the event of disqualification of the Judge of the Court of Domestic Relations No. 3 to try a particular case or because of illness, inability, failure or refusal of said Judge to hold Court at any time, the Juvenile Board may select a special judge who shall hold the court and proceed with the business thereof, or said Juvenile Board may request the presiding judge of the Eighth Administrative Judicial District of Texas to assign a judge to handle the business of said court pursuant to the provisions of Article 200a of the Revised Civil Statutes of Texas, and said judge so selected by the board or assigned by the presiding judge shall be paid for his services in the same manner as provided by the Constitution and laws of this State for the payment of District Judges assigned to sit for other District Judges. The Judge of such Court of Domestic Relations No. 3 may, in any case, matter or proceeding pending in any District Court or Court of Domestic Relations of Tarrant County, or which case, matter or proceeding said Court of Domestic Relations No. 3 would have potential jurisdiction, in the courtroom of such Court of Domestic Relations No. 3 or in the Juvenile Courtroom, or in the courtroom of any District Court or Court of Domestic Relations of Tarrant County, sit and hear and determine any such case, matter or proceeding pending therein, and enter any order or judgment, or do any other thing, which the Judge of such District Court or Court of Domestic Relations would have authority under law to do.

Boards and officers; duties

Sec. 10. It shall be the duty of all officers, agents, and employees of the Probation Department, Child Welfare Board, County Welfare Office, County Health Officer and Sheriff and Constables of Tarrant County to furnish to said Court such services in the line of their respective duties as shall be required by said Court, and all sheriffs and constables within the State of Texas shall render the same services and perform the same duties with reference to process and writs from said Court of Domestic Relations No. 3 as is required of them by law with reference to process and writs from District Courts.

Court reporters; bailiff

Sec. 11. The Judges of the Court of Domestic Relations No. 1 and Court of Domestic Relations No. 2 and Court of Domestic Relations No. 3 shall have authority to appoint a total of two court reporters necessary

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for the operations of the Courts of Domestic Relations, who shall receive the same compensation as provided by law for court reporters of District Courts in Tarrant County and the court reporters' salaries shall be paid by the Commissioners Court of Tarrant County from appropriate County funds. If the said judges of the Courts of Domestic Relations fail to agree upon any appointment within thirty days after a vacancy occurs, the Juvenile Board shall have authority to appoint a court reporter for said Courts of Domestic Relations. A bailiff shall be designated by the Sheriff of Tarrant County to serve the Court as in other courts of the County.

Custody of children; investigations

Sec. 12. In all suits for divorce where it appears from the petition or otherwise that the parties to such suit have a child or children under the age of eighteen (18) years, and in any other cases involving the custody of any child or children, the said Court or Judge thereof, in its or his discretion, may require such juvenile officer or investigator to make a thorough and complete investigation as to the necessities, environment and surroundings of the child or children and of the disposition that should be made of such child or children, and to make report thereof to the Court, and if desired by the Court, to produce such evidence on any hearing in such case as may have been developed in connection with such investigation.

Writs and orders; contempt

Sec. 13. The said Court and the Judge thereof shall have the power to issue writs of habeas corpus and mandamus, injunctions, temporary injunctions, restraining orders, orders of sale, execution, writs of possession and restitution, and any and all other writs as now or hereafter may be issued under the laws of this state by District Courts, when necessary or proper in cases or matters in which said Court of Domestic Relations No. 3 has jurisdiction, and also shall have power to punish for contempt.

Terms of court

Sec. 14. The first term of such Court of Domestic Relations No. 3 shall begin when the Judge thereof is duly appointed and qualified, and remain in session until the first day of the following September; and its term shall thereafter begin on the first day of September of each year and remain in session continuously to and including the thirty-first day of August of the next year.

Appeals

Sec. 15. Appeals in all civil cases from judgments and orders of said Court shall be to the Court of Civil Appeals of the Second Supreme Judicial District as now or hereafter provided for appeals from District and County Courts and in all criminal cases appeals shall be to the Court of Criminal Appeals.

Practice and procedure

Sec. 16. The practice and procedure, rules of evidence, selection of juries, issuance of process and all other matters pertaining to the conduct of trials and hearings in said Court shall be governed by provisions of this Act and the laws and rules pertaining to District Courts; provided that juries shall be composed of twelve (12) members.

Acts 1967, 60th Leg., p. 2089, ch. 781, eff. Aug. 28, 1967.

Title of Act:

An Act creating the Court of Domestic Relations No. 3 of Tarrant County and providing for its jurisdiction, terms, per-

sonnel, administration, and procedures; and declaring an emergency. Acts 1967, 60th Leg., p. 2089, ch. 781.

Art. 2338—16. Court of Domestic Relations for Galveston County

* * * * *

Jurisdiction

Sec. 3. The Court of Domestic Relations for Galveston County shall have the jurisdiction concurrent with the District Courts in Galveston County of all cases involving adoptions, removal of disability of minority and coverture, wife and child desertion, delinquent, neglected or dependent child proceedings, Reciprocal Support Act and all jurisdiction, powers and authority now or hereafter placed in the District or County Courts under the juvenile and child welfare laws of this State; and of all divorce and marriage annulment cases, including the adjustment of property rights and custody and support of minor children involved therein, alimony pending final hearing, and any and every other matter incident to divorce or annulment proceedings as well as independent actions involving child custody or support of minors, change of name of persons; and all other cases involving justiciable controversies and differences between spouses, or between parents, or between them, or one of them, and their minor children, or between any of these and third persons, corporations, trustees or other legal entities, which are now, or may hereafter be, within the jurisdiction of the District or County Courts; all cases in which children are alleged or charged to be dependent and neglected children or delinquent children as provided by law, of all suits for trial of title to land and for the enforcement of liens thereon, of all suits for trial of the right of property, and said Court and the Judges thereof shall have power to issue writs of habeas corpus, mandamus, injunction, and all writs necessary to enforce their jurisdiction.

Sec. 3 amended by Acts 1967, 60th Leg., p. 1250, ch. 565, § 14, eff. Aug. 28, 1967.

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Acts 1967, 60th Leg., p. 1242, ch. 565, §§ 2338—7 to 2338—11a, 2338—13 to 2338—15a, 1-13, 15-18 amended articles 2338—3, 2338—5, and 2338—17 to 2338—20.

Art. 2338—17. Court of Domestic Relations for Taylor County

* * * * *

Jurisdiction

Sec. 2. The Court of Domestic Relations for Taylor County shall have the jurisdiction concurrent with the District Courts in Taylor County of all cases involving adoptions, removal of disability of minority and coverture, wife and child desertion, delinquent, neglected or dependent child proceedings, Reciprocal Support Act and all jurisdiction, powers and authority now or hereafter placed in the District or County Courts under the juvenile and child welfare laws of this State; and of all divorce and marriage annulment cases, including the adjustment of property rights and custody and support of minor children involved therein, alimony pending final hearing, and any and every other matter incident to divorce or annulment proceedings as well as independent actions involving child custody or support of minors, change of name of persons; and all other cases involving justiciable controversies and differences between spouses, or between parents, or between them, or one of them, and their minor children, or between any of these and third persons, corporations, trustees or other legal entities, which are now, or may hereafter be, within the jurisdiction of the District or County Courts; all cases in which children are alleged or charged to be dependent and neglected children or delinquent children as provided by law, of all suits for trial of title to land and for the enforcement of liens thereon, of all suits for trial of the right of property, and said Court and the Judges thereof shall have power to issue

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writs of habeas corpus, mandamus, injunction, and all writs necessary to enforce their jurisdiction.

Sec. 2 amended by Acts 1967, 60th Leg., p. 1251, ch. 565, § 15, eff. Aug. 28, 1967.

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Acts 1967, 60th Leg., p. 1242, ch. 565, §§ 2338—7 to 2338—11a, 2338—13 to 2338—16 1-14, 16-18 amended articles 2338—3, 2338—5, and 2338—18 to 2338—20.

Art. 2338—18. Juvenile Court for Harris County

* * * * *

Jurisdiction

Sec. 7. (a) The Juvenile Court of Harris County has the jurisdiction concurrent with the District Courts in Harris County of all cases involving adoptions, removal of disability of minority and coverture, wife and child desertion, delinquent, neglected or dependent child proceedings, Reciprocal Support Act and all jurisdiction, powers and authority now or hereafter placed in the District or County Courts under the juvenile and child welfare laws of this State; and of all divorce and marriage annulment cases, including the adjustment of property rights and custody and support of minor children involved therein, alimony pending final hearing, and any and every other matter incident to divorce or annulment proceedings as well as independent actions involving child custody or support of minors, change of name of persons; and all other cases involving justiciable controversies and differences between spouses, or between parents, or between them, or one of them, and their minor children, or between any of these and third persons, corporations, trustees or other legal entities, which are now, or may hereafter be, within the jurisdiction of the District or County Courts; all cases in which children are alleged or charged to be dependent and neglected children or delinquent children as provided by law, of all suits for trial of title to land and for the enforcement of liens thereon, of all suits for trial of the right of property, and said Court and the Judges thereof shall have power to issue writs of habeas corpus, mandamus, injunction, and all writs necessary to enforce their jurisdiction.

Sec. 7 amended by Acts 1967, 60th Leg., p. 1251, ch. 565, § 16, eff. Aug. 28, 1967.

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Acts 1967, 60th Leg., p. 1242, ch. 565, §§ 2338—5, 2338—7 to 2338—11a, 2338—13 to 1-15, 17, 18 amended articles 2338—3, 2338—17, 2338—19 and 2338—20.

Art. 2338—19. Court of Domestic Relations for Brazoria County

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Jurisdiction

Sec. 3. The Court of Domestic Relations for Brazoria County shall have the jurisdiction concurrent with the District Courts in Brazoria County of all cases involving adoptions, removal of disability of minority and coverture, wife and child desertion, delinquent, neglected or dependent child proceedings, Reciprocal Support Act and all jurisdiction, powers and authority now or hereafter placed in the District or County Courts under the juvenile and child welfare laws of this State; and of all divorce and marriage annulment cases, including the adjustment of property rights and custody and support of minor children involved therein, alimony pending final hearing, and any and every other matter incident to divorce or annulment proceedings as well as independent actions involving child custody or support of minors, change of name of persons; and all other cases involving justiciable controversies and differences between spouses, or between parents, or between them, or one of them, and

their minor children, or between any of these and third persons, corporations, trustees or other legal entities, which are now, or may hereafter be, within the jurisdiction of the District or County Courts; all cases in which children are alleged or charged to be dependent and neglected children or delinquent children as provided by law, of all suits for trial of title to land and for the enforcement of liens thereon, of all suits for trial of the right of property, and said Court and the Judges thereof shall have power to issue writs of habeas corpus, mandamus, injunction, and all writs necessary to enforce their jurisdiction.

Sec. 3 amended by Acts 1967, 60th Leg., p. 1252, ch. 565, § 17, eff. Aug. 28, 1967.

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Acts 1967, 60th Leg., p. 1242, ch. 565, §§ 2338—7 to 2338—11a, 2338—13 to 2338—18 1-16, 18 amended articles 2338—3, 2338—5, and 2338—20.

Art. 2338—20. Court of Domestic Relations for Midland County

* * * * *

Jurisdiction

Sec. 3. The Court of Domestic Relations for Midland County shall have the jurisdiction concurrent with the District Courts in Midland County of all cases involving adoptions, removal of disability of minority and coverture, wife and child desertion, delinquent, neglected or dependent child proceedings, Reciprocal Support Act and all jurisdiction, powers and authority now or hereafter placed in the District or County Courts under the juvenile and child welfare laws of this State; and of all divorce and marriage annulment cases, including the adjustment of property rights and custody and support of minor children involved therein, alimony pending final hearing, and any and every other matter incident to divorce or annulment proceedings as well as independent actions involving child custody or support of minors, change of name of persons; and all other cases involving justiciable controversies and differences between spouses, or between parents, or between them, or one of them, and their minor children, or between any of these and third persons, corporations, trustees or other legal entities, which are now, or may hereafter be, within the jurisdiction of the District or County Courts; all cases in which children are alleged or charged to be dependent and neglected children or delinquent children as provided by law, of all suits for trial of title to land and for the enforcement of liens thereon, of all suits for trial of the right of property, and said Court and the Judges thereof shall have power to issue writs of habeas corpus, mandamus, injunction, and all writs necessary to enforce their jurisdiction.

Sec. 3 amended by Acts 1967, 60th Leg., p. 1252, ch. 565, § 18, eff. Aug. 28, 1967.

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TITLE 44—COURTS—COMMISSIONERS

2. POWERS AND DUTIES

<p>Art. 2368a—11. Validation of contracts, scrip and time warrants; refunding bonds; acts and proceedings; exceptions [New].</p> <p>2372d—4. Parking stations near coliseums and auditoriums in counties of 500,000 or more [New].</p>	<p>Art. 2372r—1. Counties of 76,204 to 76,250; construction, restoration, preservation and maintenance of historical landmarks and buildings [New].</p>
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2. POWERS AND DUTIES

Art. 2351a—6. Rural fire prevention districts

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Limitation on indebtedness; assessment of property; election; ballots

Sec. 12. (1) No indebtedness shall be contracted in any one year in excess of funds then on hand or which may be satisfied out of current revenues for the year. The Board of Fire Commissioners shall annually levy and cause to be assessed and collected a tax upon all properties, real and personal, situated within the district and subject to district taxation, in an amount not to exceed three cents (3¢) on the One Hundred Dollars (\$100) valuation for the support of the district, and for the purposes authorized in this Act. Such tax levy shall be certified to the County Tax Assessor-Collector, who shall be the Assessor-Collector for the district. The County Tax Assessor-Collector shall assess property in the district for the purpose of the Rural Fire Prevention District tax at the same values as shown on the county tax rolls, unless a different method of assessing the values has been adopted under the provisions of Subdivisions (2) through (8) of this section.

(2) The Board of Fire Commissioners may by a majority vote of the members order an election in the district, at the expense of the district, on the proposition of assessing property in the district for the purpose of the Rural Fire Prevention District tax at a percentage of actual market value different from the percentage used by the county. The Board of Fire Commissioners shall cause notice of the election to be published by posting notice of the election at each precinct 20 days before the election. The notice shall state the time of holding the election and the question to be voted on.

(3) Residents of the district eligible to vote in a general election are eligible to vote in the district election provided for in Subdivision (2) of this section.

(4) Except as provided in this Act, the general laws of this state apply to elections held under this Act.

(5) The proposition shall be printed on the ballots as follows:

FOR assessing property in the _____ County Rural Fire Prevention District No. ____ for the purpose of the rural fire prevention district tax at a percentage of actual market value different from that used by the county, not to exceed _____ percent of actual market value.

AGAINST assessing property in the _____ County Rural Fire Prevention District No. ____ for the purpose of the rural fire prevention district tax at a percentage of actual market value different from that used by the county, not to exceed _____ percent of actual market value.

(6) If the proposition carries, the Board of Fire Commissioners shall certify that fact to the County Tax Assessor-Collector, notifying him of

the percentage of actual market value approved for fire prevention district tax purposes.

(7) The County Tax Assessor-Collector shall assess property for the purpose of the rural fire prevention district tax on separate assessment blanks furnished by the district, at the percentage of actual market value approved in the election.

(8) In a county where the County Tax Assessor-Collector makes a separate assessment of property in a district under the provisions of this section, the rural fire prevention district shall reimburse the County Tax Assessor-Collector for any additional expense incurred in assessing and collecting taxes for the district, not to exceed one percent of the taxes collected in each year.

Sec. 12 amended by Acts 1967, 60th Leg., p. 1089, ch. 478, § 1, emerg. eff. June 12, 1967.

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Art. 2368a. Requirements governing advertising for bids by counties and cities

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Competitive bidding for contracts for public works; notice to bidders; advertisement; exceptions; conflicting provisions; noncompliance with law

Sec. 2. No county, acting through its Commissioners Court, and no city in this state shall hereafter make any contract calling for or requiring the expenditure of payment of Two Thousand Dollars (\$2,000.00) or more out of any fund or funds of any city or county or subdivision of any county creating or imposing an obligation or liability of any nature or character upon such county or any subdivision of such county, or upon such city, without first submitting such proposed contract to competitive bids. Notice of the time and place when and where such contracts shall be let shall be published in such county (if concerning a county contract or contracts for such subdivision of such county) and in such city, (if concerning a city contract), once a week for two (2) consecutive weeks prior to the time set for letting such contract, the date of the first publication to be at least fourteen (14) days prior to the date set for letting said contract; and said contract shall be let to the lowest responsible bidder. The court and/or governing body shall have the right to reject any and all bids, and if the contract is for the construction of public works, then the successful bidder shall be required to give a good and sufficient bond in the full amount of the contract price, for the faithful performance of such contract, executed by some surety company authorized to do business in this state in accordance with the provisions of Article 5160, Revised Statutes of 1925, and amendments thereto. However, the city or county in making any contract calling for or requiring the expenditure of payment of Two Thousand Dollars (\$2,000.00) or more and less than Fifty Thousand Dollars (\$50,000.00) may, in lieu of the bond requirement, provide in the contract that no money will be paid to the contractor until completion and acceptance of the work by the city or county. If there is no newspaper published in such county, the notice of the letting of such contract by such county shall be given by causing notice thereof to be posted at the County Court House door for fourteen (14) days prior to the time of letting such contract. If there is no newspaper published in such city, then the notice of letting such contract shall be given by causing notice thereof to be posted at the City Hall for fourteen (14) days prior to the time of letting such contract. Provided, that in case of public calamity, where it becomes necessary to act at once to appropriate money to relieve the necessity of the citizens, or to preserve the property of such county, subdivision, or city, or when it is necessary

to preserve or protect the public health of the citizens of such county or city, or in case of unforeseen damage to public property, machinery or equipment, this provision shall not apply; and provided further, as to contracts for personal or professional services; work done by such county or city and paid for by the day, as such work progresses; and the purchase of land and right-of-way for authorized needs and purposes, the provisions hereof requiring competitive bids shall not apply and in such cases the notice herein provided shall be given but only with respect to an intention to issue time warrants with right of referendum as contemplated in Sections 3 and 4 hereof¹ respectively.

Provisions in reference to notice to bidders, advertisement thereof, requirements as to the taking of sealed bids based upon specifications for public improvements or purchases, the furnishing of surety bonds by contractors and the manner of letting of contracts, as contained in the charter of a city, if in conflict with the provisions of this Act, shall be followed in such city notwithstanding any other provisions of this Act.

Any and all such contracts or agreements hereafter made by any county or city in this state, without complying with the terms of this Section, shall be void and shall not be enforceable in any court of this state and the performance of same and the payment of any money thereunder may be enjoined by any property taxpaying citizen of such county or city. Provided, however, that the provisions of this Act shall not apply to counties having a population of more than three hundred fifty thousand (350,000) inhabitants according to the last preceding or any future Federal Census.

Sec. 2 amended by Acts 1965, 59th Leg., p. 240, ch. 105, § 1, eff. Aug. 30, 1965; Acts 1967, 60th Leg., p. 870, ch. 376, § 1, emerg. eff. June 8, 1967.

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¹ See Article 2368a—10, §§ 2 and 3.

Art. 2368a—11. Validation of contracts, scrip and time warrants; re-funding bonds; acts and proceedings; exceptions

Section 1. In every instance where the Commissioners Court of a county or the governing board of a city (including Home-Rule cities) or town in this state has entered into contracts for, or has determined the advisability thereof by giving notice of intention to issue interest-bearing time warrants in payment therefor, the construction of public works or improvements, the purchase of land or interests in land, or for the purchase of materials, supplies, equipment, labor, supervision, wages, salaries, or professional or personal services, and has heretofore adopted orders or ordinances to authorize the issuance of scrip or time warrants to pay or evidence the indebtedness of such county or city (including Home-Rule cities) or town for the cost of such public works or improvements, land, material, supplies, equipment, labor, supervision, wages, salaries, or professional or personal services, all such contracts, scrip and time warrants and the proceedings adopted by the Commissioners Court or governing body, as the case may be, relating thereto are hereby in all things validated, ratified, confirmed and approved. All scrip warrants and time warrants heretofore issued by the Commissioners Court or governing body, as the case may be, in payment of work done by such county or city (including Home-Rule cities) or town and paid for by the day as the work progressed, and for materials and supplies purchased in connection with such work and for professional or personal services rendered to the county, city or town, and each of these are hereby in all things validated, ratified, confirmed and approved and all such warrants shall be payable in accordance with their respective terms. It is expressly provided, however, that this Act shall neither apply to nor validate, ratify or confirm any contract, scrip warrant or time warrant executed or issued by any county with a population in excess of three hundred and

fifty thousand (350,000), according to the last preceding Federal Census, or any contract, scrip warrant or time warrant, the validity of which is involved in litigation at the time this Act becomes effective.

Sec. 2. All proceedings, governmental acts, orders, ordinances, resolutions and other instruments heretofore adopted or executed by a Commissioners Court or governing body of a city (including Home-Rule cities) or town, and of all officers and officials thereof authorizing the issuance of or pertaining to refunding bonds for the purpose of refunding scrip or time warrants issued by any county or city (including Home-Rule cities) or town and all such warrants and all refunding bonds, heretofore issued for such purpose, and each of these are hereby in all things validated, ratified, approved and confirmed. Such refunding bonds now in process of being issued and authorized by proceedings, ordinances and resolutions heretofore adopted may be issued, irrespective of the fact that the Commissioners Court or governing body in giving the notice of intention to issue refunding bonds may not have in all respects complied with statutory provisions. It is expressly provided, however, that this Act shall neither apply to nor validate, ratify or confirm any proceedings, governmental acts, orders, resolutions or other instruments, or bonds executed, adopted or issued by any county with a population in excess of three hundred and fifty thousand (350,000), according to the last preceding Federal Census, or any proceedings, governmental acts, orders, ordinances, resolutions or other instruments, or bonds, the validity of which is involved in litigation at the time this Act becomes effective.

Acts 1967, 60th Leg., p. 157, ch. 83, emerg. eff. April 27, 1967.

Section 3 of Acts 1967, 60th Leg., p. 157, ch. 83 was a savings clause.

Title of Act:

An Act validating, ratifying, confirming and approving contracts, scrip warrants and time warrants and refunding bonds authorized by counties or cities (including Home-Rule cities) or towns; validating, ratifying, confirming and approving refunding bonds issued for the purpose of refunding time warrants and all proceedings, governmental acts, orders, ordinances, resolutions and other instruments relating to the issuance of refunding bonds for such purposes of counties, cities (including Home-Rule cities) and

towns; providing that this Act shall not apply to any contract, scrip warrants, time warrant or to any refunding bond proceedings, governmental acts, orders, resolutions or other instruments, or bonds executed or issued by any county with a population in excess of three hundred and fifty thousand (350,000), according to the last preceding Federal Census, or any contract, scrip warrant, time warrants, or any refunding bond proceedings, governmental acts, orders, ordinances, resolutions or other instruments, or bonds, the validity of which is now involved in litigation; providing a savings clause; and declaring an emergency. Acts 1967, 60th Leg., p. 157, ch. 83.

Art. 2372d—4. Parking stations near coliseums and auditoriums in counties of 500,000 or more

Section 1. The commissioners court of any county which has a population in excess of 500,000 according to the most recent federal census and which has issued bonds for the purpose of constructing buildings and other permanent improvements to be used for coliseums and auditoriums within the county, upon finding that it is to the best interest of the county and its inhabitants, shall have the power to construct, enlarge, furnish, equip, and operate parking stations in the vicinity of such coliseums and auditoriums. Any said commissioners court is further authorized to lease said parking stations from time to time to such persons or corporations on such terms as the commissioners court shall deem appropriate.

Sec. 2. As used in this law, "parking station" means a lot or area or surface or subsurface structure for the parking of automotive vehicles, together with equipment used in connection with the maintenance and operation thereof, and the site therefor;

"Bond order" means the order authorizing the issuance of revenue bonds;

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"Trust indenture" means the instrument of mortgage, deed of trust or other instrument pledging revenues, or in addition thereto, creating a mortgage or deed of trust lien on properties, or both, to secure the revenue bonds issued by the county;

"Trustee" means the trustee under a trust indenture.

Sec. 3. The commissioners court may issue negotiable revenue bonds to provide funds for the construction, enlargement, furnishing, or equipping said parking station. Such bonds shall be payable from and secured by a pledge of the net revenues to be derived from the operation by the county of the parking station or may be payable from rentals received from leasing all or part of said parking station, or from both such net revenues and rentals, and any other revenues resulting from the ownership of the parking station.

Sec. 4. The bonds shall be authorized by bond order or trust indenture adopted or approved by a majority vote of a quorum of the commissioners court (without the prerequisite of an election) and shall be signed by the county judge, countersigned by the county clerk, and registered by the county treasurer. The seal of the commissioners court shall be impressed or printed thereon. The bonds shall mature serially or otherwise in not to exceed 40 years and may be sold at a price and under terms determined by the commissioners court to be the most advantageous reasonably obtainable, provided that the interest cost to the county, including the discount, if any, calculated by use of standard bond interest tables currently in use by insurance companies and investment houses does not exceed six percent per annum, and within the discretion of the commissioners court, may be made callable prior to maturity at such times and places as may be prescribed in the order authorizing the bonds.

Sec. 5. Bonds constituting a junior lien on the net revenues or properties may be issued unless prohibited by the bond order or trust indenture. Parity bonds may be issued under conditions specified in the bond order or trust indenture.

Sec. 6. Money for the payment of interest on the bonds and an amount estimated by the commissioners court to be required for operating expenses until the parking station becomes sufficiently operative may be set aside out of the proceeds from the sale of the bonds. However, such amounts shall be set aside only in such amount as will cover interest and operating expenses for the estimated period of construction and the first two years of operation and shall be limited to the interest and to the estimated operating expenses over and above earnings for such years.

Sec. 7. Bonds may be issued for the purpose of refunding outstanding bonds in the manner provided in this Act for other bonds, and may be exchanged by the Comptroller of Public Accounts of the State of Texas or sold and the proceeds applied to the payment of outstanding bonds.

Sec. 8. Bonds issued under this Act and the record relating to their issuance shall be submitted to the Attorney General of Texas and if he finds that they have been issued in accordance with this law and constitute valid and binding special obligations of the county and are secured as recited therein he shall approve them, and they shall be registered by the Comptroller of Public Accounts of the State of Texas, who shall certify such registration thereon. Thereafter they shall be incontestable. The bonds shall be negotiable and shall contain the following provision: "The holder hereof shall never have the right to demand payment thereof out of money raised or to be raised by taxation."

Sec. 9. It shall be the duty of the commissioners court to charge sufficient rentals under any leases entered into pursuant hereto or rates for services rendered by the parking station if operated by the

county and to utilize any other sources of its revenues so that revenues will be produced sufficient to pay all expenses in connection with the ownership, operation, and upkeep of the parking station, to pay the principal of and interest on the bonds as they become due, and to create and maintain a bond reserve fund and other funds as provided in the bond order or trust indenture. The bond order or trust indenture may prescribe systems, methods, routines, and procedures under or in accordance with which the parking station shall be operated. No free use of the parking station or any part thereof shall be afforded to any person, firm, or corporation, and so long as any bonds issued under this Act are outstanding neither the county nor any of its agencies and departments shall make free use thereof, but the commissioners court is hereby authorized in behalf of the county to provide in any order authorizing such bonds or in any lease of the parking station for minimum periodic payments, from any resource of the county, into the bond interest and sinking fund or to the lessee as payment for use by the county and its agencies or departments, of any part of the parking station designated for use by the county or such agencies or departments.

Acts 1967, 60th Leg., p. 856, ch. 364, emerg. eff. June 8, 1967.

Section 10 of the act of 1967 was a severability provision.

Title of Act:

An Act authorizing the commissioners courts of counties which have a population in excess of 500,000 according to the most recent federal census and which have issued bonds for the purpose of constructing buildings and other permanent improvements to be used for coliseums and auditoriums within such counties, to construct, enlarge, furnish, equip, and operate parking stations in the vicinity of such coliseums and auditoriums; authorizing

the lease of said parking stations; authorizing the issuance of revenue bonds for such purposes; prescribing the procedure for the issuance of such bonds and the method of paying and securing the payment thereof; authorizing the issuance of refunding bonds; containing provisions prohibiting and relating to free service to private parties and to all parties during times bonds are outstanding; containing a severability clause; enacting other provisions relating to the subject; and declaring an emergency. Acts 1967, 60th Leg., p. 856, ch. 364.

Art. 2372r-1. Counties of 76,204 to 76,250; construction, restoration, preservation and maintenance of historical landmarks and buildings

Section 1. This Act applies to any county of this state having a population of not less than 76,204 nor more than 76,250, according to the last preceding Federal Census.

Sec. 2. The Commissioners Court is hereby empowered to appropriate and expend from the General Fund of said counties, monies for the purpose of purchasing, constructing, restoring, preserving, maintaining, and reconstructing historical landmarks, buildings, and furnishings which are of historical significance to such counties. The Commissioners Court may appropriate and expend such monies for the purposes herein given to historical foundations and organizations in said counties that are duly incorporated under the laws of this state as a non-profit corporation.

Acts 1967, 60th Leg., p. 1017, ch. 446, emerg. eff. June 12, 1967.

Section 3 of the act of 1967 was a severability provision.

Title of Act:

An Act authorizing the Commissioners Court in certain counties to appropriate and expend funds out of the General Fund for the purpose of purchasing, construct-

ing, restoring, preserving, maintaining, and reconstructing historical landmarks, buildings, and furnishings in said counties, and providing for the expenditure thereof; providing a severability clause; and declaring an emergency. Acts 1967, 60th Leg., p. 1017, ch. 446.

Art. 2372s. Parking stations near courthouses in counties of 900,000 or more

* * * * *

Bonds; pledge of revenues; payment of bonds

Sec. 3. The commissioners court may issue negotiable bonds to provide funds for the construction, enlargement, furnishing or equipping

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said parking station. Such bonds shall be payable from and secured by a pledge of the net revenues to be derived from the operation of the parking station and any other revenues resulting from the ownership of the parking station properties including rentals received from leasing all or part of said parking station. The commissioners court may additionally secure and provide for the payment of such bonds by the levy of an ad valorem tax of not to exceed one cent on each \$100 of taxable property in the county, in which event the provision stated in Section 8 hereof shall not be contained in the bonds.

Sec. 3 amended by Acts 1967, 60th Leg., p. 205, ch. 117, § 1, emerg. eff. May 4, 1967.

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Payment of bond interest

Sec. 6. Money for the payment of interest on the bonds and an amount estimated by the commissioners court to be required for operating expenses until the parking station becomes sufficiently operative may be set aside out of the proceeds from the sales of the bonds.

Sec. 6 amended by Acts 1967, 60th Leg., p. 205, ch. 117, § 2, emerg. eff. May 4, 1967.

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TITLE 45—COURTS—JUSTICE

CHAPTER ONE—JUSTICES AND JUSTICE COURTS

Art. 2373. [2283] [1560] [1533] Election, bond and term of office

The qualified voters of each justice precinct in this State, at each election, shall elect one justice of the peace, styled in this title "justice," who shall hold his office for four years. Each justice shall give bond payable to the county judge in a sum not to exceed five thousand dollars, conditioned that he will faithfully and impartially discharge the duties required of him by law, and will promptly pay over to the party entitled to receive it, all moneys that may come into his hands during his term of office.

Amended by Acts 1967, 60th Leg., p. 703, ch. 291, § 1, eff. Aug. 28, 1967.

CHAPTER 2—INSTITUTION OF SUIT

Art.
2393a. Exchange of benches [New].

Art. 2393a. Exchange of benches

A justice may hold court for any other justice whose precinct is in the same county; and the justices of a county may exchange benches whenever they deem it expedient.

Added by Acts 1967, 60th Leg., p. 954, ch. 421, § 1, eff. Aug. 28, 1967.

Art. 2399. [2315] [1592] [1563] Special and temporary justices

(a) If a justice be disqualified from sitting in any civil case, or is sick or absent from the precinct, the parties to such suit may agree upon some person to try the case; and should they fail to agree at the first term of the court after service is perfected, the county judge in whose county said case is pending, shall, upon the application of the justice in whose court said cause is pending, or upon the application of either party to said suit, appoint some person who is qualified to try said cause. The fact of the disqualification of the justice and the selection by agreement or appointment of some other person to try said cause shall be noted on the docket of said justice in said cause.

(b) If a justice is temporarily unable to perform his official duties because of illness, injury, or other disability, the county judge may appoint a qualified person to serve as temporary justice during the duration of the disability. The Commissioners Court shall compensate the temporary justice by the day, week, or month, in an amount equal to the compensation of the regular justice.

Amended by Acts 1967, 60th Leg., p. 291, ch. 135, § 1, emerg. eff. May 8, 1967.

Section 2 of the amendatory act of 1967 was a severability provision.

TITLE 47—DEPOSITORIES

CHAPTER ONE—STATE DEPOSITORIES

Art.
2529c. Selection and qualification of de-
positories of state agencies and
political subdivisions [New].

Art. 2529. 2423 Qualifications of depositories

As soon as practicable after the Board shall have passed upon said applications, the Treasurer shall notify all banks whose applications have been accepted, of their designation as State Depositories of state funds. The Treasurer shall require each bank so designated to qualify as a State Depository on or before the 25th day of November next, by (a) depositing a depository bond signed by some surety company authorized to do business in Texas, in an amount equal to not less than double the amount of state funds allotted, such bond to be payable to the Treasurer and to be in such form as may be prescribed by the Board and subject to the approval of such Board; or (b) by pledging with the Treasurer any securities of the following kinds: bonds and certificates and other evidences of indebtedness of the United States, and all other bonds which are guaranteed as to both principal and interest by the United States; bonds of this state; bonds and other obligations issued by The University of Texas; warrants drawn on the State Treasury against the General Revenue of the state; bonds issued by the Federal Farm Mortgage Corporation, provided both principal and interest of said bonds are guaranteed by the United States government; shares or share accounts of any building and loan association organized under the laws of this state, provided the payment of such shares or share accounts is insured by the Federal Savings and Loan Insurance Corporation, and in the shares or share accounts of any Federal Savings and Loan Association domiciled in this state, provided the payment of such shares or share accounts is insured by the Federal Savings and Loan Insurance Corporation; Home Owners Loan Corporation Bonds, provided both principal and interest of said bonds are guaranteed by the United States government, and such securities shall be accepted by the Board in an amount not less than five per cent (5%) greater than the amount of state funds which they secure; provided, that Texas Relief Bonds may be accepted at face value and without margin for the amount of state funds allotted, provided such State Relief Bonds have all unmatured coupons attached; bonds of counties located in Texas; road districts of counties in Texas; independent and common school districts located in Texas; bonds of any hospital district created under the laws of this state; tax bonds issued by municipal corporations in Texas; and bonds issued by a municipal corporation where the payment of such bonds is secured by a pledge of the net revenues of a utility system or systems (limited to those utility systems now authorized to be encumbered under the provisions of Articles 1111-1118a, Revised Civil Statutes, as amended, inclusive). All of such securities may be accepted by the Board, provided the aggregate amount thereof is not less than twenty per cent (20%) greater than the total amount of state funds that they secure; provided that the amount of all bonds and other obligations offered as collateral shall be determined by the Board on the basis of either their par or market value, whichever is less. The term "market value" as used herein shall mean the fair and reasonable prevailing price at which said bonds are being sold on the open market at the time of the appraisalment of the securities by the Board; and the action of the Board in fixing the valuation of said bonds shall be final, and not subject to review.

No state, county, road district bond, independent or common school district or municipal bonds, bonds of any hospital district created under the laws of this state, or obligations of the Board of Regents of the University issued by The University of Texas, shall be accepted as collateral security unless they shall be approved by the Attorney General. All bonds accepted as collateral security shall be registered under the same rules and regulations as are required for bonds in which the Permanent School Funds are invested. Subject to the approval of the Board, a state depository may secure its deposits of state funds in part by an acceptable surety bond and in part by acceptable collateral of the kind herein mentioned, and any losses sustained where a depository has secured its deposits in part by collateral and in part by a surety bond, the loss may be enforced against either the collateral security or the surety bond. No warrant drawn on the State Treasury shall be accepted as collateral unless said warrants are accompanied by affidavits, sworn to by some officer of the bank offering said warrants, which said affidavits shall affirm that none of the warrants offered as collateral security were transferred or assigned by the original payees of said warrants, or any of them, for a less consideration than ninety-eight per cent (98%) of the face value of said warrants, and that none of such warrants were obtained from the original payee by loaning money thereon at a rate of interest greater than eight per cent (8%) per annum. The Board shall have the power to reject any and all collateral or surety bonds tendered by a state depository, without assigning any reason therefor, and its action in so doing shall be final and not subject to review. Notwithstanding the foregoing provisions requiring security for state funds deposited in state depositories in the form of surety bond or collateral, security for such deposits shall not be required to the extent that said deposits are insured by the Federal Deposit Insurance Corporation under the provisions of Section 12b of the Federal Reserve Act as amended,¹ or as the same may hereafter be amended.

In the event the market value of the securities pledged by any depository shall decrease to the point where the collateral value of said securities, as fixed by the Board, is less than the amount of said funds on deposit in said depository, the Board shall require additional security in order to equalize such depreciation.

When the collateral pledged by a state depository to secure a deposit of state funds shall be in excess of the amount required under the provisions of this Act, the Treasurer may, subject to the approval of the Board, permit the release of any such excess. In the event the balance to the credit of the Treasurer on the books of such bank shall be thereafter increased, adequate security, as provided for in this Act, shall be deposited and maintained by such depository bank.

Amended by Acts 1967, 60th Leg., p. 1991, ch. 738, § 1, emerg. eff. June 18, 1967.

¹ 12 U.S.C.A. § 1811.

Art. 2529c. Selection and qualification of depositories of state agencies and political subdivisions

Section 1. The selection and qualification of depositories for the deposit of public funds of all agencies and political subdivisions of the state shall be in accord with the laws now in effect and hereinafter enacted pertaining thereto.

Sec. 2. The fact that an employee or officer of a state agency or political subdivision, who is not charged with the duty of selecting the depository thereof, is an officer, director or stockholder of a bank shall not disqualify said bank from serving as the depository of said state agency or subdivision.

A bank shall not be disqualified from bidding and becoming the depository for any agency or political subdivision of the state by reason

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of having one or more officers, directors or stockholders of said bank who individually or collectively own or have a beneficial interest in not more than 10 percent of the bank's outstanding capital stock, and at the same time serves as a member of the board, commission, or other body charged by law with the duty of selecting the depository of such state agency or political subdivision; provided, however, that said bank must be selected as the depository by a majority vote of the members of the board, commission, or other body of such agency or political subdivision and no member thereof who is an officer, director or stockholder of the bank shall vote or participate in the proceedings. Common-law rules in conflict with the terms and provisions of this Act are hereby modified as herein provided, but this Act shall never be deemed to alter, change, amend or supersede the provisions of any home-rule city charter which is in conflict herewith. Acts 1967, 60th Leg., p. 370, ch. 179, emerg. eff. May 12, 1967.

Section 3 of Acts 1967, 60th Leg., p. 370, ch. 179, was a severability provision.

Title of Act: An Act relating to the selection and qualification of depositories of all agencies and political subdivisions of the state; and declaring an emergency. Acts 1967, 60th Leg., p. 370, ch. 179.

Art. 2543c. Special depositories and deposits by state institutions of higher education

* * * * *

Sec. 3. The Governing Boards of the State institutions of higher learning shall deposit in the State Treasury all cash receipts accruing to any college or university under its control that may be derived from all sources except auxiliary enterprises, noninstructional services, agency and restricted funds, endowment funds, student loan funds, and Constitutional College Building Amendment funds. The State Treasurer is directed to credit such receipts deposited by each such institution to a separate fund account for the institution depositing the receipts, but he shall not be required to keep separate accounts of types of funds deposited by each institution. For the purpose of facilitating the transferring of such institutional receipts to the State Treasury, each institution shall open in a local depository bank a clearing account to which it shall deposit daily all such receipts, and shall, not less often than every seven (7) days, make remittances therefrom to the State Treasurer of all except Five Hundred Dollars (\$500) of the total balance in said clearing account, such remittances to be in the form of checks drawn on the clearing account by the duly authorized officers of the institution, and no disbursements other than remittances to the State Treasury shall be made from such clearing account. All moneys so deposited in the State Treasury shall be paid out on warrants drawn by the Comptroller of Public Accounts, as is now provided by law.

Sec. 3 amended by Acts 1967, 60th Leg., p. 1092, ch. 481, § 1, eff. Aug. 28, 1967.

* * * * *

Section 2 of the act of 1967 amended article 2654d, § 2.

TITLE 49—EDUCATION—PUBLIC

CHAPTER ONE—UNIVERSITY OF TEXAS

1. BOARD OF REGENTS

- Art.
2584a. Change of name to Board of Regents of the University of Texas System [New].
- 2585c. Names of certain institutions [New].
- 2585d. Organizational arrangement of certain institutions [New].

2. FUNDS AND PROPERTIES

- Art.
2504a. Funds received for services rendered to trust estates; deposit and expenditure [New].
- 2603b—4. Conveyance of tract to El Paso County; field house site; lease agreement [New].
3. GENERAL PROVISIONS
- 2606d. Institutes for urban studies [New].

1. BOARD OF REGENTS

Art. 2584a. Change of name to Board of Regents of The University of Texas System

Section 1. The name of the "Board of Regents of The University of Texas" is changed to the "Board of Regents of The University of Texas System," but no change in the interests, rights, powers, duties or responsibilities of such Board is intended or made by this Section other than in its name.

Acts 1967, 60th Leg., p. 24, ch. 7, emerg. eff. March 6, 1967.

Acts 1967, 60th Leg., p. 24, ch. 7, § 2, authorized the Board of Regents to change the names of certain institutions and is codified as article 2585c; section 3 thereof, provided for the organizational arrangement of certain institutions and is codified as article 2585d; section 4 thereof provided: "Sec. 4. All appropriations heretofore made and now effective and all appropriations hereinafter made by the Legislature for the use and benefit of any above named institution, whose name is authorized to be changed herein, shall be available for the use and benefit of such institution after such name change is made. All contracts, bonds, notes or other debentures heretofore issued by any above named institution, whose name is herein authorized to be changed, are hereby ratified, confirmed and validated for and on behalf of such institution after such name change is made. As to the institutions herein mentioned, it is not intended hereby to change the classification, status, role or scope of

any such institution or change any department, school or degree program thereof, nor shall anything herein be deemed to increase, diminish, alter or in any way change the heretofore existing rights and/or interests of any of the respective institutions mentioned herein in and to The University of Texas System's share of the Permanent University Fund and/or of the interest and income therefrom."

Title of Act:

An Act changing the name of the "Board of Regents of The University of Texas" to the "Board of Regents of The University of Texas System"; authorizing the Board of Regents to change the name of certain institutions within The University of Texas System; providing an organizational arrangement; providing for transfer of appropriations and obligations and for no other change in status; and declaring an emergency. Acts 1967, 60th Leg., p. 24, ch. 7.

Art. 2585c. Names of certain institutions

Section 1. [Codified as article 2584a].

Sec. 2. The Board of Regents of The University of Texas System is hereby authorized to change the name of certain of the institutions within that System as follows:

- (a) Change the name of the "Main University of Texas at Austin" to "The University of Texas at Austin."
- (b) Change the name of "McDonald Observatory at Mount Locke" to "The University of Texas McDonald Observatory at Mount Locke."
- (c) Change the name of the "Marine Science Institute at Port Aransas" (sometimes referred to as the "Institute of Marine Science, Port Aransas, Texas") to "The University of Texas Marine Science Institute at Port Aransas."

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(d) Change the name of "The University of Texas South Texas Medical School" to "The University of Texas Medical School at San Antonio."

(e) Change the name of "The University of Texas School of Public Health" to "The University of Texas School of Public Health at Houston."

(f) Change the name of the "Institute for Dental Science" to "The University of Texas Dental Science Institute at Houston."

(g) Change the name of "The University of Texas Dental School" to "The University of Texas Dental School at Houston."

(h) Change the name of "Arlington State College at Arlington" (sometimes referred to as "Arlington State College of The University of Texas System") to "The University of Texas at Arlington."

(i) Change the name of "Texas Western College of The University of Texas at El Paso" (sometimes referred to as "Texas Western College, El Paso" or "Texas Western College of El Paso") to "The University of Texas at El Paso."

Acts 1967, 60th Leg., p. 24, ch. 7, emerg. eff. March 6, 1967.

Sec. 3. [Codified as article 2585d].

Section 4 of Acts 1967, 60th Leg., p. 25, institutions and is set out as a note under ch. 7, related to appropriations for such in- article 2584a.

Art. 2585d. Organizational arrangement of certain institutions

Section 1. [Codified as article 2584a].

Sec. 2. [Codified as article 2585c].

Sec. 3. The Board of Regents of The University of Texas System is hereby authorized to provide and declare that:

(a) "The University of Texas McDonald Observatory at Mount Locke" and "The University of Texas Marine Science Institute at Port Aransas" are parts of and under the direction and control of "The University of Texas at Austin."

(b) "The University of Texas Medical Branch at Galveston" is composed of "The University of Texas Medical School at Galveston," "The University of Texas Nursing School at Galveston," "The University of Texas Hospitals at Galveston" (including the "John Sealy Hospital," the "Rosa and Henry Ziegler Hospital," the "Marvin L. Graves Hospital," the "Children's Hospital," the "Randall Pavilion," the "R. Waverly Smith Pavilion," the "John W. McCullough Outpatient Clinic," and the "Moody School for Cerebral Palsied Children," and such other institutions and activities as may be from time to time assigned to it.

(c) "The University of Texas Dental Branch at Houston" is composed of "The University of Texas Dental School at Houston," "The University of Texas Dental Science Institute at Houston," and such other institutions and activities as may from time to time be assigned to it.

(d) "The University of Texas at Houston" is composed of "The University of Texas Dental Branch at Houston," "The University of Texas M. D. Anderson Hospital and Tumor Institute at Houston," "The University of Texas Graduate School of Biomedical Sciences at Houston," "The University of Texas School of Public Health at Houston," and such other institutions and activities as may from time to time be assigned to it.

Acts 1967, 60th Leg., p. 24, ch. 7, emerg. eff. March 6, 1967.

Section 4 of Acts 1967, 60th Leg., p. 25, institutions and is set out as a note under ch. 7, related to appropriations for such article 2584a.

2. FUNDS AND PROPERTIES

Art. 2591a. Investment of permanent funds of University

Bonds and obligations

Section 1. The Board of Regents of The University of Texas is authorized to invest the Permanent Fund of The University of Texas in:

- 1. Bonds of the State of Texas;
- 2. Bonds of the United States;
- 3. Bonds of counties of the State of Texas; school bonds of municipalities of the State of Texas; bonds of cities in the State of Texas;
- 4. Obligations and pledges issued by the Board of Regents of The University of Texas, or secured by such obligations and pledges for the construction of dormitories and other buildings for The University of Texas, in accordance with the terms hereinafter set forth in this Act; and
- 5. Bonds issued, assumed, or guaranteed by the Inter-American Development Bank.

Sec. 1 amended by Acts 1967, 60th Leg., p. 1829, ch. 707, § 3, eff. Aug. 28, 1967.

* * * * *

Conditional Amendment

Amendment of section 1 of this article proposed by Acts 1967, 60th Leg., p. 1829, ch. 707, § 3, to become effective as a law is conditioned on adoption, by the electors, of amendment to Const. art. 7, § 11a, proposed by H.J.R. No. 20, Acts 1967, 60th Leg., p. 2987, at an election to be held on November 5, 1968. See Acts 1967, 60th Leg., p. 1829, ch. 707, § 4 set out as a note hereunder.

Acts 1967, 60th Leg., p. 1829, ch. 707, § 1 on the passage of the amendment to the amended V.A.T.S. Insurance Code, art. 3.39; section 2 of the act amended article 2669; section 4 thereof provided: "Sec. 4. Joint Resolution No. 16, 60th Legislature." Section 3 of this Act takes effect only up-

Art. 2594a. Funds received for services rendered to trust estates; deposit and expenditure

The Board of Regents of The University of Texas System is hereby authorized to deposit in an appropriate university account all funds received as administrative fees or charges for services rendered in the management and administration of any trust estate under the control of the University System or any institution thereof. The funds so received as administrative fees or charges may be expended by the Board of Regents for any educational purpose of The University of Texas System.

Acts 1967, 60th Leg., p. 45, ch. 23, § 1, emerg. eff. March 21, 1967.

Title of Act:

An Act authorizing the Board of Regents of The University of Texas System to deposit in an appropriate university account all funds received as administrative fees or charges for services rendered to trust estates and to use such funds for educational purposes; and declaring an emergency. Acts 1967, 60th Leg., p. 45, ch. 23.

Art. 2603a. Board for lease of oil and gas land

* * * * *

Sec. 11. Royalty as stipulated in the sale shall be paid to the General Land Office at Austin, Texas, for the benefit of the University Permanent Fund on or before the last day of each month for the preceding month during the life of the rights purchased and it shall be accompanied by the sworn statement of the owner, manager or other authorized agent showing the gross amount of oil produced and saved since the last report and the amount of gas produced and sold off the premises and the market

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value of the oil and gas, together with a copy of all daily gauges of tanks, gas meter readings, pipeline receipts, gas line receipts, and other checks and memoranda of the amounts produced and put into pipelines, tanks or pools and gas lines or gas storage. The books and accounts, receipt and discharges of all wells, tanks, pools, meters, pipelines and all contracts and other records pertaining to the production, transportation, sale and marketing of the oil and gas shall at all times be subject to inspection and examination by the Commissioner of the General Land Office, the Attorney General, the Governor, or any member of the Board of Regents of The University of Texas, or the representative of either.

Sec. 11 amended by Acts 1967, 60th Leg., p. 910, ch. 400, § 1, emerg. eff. June 8, 1967.

*	*	*	*	*	*	*	*	*	*
Acts 1967, 60th Leg., p. 910, ch. 400, §§ 2-9 amended articles 2613a-3, § 10; 2628a-9, § 10; 3183a, § 11; 5380; 5382d, § 9; 5382e, § 1(b); 6077o, § 11 and 6203a, § 11 by	changing the day on which oil and gas royalties on public lands must be paid to the state.								

Art. 2603b—4. Conveyance of tract to El Paso County; field house site; lease agreement

Section 1. The Board of Regents of The University of Texas is hereby authorized and empowered to select a tract of land not exceeding ten (10) acres upon the campus of The University of Texas at El Paso, El Paso, El Paso County, Texas, a part of The University of Texas System, and to convey such tract so selected to the County of El Paso, Texas, as a field house site upon which site will be erected and constructed a field house to seat at least 15,000, parking areas, access roads, and related facilities by the County of El Paso, Texas, at its expense, said conveyance to provide that title to said tract of land shall revert to the Board of Regents should such field house be abandoned permanently, and said conveyance to contain such other considerations as may be mutually agreeable to the Board of Regents and the County of El Paso.

Sec. 2. The Board of Regents of The University of Texas is further authorized to contract with the County of El Paso for the leasing of the field house to the Board of Regents of The University of Texas for the use and benefit of The University of Texas at El Paso by the County of El Paso for a term of ninety-nine (99) years at a consideration of One Dollar (\$1.00) per year, said lease to provide for a reservation of use by the County of El Paso for the staging of the Sun Bowl activities and such other considerations as may be mutually agreeable to the Board of Regents and the County of El Paso: said Board of Regents to grant easements to the County of El Paso for right-of-way for public ways as will provide adequate ingress and egress by the public in using said field house.

Sec. 3. The Board of Regents of The University of Texas and the County of El Paso are hereby authorized to execute and deliver all instruments, including a deed of conveyance and a lease agreement, and do all things necessary to carry out the purpose and intent of this law. Acts 1967, 60th Leg., p. 1224, ch. 553, eff. Aug. 28, 1967.

Title of Act:

An Act authorizing the Board of Regents of The University of Texas to select and convey to the County of El Paso, Texas, a tract of land not exceeding ten (10) acres upon the campus of The University of Texas at El Paso, El Paso, Texas, as a field house site upon which site will be erected and constructed a field house, parking areas, access roads, and related facilities by the County of El Paso, Texas, at its expense, said instrument of conveyance

providing for reverter to the Board of Regents if permanently abandoned and other considerations which are mutually agreeable to the Board of Regents and the County of El Paso; authorizing the Board of Regents of The University of Texas to contract with the County of El Paso, Texas, for the leasing of the field house site to the Board of Regents for the use and benefit of The University of Texas at El Paso for a term of ninety-nine (99) years at a consideration of One Dollar (\$1.00) per

year, said lease to provide a reservation of use for the Sun Bowl activities of El Paso; authorizing the granting of easements for right-of-way purposes and empowering the Board of Regents and the County of El

Paso to do any and all things necessary to carry out the purpose and intent of the Act; and declaring an emergency. Acts 1967, 60th Leg., p. 1224, ch. 553.

3. GENERAL PROVISIONS

Art. 2606c. The University of Texas Medical School at San Antonio

* * * * *

Conduct and operation

Sec. 4. The Board of Regents of The University of Texas¹ shall proceed with the planning necessary for the conduct and operation of a first class medical college.

Sec. 4 amended by Acts 1967, 60th Leg., p. 336, ch. 160, § 1, emerg. eff. May 12, 1967.

¹ Name changed to "The Board of Regents of The University of Texas System." See article 2584a.

Change of Name

Acts 1967, 60th Leg., p. 24, ch. 7, § 2 authorized the Board of Regents of The University of Texas System to change the name of "The University of Texas South Texas Medical School" to "The University of Texas Medical School at San Antonio." See article 2585c.

Art. 2606d. Institutes for urban studies

Establishment and maintenance of institutes in Fort Worth-Dallas and Houston metropolitan areas

Section 1. The Board of Regents of The University of Texas and the Board of Regents of the University of Houston shall establish and maintain Institutes for Urban Studies in the Fort Worth-Dallas metropolitan area and the Houston metropolitan area respectively.

Duties of institutes

Sec. 2. These Institutes of Urban Studies shall conduct basic and applied research into urban problems and public policy and make available the results of this research to private groups and public bodies and public officials. They may offer consultative and general advisory services concerning urban problems and their solution. According to the policies of the Coordinating Board, Texas College and University System, and with its approval they may conduct instructional and training programs for those who are working in or expect to make careers in urban public service. Such training programs may be conducted by the institutions either in their own name or by agreement and cooperation with other public and private organizations.

For purposes of correlation of their programs in the interest of both educational institutions and the state generally, these Institutes should maintain: (1) a union catalogue of research resources, (2) regular liaison concerning programs undertaken in either basic or applied research or public service, and (3) a joint committee for future planning. In this correlation, the Institutes should proceed through regular channels, including the staff of the Coordinating Board, Texas College and University System.

Administration of institutes

Sec. 3. The administration of the Institutes for Urban Studies shall be under the direction of the Chancellor and Board of Regents of The

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University of Texas and the President and Board of Regents of the University of Houston, respectively. The administrative officer of each Institute for Urban Studies shall be appointed by the chief academic executive of his university and with the approval of that university's governing board. The Director shall appoint the professional and administrative staff of the Institute for Urban Studies according to usual procedures and with the approval of the appropriate governing board.

Appropriations and funds

Sec. 4. In addition to state appropriations to the Institutes of Urban Studies, the Institutes may receive and expend or use, under such rules as the chief academic officer and the governing board may establish, and under such laws of the state as apply, funds, property or services from any source, public or private.

Acts 1967, 60th Leg., p. 594, ch. 268, eff. Aug. 28, 1967.

Acts 1967, 60th Leg., p. 594, ch. 268, § 5 provided: "Sec. 5. This Act shall be cumulative of all laws, general or special."

Title of Act:

An Act directing the Board of Regents of The University of Texas to establish and maintain an Institute for Urban Studies in the Fort Worth-Dallas metropolitan area and the Board of Regents of the University of Houston to establish and

maintain an Institute for Urban Studies in the Houston metropolitan area; providing for the duties of said Institutes; providing for organization and administration of said Institutes; authorizing the acceptance and use of funds, property and services by said Institutes; and declaring an emergency. Acts 1967, 60th Leg., p. 594, ch. 268.

Art. 2613a—3. Lease of lands for oil, gas or other mineral development authorized

* * * * *

Royalty payable to General Land Office

Sec. 10. If oil or other minerals are developed on any of the lands leased by the Board, the royalty or moneys as stipulated in the sale shall be paid to the General Land Office at Austin, Texas, on or before the last day of each month for the preceding month during the life of the rights purchased, and be set aside in the State Treasury as specified in Section 1 hereof, and said funds may be used as therein provided. Said royalty or moneys paid to the General Land Office as above stipulated shall be accompanied by the sworn statement of the owner, manager, or other authorized agent showing the gross amount of oil, gas, sulphur, mineral ore, and other minerals produced and saved since the last report and the amount of oil, gas, sulphur, mineral ore, and other minerals produced and sold off the premises and the market value of the oil, gas, sulphur, mineral ore, and other minerals together with a copy of all daily gauges, or vats, tanks, gas meter readings, pipeline receipts, gas line receipts and other checks and memoranda of the amounts produced and put into pipelines, tanks, vats, or pool and gas lines, gas storage, other places of storage and other means of transportation. The books and accounts, receipts and discharges of all wells, tanks, vats, pools, meters, pipelines, and all contracts and other records pertaining to the production, transportation, sale and marketing of the oil, gas, sulphur, mineral ore, and other minerals shall at all times be subject to inspection and examination of any member of the Board of Directors of the Agricultural and Mechanical College of Texas or any duly authorized representative of said Board. The Commissioner of the General Land Office shall tender to the Board of Directors of the Agricultural and Mechanical College of Texas on or before the 10th day of each month a report of all receipts from the lease or sale of oil, gas, sulphur, mineral ore, and other minerals turned into the special fund in the State Treasury of the preceding month

Sec. 10 amended by Acts 1967, 60th Leg., p. 911, ch. 400, § 2, emerg. eff. June 8, 1967.

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Acts 1967, 60th Leg., p. 910, ch. 400, §§ 1, 3-9 amended articles 2603a, § 11; 2628a-9, § 10; 3183a, § 11; 5380; 5382d, § 9; 5382e, § 1(b); 6077o, § 11 and 6203a, § 11 by changing the day on which oil and gas royalties on public lands must be paid to the state.

Art. 2615d. Adjunct of Texas A & M University in Kimble County

* * * * *

Sec. 2. The Board of Directors of Texas A&M University is authorized to provide at the adjunct any services which conform to the leading object of Texas A&M University as defined in Article 2608 of the Revised Civil Statutes of Texas, 1925, including research, subject to the exception that not more than \$300,000 may be expended from available plant funds for buildings and improvements without the specific authorization of the Legislature of Texas.

Sec. 2 amended by Acts 1967, 60th Leg., p. 351, ch. 168, § 1, eff. Aug. 28, 1967.

Art. 2615f—1. James Connally Technical Institute of Texas A & M University

Section 1. (a) The Board of Directors of Texas A & M University is authorized to accept or to acquire by purchase, in the name of the State of Texas, any or all of James Connally Air Force Base in Waco, McLennan County, Texas, including any or all real or personal property therein contained, free and clear of any restrictions on the use or disposal of the property.

(b) The Board of Directors of Texas A & M University shall inspect James Connally Air Force Base and shall handle all transactions in connection with the base, from securing the option on the land until final consummation of the purchase or acquisition when the deed is delivered to the Board of Directors of Texas A & M University. All contract documents necessary to carry out the provisions of this Act may be executed by the President of Texas A & M University. Title to the land when purchased or acquired shall be in the State of Texas and held for the use and benefit of Texas A & M University.

(c) Out of any money appropriated to Texas A & M University for the fiscal year ending August 31, 1968, Texas A & M University may expend the amount needed to carry out the purposes of this Act.

(d) The purchase price shall be paid to the United States of America or its designee.

(e) Texas A & M University may procure the property and liability insurance coverages required by the United States to protect it and its agencies against the possibility of loss or liability in connection with property owned by the United States and loaned to the James Connally Technical Institute of Texas A & M University pursuant to the provisions of the National Industrial Reserve Act of 1948, 50 U.S.C. Secs. 451-462.

Sec. 1 amended by Acts 1967, 60th Leg., p. 818, ch. 344, § 2, emerg. eff. June 8, 1967.

* * * * *

Sec. 4A. (a) The Board of Directors of Texas A & M University is authorized to lease, sell, transfer or exchange land and permanent improvements of the James Connally Air Force Base that the board determines is not necessary for the establishment or operation of the James Connally Technical Institute of Texas A & M University.

(b) The Board of Directors of Texas A & M University is authorized to irrevocably pledge the fees, charges, revenues, and the proceeds of the lease, sale, transfer or exchange of or from the buildings, land,

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structures and the additions to the existing buildings and structures authorized to be constructed, improved or equipped and to pledge the revenues or the proceeds of the lease, sale, transfer or exchange of or from any other revenue producing buildings, structures, facilities and other property to the payment of the interest on the principal of bonds or notes authorized to be issued by Chapter 368, Acts of the 54th Legislature, Regular Session, 1955,¹ as amended, and to enter into agreements regarding the imposition of fees, charges, and other revenue and the collection, pledge and disposition as the board deems appropriate. However, where land and improvements on the land, the revenue of which has been pledged to pay bonds, are to be sold, the sale is conditioned on the deposit by the board of the proceeds of the sale to the sinking fund created by the bond order of the issuing authority.

(c) Leases executed under Subsection (a) of this Section shall be limited to terms of not more than 10 years, but the leases may be renewed by the board.

(d) All income received by the board under the provisions of Section 4A of this Act shall be accounted for and used in the same manner as other moneys available to the board for the establishment or operation of the James Connally Technical Institute of Texas A & M University. Sec. 4A added by Acts 1967, 60th Leg., p. 817, ch. 344, § 1, emerg. eff. June 8, 1967.

¹ Article 2909c.

Sec. 4B. The bonds and notes authorized to be issued under Chapter 368, Acts of the 54th Legislature, Regular Session, 1955,¹ as amended, are special obligations of the board of directors issuing the bonds and notes and are payable only from a pledge of the fees, charges and other revenues authorized by Section 4A of this Act and from the proceeds of the lease, sale, transfer or exchange of land and improvements on the land, the revenue of which is pledged to secure the payment of interest on and principal of the bonds.

Sec. 4B added by Acts 1967, 60th Leg., p. 817, ch. 344, § 1, emerg. eff. June 8, 1967.

¹ Article 2909c.

Sections 3 and 4 of the 1967 amendatory act provided:

"Sec. 3. All laws or parts of laws in conflict with the provisions of this Act are repealed to the extent of that conflict.

"Sec. 4. If any provision of this Act or the application thereof to any person or

circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable."

CHAPTER FOUR—THE UNIVERSITY OF TEXAS AT ARLINGTON

Change of Name

Acts 1967, 60th Leg., p. 24 ch. 7, § 2 authorized the Board of Regents of The University of Texas System to change the name of "Arlington State College of the University of Texas System" to "The University of Texas at Arlington." See article 2585c.

CHAPTER FIVE—TEXAS WOMAN'S UNIVERSITY
AND TEXAS A & I UNIVERSITY

TEXAS A & I UNIVERSITY

Art.
2628a—1a. Change of name [New].

Change of Name

The name of Texas College of Arts and Industries at Kingsville was changed to Texas A & I University by Acts 1967, 60th Leg., p. 334, ch. 158. See article 2628a—1a.

TEXAS A & I UNIVERSITY

Art. 2628a—1a. Change of name

Section 1. The name of the coeducational institution of higher learning at Kingsville, Texas, now known as the Texas College of Arts and Industries, shall hereafter be known and designated as the Texas A&I University.

Sec. 2. Wherever the name Texas College of Arts and Industries, or any reference thereto, appears in the Revised Civil Statutes of Texas, or in any amendments thereto, or in any of the acts of the Legislature or the Constitution of Texas, such name and such reference shall hereafter mean and apply to Texas A&I University, in order to conform to the new name of said institution as provided in Section 1 hereof.

Sec. 3. All legislative acts and appropriations heretofore passed by reference to or for the benefit of the Texas College of Arts and Industries are hereby in all things ratified and confirmed to, and for the benefit of, Texas A&I University; and any and all bonds or notes heretofore issued by or in the name of the Texas College of Arts and Industries are hereby in all things ratified, confirmed, and validated for and on behalf of the Texas A&I University.

Sec. 4. Any and all funds allocated to and the bonds or notes authorized to be issued by or on behalf of the Texas College of Arts and Industries under Section 17 of Article VII of the Constitution of Texas, shall be allocated to and said bonds or notes shall be issued by and on behalf of the Texas A&I University, and any bonds or notes so issued shall have the same force and effect as if issued by or on behalf of the Texas College of Arts and Industries; and any bonds or notes heretofore issued pursuant to such constitutional authority for and on behalf of the Texas College of Arts and Industries are hereby in all things ratified, confirmed, and validated for and on behalf of the Texas A&I University.

Sec. 5. The provisions of this Act shall take effect and be in full force on and after September 1, 1967.
Acts 1967, 60th Leg., p. 334, ch. 158, emerg. eff. Sept. 1, 1967.

Section 6 of Acts 1967, 60th Leg., p. 334, ch. 158 was a severability provision and section 7 thereof repealed conflicting laws.

Title of Act:

An Act changing the name of Texas College of Arts and Industries at Kingsville, Texas, to Texas A&I University at Kingsville, Texas; making all laws and agreements heretofore or hereafter enacted applicable to said institution under its new name; providing that all legislative acts and appropriations for the benefit of the Texas College of Arts and Industries shall

be applicable to and shall benefit the Texas A&I University; providing that funds allocated to and bonds issued by and on behalf of the Texas College of Arts and Industries under the Constitution shall be allocated to and issued by the Texas A&I University; ratifying, confirming and validating all bonds and notes heretofore issued in the name of the Texas College of Arts and Industries; providing for severability; repealing all laws or parts of laws in conflict herewith; and declaring an emergency. Acts 1967, 60th Leg., p. 334, ch. 158.

For Annotations and Historical Notes, see V.A.T.S.

Art. 2628a—9. Lease of lands of Texas College of Arts and Industries and of Texas Technological College for oil, gas, sulphur or other mineral development; deposit and use of proceeds

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Payment of royalties; inspection and examination of books, accounts, etc.; report of receipts

Sec. 10. If oil or other minerals are developed on any of the lands leased by such Board, the royalty as stipulated in the sale shall be paid to the General Land Office at Austin, Texas, on or before the last day of each month for the preceding month during the life of the rights purchased, and be set aside in the State Treasury as specified in Section 1 hereof, and said funds may be used as therein provided. Said royalty paid to the General Land Office as above stipulated shall be accompanied by the sworn statement of the owner, manager, or other authorized agent showing the gross amount of oil, gas, sulphur, and/or other minerals produced and sold off the premises and the market value of the oil, gas, sulphur, and/or other minerals together with a copy of all daily gauges, or vats, tanks, gas meter readings, pipeline receipts, gas line receipts, and other checks and memoranda of the amounts produced and put into pipelines, tanks, vats, or pool and gas lines or gas storage. The books and accounts, receipts and discharges of all wells, tanks, vats, pools, meters, pipelines, and all contracts and other records pertaining to the production, transportation, sale and marketing of the oil, gas, sulphur, and/or other minerals shall at all times be subject to inspection and examination of any member of the Board of Directors of the Texas Technological College or any duly authorized representative of said Board or any member of the Board of Directors of the Texas College of Arts and Industries or any duly authorized representative of said Board, as the case may be. The Commissioner of the General Land Office shall tender to the Board of Directors of the Texas Technological College or to the Board of Directors of the Texas College of Arts and Industries, as the case may be, on or before the 10th day of each month a report of all receipts from the lease or sale of oil, gas, sulphur, and/or other minerals turned into the special fund in the State Treasury of the preceding month.

Sec. 10 amended by Acts 1967, 60th Leg., p. 911, ch. 400, § 3, emerg. eff. June 8, 1967.

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Acts 1967, 60th Leg., p. 910, ch. 400, §§ 1, 2, 4-9 amended articles 2603a, § 11; 2613a-3, § 10; 3183a, § 11; 5380; 5382d, § 9; 5382e, § 1(b); 6077o, § 11 and 6203a, § 11 by changing the day on which oil and gas royalties on public lands must be paid to the state.

CHAPTER SIX—TEXAS TECHNOLOGICAL COLLEGE

<p>Art. 2632f—1. Conveyance of permanent water line easement [New].</p>	<p>Art. 2632g. Purchase of residence for president [New]. 2632h. Research park [New].</p>
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Art. 2632f—1. Conveyance of permanent water line easement

In consideration of the benefits which will accrue to the State of Texas and Texas Technological College from the construction, reconstruction, operation and maintenance by the City of Lubbock, a Home Rule Municipal Corporation, of a permanent water line together with all appurtenances thereto, in, under and across certain lands in Lubbock County, Texas, such land being owned by the State of Texas and constituting a portion of Texas Technological College, the Chairman of the Board of Directors of Texas Technological College is hereby authorized to execute and deliver on behalf of the State of Texas and Texas Tech-

nological College to the City of Lubbock a proper instrument conveying to said City of Lubbock a permanent water line easement with the right of ingress and egress to construct, reconstruct, operate and maintain a permanent water line, to be located as more particularly determined by the Board of Directors of Texas Technological College upon approval by said Board of Directors of the plans and specifications for the construction of said water line facility, and the said Chairman of the Board of Directors of Texas Technological College is hereby authorized for and on behalf of said Board of Directors to execute and deliver such conveyance to carry out the purposes of this Act to the City of Lubbock, Lubbock County, Texas.

Acts 1967, 60th Leg., p. 1093, ch. 482, § 1, emerg. eff. June 12, 1967.

The preamble of Acts 1967, 60th Leg., p. 1093, ch. 482, provided:

"WHEREAS, The City of Lubbock, a municipal corporation, in Lubbock County, Texas, plans to construct, reconstruct, and perpetually maintain a water line together with all appurtenances thereto, in, under, and across certain lands in Lubbock County, Texas, which land is owned by the State of Texas and devoted to the use and benefit of Texas Technological College and constitutes a portion of the land of said college; and

"WHEREAS, The Board of Directors of Texas Technological College has found and determined that the construction of such a water line facility for the purpose of providing fire protection and water service for Texas Technological College and citizens of Southwest Lubbock will be of material benefit to said college and will constitute adequate consideration for the conveyance of such an easement unto the City of Lubbock out of Texas Technological College campus land; and

"WHEREAS, The title to all land of Texas Technological College is in the State of

Texas and a proper conveyance of a permanent water line easement can be made only by an Act of the Legislature of the State of Texas; now, therefore."

Title of Act:

An Act providing for the conveyance by the Chairman of the Board of Directors of Texas Technological College, on behalf of the State of Texas, to the City of Lubbock, of a permanent water line easement in order to construct, reconstruct, and perpetually maintain a water line together with all appurtenances thereto, in, under, and across certain lands in Lubbock County, Texas, being a part of the lands of Texas Technological College; authorizing the Chairman of the Board of Directors of Texas Technological College to execute and deliver on behalf of the said Board of Directors and the State of Texas a proper conveyance granting such easement to the City of Lubbock; and declaring an emergency. Acts 1967, 60th Leg., p. 1093, ch. 482.

Art. 2632g. Purchase of residence for president

The Board of Directors of Texas Technological College may purchase a house or may purchase land and construct a house suitable for the residence of the president of Texas Technological College.

Acts 1967, 60th Leg., p. 115, ch. 60, § 1, eff. Aug. 28, 1967.

Title of Act:

An Act relating to the purchase of a residence for the president of Texas Tech-

nological College; and declaring an emergency. Acts 1967, 60th Leg., p. 115, ch. 60.

Art. 2632h. Research park

Section 1. The board of directors of Texas Technological College may plan, develop, and maintain a research park on a portion of the campus of the college. For this purpose, the board may select and set aside a tract of land on the campus of approximately 150 acres.

Sec. 2. The board may subdivide the tract into lots and lease the lots to persons, firms, foundations, associations, corporations, and government agencies for the purpose of conducting research. Each lessee may construct buildings and facilities appropriate for research, subject to rules of the board.

Sec. 3. The board may execute any lease deemed favorable to the college; and the board shall establish standards of admission for tenant organizations, rental rates, and architectural and landscaping standards.

Sec. 4. Money received from the rental of sites in the research park shall be used to offset the expenses involved in developing the sites and

For Annotations and Historical Notes, see V.A.T.S.

providing utilities and services. Any excess of receipts over expenses shall be applied toward research activities undertaken in behalf of the college. The support and maintenance of the park shall never become a charge against or obligation of the State of Texas.

Sec. 5. The research park shall be used for research only, and the board shall prohibit manufacturing, social, political, religious, fraternal, and other uses.

Acts 1967, 60th Leg., p. 1127, ch. 496, eff. Aug. 28, 1967.

Title of Act: of the campus of Texas Technological College; and declaring an emergency.
An Act relating to the creation and operation of a research park on a portion of the campus of Texas Technological College; and declaring an emergency. Acts 1967, 60th Leg., p. 1127, ch. 496.

CHAPTER SEVEN—THE UNIVERSITY OF TEXAS AT EL PASO

Change of Name

Acts 1967, 60th Leg., p. 24, ch. 7, § 2 authorized the Board of Regents of The University of Texas System to change the name of "Texas Western College of The University of Texas at El Paso" to "The University of Texas at El Paso." See article 2585c.

CHAPTER NINE—STATE COLLEGES AND UNIVERSITIES

1. GENERAL PROVISIONS

Art.

2647c—1. Elective courses in dactylogy [New].

Art.

2647c—2. Faculty development leaves of absence [New].

1. GENERAL PROVISIONS

Art. 2647c—1. Elective courses in dactylogy

Section 1. In this Act, "dactylogy" means the art of communicating ideas by signs made with the fingers, as in the manual alphabets of deaf-mutes.

Sec. 2. All state colleges and universities offering a fully accredited program for teachers of the deaf may offer a three-hour elective course in dactylogy.

Acts 1967, 60th Leg., p. 559, ch. 246, eff. Aug. 28, 1967.

Title of Act:

An Act permitting state colleges and universities offering a fully accredited program for teachers of the deaf to offer a three-hour elective course in dactylogy; and declaring an emergency. Added Acts 1967, 60th Leg., p. 559, ch. 246.

Art. 2647c—2. Faculty development leaves of absence

Legislative finding and purpose

Section 1. The Legislature finds that higher education is vitally important to the welfare, if not the survival, of Texas and the United States at this stage in history and that the quality of higher education is dependent upon the quality of college and university faculties. The Legislature finds, therefore, that moneys spent upon recognized means for producing an excellent system of public higher education is money spent to serve a public purpose of great importance. The Legislature finds further that a sound program of faculty development leaves of absence designed to enable the faculty member to engage in study, research, writing, and like projects for the purpose of adding to the knowledge available to himself, his students, his institution, and society generally is a well-recognized means for improving a state's program of public higher educa-

tion. The Legislature's purpose in establishing the faculty development leave program provided for by this Act is to improve further the higher education available to the youth at the state-supported colleges and universities and to establish this program of faculty development leaves as part of the plan of compensation for the faculty of these colleges and universities.

Definitions

Sec. 2. As used in this Act, unless the context otherwise requires:

(a) "Institution of higher education" means an institution of higher education as defined under the provisions of Chapter 12, Acts, Regular Session, 59th Legislature (1965), and including James Connally Technical Institute, except Public Junior Colleges and the Rodent and Predatory Animal Control Service.

(b) "Governing Board" means the body charged with policy direction of any institution of higher education.

(c) "Faculty member" means a person employed by an institution of higher education on full-time basis as a member of the faculty or staff and whose duties include teaching, research, administration, including professional librarians, or the performance of professional services but does not mean a person employed in a position which is in the institution's classified personnel system or a person employed in a similar type of position if the institution does not have a classified personnel system.

Granting the leave

Sec. 3. Upon application by a faculty member, the governing board of an institution of higher education may grant a faculty development leave of absence for study, research, writing, field observations or other suitable purpose, to a faculty member if it finds that he is eligible therefor by reason of service, that the purpose for which he seeks a faculty development leave is one for which a faculty development leave may be granted, and that granting leave to him will not place on faculty development leave a greater number of faculty members than that authorized. The governing board shall by regulation establish a procedure whereby the applications for faculty development leaves of absence are received by a committee elected by the general faculty for evaluation and whereby this faculty committee then makes recommendations to the chief administrative officer of the institution of higher education who shall then make recommendations to the governing board as to which applications should be granted.

Service required

Sec. 4. A faculty member is eligible by reason of service to be considered for a faculty development leave when he has served as a member of the faculty of the same institution of higher education for at least two consecutive academic years. This service may be as an instructor or as an assistant, associate or full professor or in an equivalent rank and must be full-time academic duty but need not include teaching.

Duration and compensation

Sec. 5. The governing board may grant to a faculty member a faculty development leave authorized by this Act either for one academic year at one-half of his regular salary or for one-half academic year at his full regular salary. Payment of salary to the faculty member on faculty development leave may be made from the funds appropriated for teaching or instructional salaries, or such other funds as may be available to the institutions for this purpose. A faculty member on faculty development leave may accept a grant for study, research or travel from any institu-

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tion of higher education or from a charitable, religious or educational corporation or foundation, or from any federal, state, or local governmental agency. A faculty member on faculty development leave may not accept employment from any other person, corporation or government, unless the governing board determines that it would be in the public interest to do so and expressly approves the employment.

Number on leave at any one time

Sec. 6. Not more than six percent of the faculty members of any institution of higher education may be on faculty development leave at any one time.

Rights retained

Sec. 7. A faculty member on faculty development leave shall continue to be a member of the Teacher Retirement System of Texas or of the Optional Retirement Program of the institution of higher education, or of both, just as any other member of the faculty on full-time duty. The institution of higher education shall cause to be deducted from the compensation paid to a member of the faculty on faculty development leave the deposit and membership dues required to be paid by him to the Teacher Retirement System of Texas or to the Optional Retirement Program, or both, the contribution for Old Age and Survivors Insurance and such other amounts as may be required or authorized to be deducted from the compensation paid any faculty member. A member of the faculty on faculty development leave is a faculty member for purposes of participating in the programs and of receiving the benefits made available by or through the institution of higher education or the state to faculty members. Acts 1967, 60th Leg., p. 876, ch. 380, emerg. eff. June 8, 1967.

Section 8 of the act of 1967 was a severability provision. state institutions of higher learning; and declaring an emergency. Acts 1967, 60th Leg., p. 876, ch. 380.

Title of Act:
An Act concerning faculty development leaves of absence for faculty members of

**CHAPTER NINE A—TUITION AND CONTROL OF FUNDS
OF STATE INSTITUTIONS**

Art.
2654f—3. Exemption from tuition fees of persons with family income of not more than \$4,800 [New].

Art. 2654b—1. Exemption from fees; war veterans; auxiliary members; members of armed forces and their children; holders of scholarships

* * * * *

Sec. 6. (a) Section 1 also applies to a person who served in the Armed Forces of the United States on active military duty (other than for training) for more than 180 days during the Cold War and to the child or children of any person who was killed in action or died while in the Armed Forces of the United States on active military duty during the Cold War. "Cold War" means the period beginning on the date of the termination of the "present national emergency" as that term is defined and used in Section 5 of this Act. Section 1 shall apply only to persons honorably discharged from the Armed Forces.

(b) Section 1 does not apply to a person who serves in the Armed Forces during the Cold War if, at the time of his registration in a college in this state, he is eligible for educational benefits under the federal

legislation in effect at the time of his registration. However, such serviceman is covered by the exemptions provided in Section 1 if his right to benefits under federal legislation is extinguished at the time of his registration.

Sec. 6 added by Acts 1967, 60th Leg., p. 1141, ch. 506, § 1, eff. Aug. 28, 1967.

Art. 2654c—1. Building use fees at state universities and colleges

Use fee

Section 1. The Board of Regents of The University of Texas, the Board of Directors of The Texas A&M University System, the Board of Directors of Texas Technological College, the Board of Regents, State Senior Colleges, the Board of Regents of Texas Woman's University, the Board of Directors of Texas College of Arts and Industries, the Board of Regents of Texas Southern University, the Board of Regents of The University of Houston, the Board of Regents of Midwestern University, the Board of Regents of Pan American College, the Board of Regents of Lamar State College of Technology, and the Board of Regents of North Texas State University, are hereby severally authorized and empowered to charge each student enrolled in each institution governed by it, a building use fee of not exceeding Five Dollars (\$5) per semester, provided, however, this fee shall be a part of the fees authorized to be collected by Article 2654c of the Revised Civil Statutes of the State of Texas (Acts of the 43rd Legislature, Regular Session, 1933), as amended, and the governing boards of the several institutions of higher learning herein enumerated shall not increase tuition at said institutions in excess of the amounts authorized or hereafter authorized by said Article 2654c, as amended. All or a portion of said fee may be pledged for the retirement of bonds issued for the construction and equipment of buildings and power plants, the paving of streets, the purchase of land, and for such other capital improvements as may be needed from time to time for the efficient functioning of the aforesaid institutions, subject to the provisions of this Act. Provided that the building use fees authorized to be charged herein are in addition to all other building use fees authorized by law to be collected and charged students attending the aforementioned institutions of higher learning.

Sec. 1 amended by Acts 1967, 60th Leg., p. 537, ch. 233, § 1, emerg. eff. May 19, 1967.

Refunding bonds

Sec. 1a. The said governing boards are hereby severally authorized and empowered to refund any bonds issued either pursuant to this Act or under any other Texas statute, and the resolution authorizing the said refunding bonds may provide that the building use fees authorized hereunder be pledged to the payment of said refunding bonds and to the payment of any other bonds or refunding bonds authorized concurrently therewith, and further that said fees may be combined with any other revenues or fees authorized by any of said Texas statutes to the payment of said bonds or refunding bonds.

Sec. 1a added by Acts 1967, 60th Leg., p. 537, ch. 233, § 2, emerg. eff. May 19, 1967.

* * * * *

Bonds; pledge of use fees

Sec. 6. For the purpose of constructing or otherwise acquiring, improving, or equipping any one or more of the buildings, power plants, or streets, or acquiring lands authorized by Section 1 of this Act, the governing body of each of said institutions is authorized to issue, sell, and deliver its negotiable revenue bonds from time to time in such amount or amounts

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as it may consider necessary. Bonds issued under this Act shall mature serially or otherwise in not exceeding forty (40) years from their date, shall be payable at such place or places, may contain option of payment prior to maturity and such provisions for registration as to ownership, as shall be determined by said Board. To assure the prompt payment of the principal and interest of said bonds, such Board is authorized to pledge all or any portion of the proceeds of the building use fee authorized in Section 1 of this Act, and said bonds may be additionally secured by a pledge of the net revenues from buildings and facilities to be constructed, acquired, or improved with the proceeds of such bonds and from other buildings or facilities heretofore or hereafter constructed or acquired. When such bonds are secured solely by the building use fees authorized in this Act, it shall be the duty of such governing body to fix the amount of such fees (within the maximum rate of Five Dollars (\$5) per semester) so that the proceeds therefrom will be sufficient to pay the interest and principal on said bonds as they mature and accrue and to provide a reasonable reserve in the interest and sinking fund of the bonds. When such bonds are secured in whole or in part by a pledge of the net revenues from buildings or facilities, it shall be the duty of such governing body to fix rentals and charges for the buildings and facilities whose net revenues are thus pledged, at rates sufficient to pay the maintenance and operating expense of such buildings and facilities and to produce net revenues which, together with the building use fee authorized in Section 1 of this Act, will be sufficient to pay the interest and principal of such bonds as they accrue and mature. Each such governing board may sell such bonds in such manner, either at public or at private sale, and for such price, as it may determine to be for the best interests of the board and the institution, but no such sale shall be made at a price so low as to require the payment of interest on the money received therefor at more than six percent (6%) per annum, computed with relation to the absolute maturity of the bonds or notes in accordance with standard tables of bond values, excluding however, from such computation the amount of any premium to be paid on redemption of any bonds or notes prior to maturity. Sec. 6 amended by Acts 1967, 60th Leg., p. 538, ch. 233, § 3, emerg. eff. May 19, 1967.

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Legal and authorized investments

Sec. 8. All such bonds shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, saving and loan associations, and insurance companies. Such bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas and any and all public funds of cities, towns, villages, counties, school districts, or other political corporations, agencies, or subdivisions of the State of Texas, and such bonds shall be lawful and sufficient security for said deposits to the extent of the principal amount thereof, or their value on the market, whichever is the lesser, when accompanied by all unmatured coupons appurtenant thereto.

Sec. 8 amended by Acts 1967, 60th Leg., p. 538, ch. 233, § 4, emerg. eff. May 19, 1967.

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Acts 1967, 60th Leg., p. 537, ch. 233, which amended various sections of this article, provided in sections 5 and 6:

"Sec. 5. That all bonds and refunding bonds issued by the said governing boards prior to the effective date of this amendment which have pledged to the payment of same all or any part of the building use fees authorized to be levied by the Act

are in all things ratified, confirmed and validated.

"Sec. 6. If any provisions of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act, and the application of such provision to other persons or circumstances, shall not be affected thereby."

Art. 2654d. Control of funds by governing boards

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Depositories

Sec. 2. The governing boards of the respective institutions named in Section One above are authorized to select depository banks as places of deposit of all funds of the kind and character named in Section One, which are collected by said institutions, and said boards shall require adequate surety bonds or securities to be posted to secure said deposits, and may require additional security at any time any of said boards deem any said deposit inadequately secured. All funds of the character named in Section One hereof, which are so collected shall be deposited in said depository bank or banks within seven days from the date of collection. Depository banks so selected are hereby authorized to pledge their securities to protect such funds. All depositories so designated shall pay interest on said deposits at a rate to be agreed upon by said depositories and said governing boards. Any surety bond furnished under the provisions of this Act shall be payable to the Governor of the State and his successors in office, and venue of suit to recover any amount claimed by the State to be due on any of said bonds is hereby fixed in Travis County, Texas.

Sec. 2 amended by Acts 1967, 60th Leg., p. 1092, ch. 481, § 2, eff. Aug. 28, 1967.

* * * * *

Section 1 of the act of 1967 amended article 2543c, § 3.

Art. 2654e. Exemption from tuition fees of students from other nations of American hemisphere

(a) The governing boards of the several institutions of collegiate rank, supported in whole or in part by public funds appropriated from the State Treasury, are hereby authorized to exempt annually from the payment of tuition fees

(1) two hundred (200) native-born students from the other nations of the American hemisphere, and

(2) thirty-five (35) native-born students from a Latin American country designated by the State Department of the United States.

(b) Ten (10) students from each nation, as authorized, in (a) (1) of this Article, shall be exempt as provided herein. In the event any nation fails to have ten (10) students available and qualified for exemption, additional students from such other nations may be exempt, subject to the approval of the State Board of Education and allocation thereby; provided, however, that no more than two hundred thirty-five (235) students from all such nations shall be exempt each year. Provided further in the event the nation designated in subsection 2 of Section (a), fails to have thirty-five (35) students available and qualified for exemption, within a reasonable time, additional students from such other nations may be exempt, subject to the approval of the State Board of Education.

(c) Every applicant desiring to receive the benefit authorized herein shall furnish satisfactory evidence, certified by the proper authority of his native country, that he is a bona fide native-born citizen and resident of the country which certifies his application, and that he is scholastically qualified for admission.

(d) The State Board of Education, after consultation with representatives of the governing board of the state institutions of higher learning, shall formulate and prescribe a plan governing the admission and distribution of all applicants desiring to qualify under the provisions of this Article.

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(e) No student shall be allowed to take advantage of this Article who is not a native-born citizen of the country certifying his qualifications for receiving the privileges authorized hereby and who has not lived in one of the nations of this hemisphere for a period of at least five (5) years. No member of the Communist Party and no student from Cuba shall be eligible for benefits under this Article.

Amended by Acts 1965, 59th Leg., p. 178, ch. 70, § 1, eff. Aug. 30, 1965; Acts 1967, 60th Leg., p. 704, ch. 292, § 1, emerg. eff. May 25, 1967.

Art. 2654f—2. Exemption from tuition fees of certain deaf and blind students

Section 1. In this Act,

(1) "resident" has the same meaning as is assigned it in Section 1, Chapter 436, Acts of the 57th Legislature, Regular Session, 1961 (Article 2654c, Vernon's Texas Civil Statutes);

(2) "blind person" means a person who is a "blind disabled individual" as defined in Section 5, Chapter 291, Acts of the 59th Texas Legislature, Regular Session, 1965 (Article 3207c, Vernon's Texas Civil Statutes), and who is eligible for the rehabilitation services of the State Commission for the Blind;

(3) "deaf person" means a person whose sense of hearing is non-functional, after all necessary medical treatment, surgery, and use of hearing aids, for understanding normal conversation and who is eligible for the services of the Division of Vocational Rehabilitation of the Texas Education Agency;

(4) "tuition fees" includes all of the fees for which an exemption is made in Section 1, Chapter 6, Acts of the 43rd Legislature, 1st Called Session, 1933, as amended (Article 2654b—1, Vernon's Texas Civil Statutes). Sec. 1 amended by Acts 1967, 60th Leg., p. 1840, ch. 714, § 1, emerg. eff. June 17, 1967.

Sec. 2. (a) A deaf or blind person who is a resident is entitled to exemption from the payment of tuition fees at any institution of collegiate rank supported in whole or in part by public funds appropriated from the State Treasury, if he presents:

(1) certification by the appropriate state vocational rehabilitation agency that he is deaf or blind and is a client of the agency;

(2) a high school diploma or its equivalent;

(3) proof of good moral character, which may be evidenced by a letter of recommendation from the principal of the high school attended by the deaf or blind individual or, if the high school no longer exists or if the principal cannot be located, a letter of recommendation from the individual's clergyman, a public official, or some other responsible person who knows the deaf or blind individual and is willing to attest to his good moral character;

(4) proof that he meets all other entrance requirements of the institution.

(b) The governing board of an institution may establish special entrance requirements to fit the circumstances of deaf and blind persons. In order to obtain the maximum vocational benefits of their college training, all deaf students applying for a tuition exemption under this legislation shall cooperate with the Division of Vocational Rehabilitation of the Texas Education Agency and all blind students applying for a tuition exemption under this section shall cooperate with the State Commission for the Blind. The Division of Vocational Rehabilitation of the Texas Education Agency and the State Commission for the Blind shall utilize all available and appropriate resources at state-supported institutions of collegiate rank, to insure that deaf or blind students receive the maximum

benefits from college training for which tuition fee exemptions are claimed under this Act. The Division of Vocational Rehabilitation of the Texas Education Agency, the State Commission for the Blind, and the Coordinating Board, Texas College and University System, may develop such rules and procedures as these agencies determine necessary for the efficient implementation of this Act.

Sec. 2 amended by Acts 1967, 60th Leg., p. 1840, ch. 714, § 2, emerg. eff. June 17, 1967.

Art. 2654f—3. Exemption from tuition fees of persons with family income of not more than \$4,800

Short title

Section 1. (a) This Act may be cited as the Connally-Carillo Act.

(b) In this Act the term "family income" shall mean the combined gross income of the applicant and his parents, if single; and the combined gross income of the applicant, his parents, and his spouse if married.

Authority to exempt persons; qualifications

Sec. 2. The governing boards of the several institutions of collegiate rank, supported in whole or in part by public funds appropriated from the state treasury, are hereby authorized and directed to exempt from the payment of tuition fees and charges, all citizens of Texas, who have resided in Texas for a period of not less than 12 months before the date of registration and have met the requirements of Section 3 of this Act.

Requirements

Sec. 3. The provisions of Section 2 shall apply to all citizens of Texas who (1) are under 25 years of age at the time of registration; (2) were graduated in the top 25 per cent of their graduating class of an accredited high-school in 1967 or thereafter; or were graduated from an accredited high-school in 1967 or thereafter and have scored in the top 20% on a nationally standardized college admission examination; and (3) whose family income was not more than \$4,800.00, as determined by the gross income on their last Federal Income Tax Return or financial statement which shall be sworn to by the applicant's parents or guardian at the time of registration.

Payments; exclusions

Sec. 4. The provisions of Section 2 of this Act shall be limited to the payment of tuition, fees, charges, including fees for correspondence courses; provided, however, that the foregoing exemption shall not be construed to apply to deposits, such as library, or laboratory deposits, which may be required as security for the return of or proper care of property loaned for the use of students, nor to any fees or charges for lodging, board, or clothing; provided further, that the foregoing exemption shall be limited to a maximum of six years for each citizen qualified under the provisions of Sections 2 and 3 of this Act.

Payment of fees by United States Government

Sec. 5. The exemption provided in this Act shall not be applicable in the case of any person whose tuition, fees, and charges, as provided in Section 4, are being paid, or will be paid to the educational institution by the United States Government, or one of its agencies, or in the case of any person whose tuition, fees, and charges are paid from funds, either public, or private, other than his, those of his family, or those of his guardian.

Evidence of eligibility

Sec. 6. The governing boards of the institutions described in Section 2 of this Act shall have the duty to require every applicant claiming the benefit of the exemption, to submit satisfactory evidence entitling the applicant to the exemption.

Appropriation

Sec. 7. There is hereby appropriated out of the General Revenue Fund in the State Treasury to the Comptroller of Public Accounts, the sum of \$275,000 to be allocated among the junior colleges supported in whole or in part by public funds appropriated from the State Treasury as follows: During the fiscal year ending August 31, 1968, each of the said junior colleges shall receive a sum equal to that junior college's tuition and fees per student for that semester multiplied by the number of students exempted under this Act at that junior college, in that semester; said sums shall be transferred to each of the junior colleges once each semester. At the end of the biennium, any money remaining after allocation to the junior colleges entitled to participate shall be returned to the General Revenue Fund.

Acts 1967, 60th Leg., p. 1972, ch. 733, eff. Aug. 28, 1967.

Title of Act:

An Act exempting citizens of Texas with a family income of not more than \$4,800.00 from the payment of tuition and fees at institutions of collegiate rank and pro-

viding qualifications and requirements for eligibility; providing a method of administration; providing an appropriation; and declaring an emergency. Acts 1967, 60th Leg., p. 1972, ch. 733.

Art. 2654g. Loan program for students at institutions of higher education

* * * * *

ARTICLE II. ISSUANCE OF BONDS

Interest and Sinking Fund

Sec. 7. From the moneys received by the Board in any fiscal year as repayment of student loans granted under this Act and interest on such loans there shall be deposited in a fund hereby created in the State Treasury to be called the Texas College Student Loan Bonds Interest and Sinking Fund, hereinafter called Interest and Sinking Fund, sufficient moneys to pay the interest and principal to become due during the ensuing fiscal year and sufficient to establish and maintain a reserve in said fund equal to the average annual principal and interest requirements on all outstanding bonds issued under this Act. If in any year moneys are received in excess of the foregoing requirements then such excess shall be deposited to the Texas Opportunity Plan Fund and may be used for the same purposes and upon the same terms and conditions prescribed for the proceeds derived from the sale of the Texas College Student Loan Bonds. In the event that moneys received by the Board in any fiscal year as repayments of student loans granted under this Act and interest on such loans are insufficient to pay the interest becoming due and the principal maturing on said bonds during the ensuing fiscal year, the State Treasurer shall transfer into the Interest and Sinking Fund out of the first moneys coming into the Treasury of the State of Texas, not otherwise appropriated by the Constitution, such an additional amount as shall be required to pay the interest becoming due and the principal maturing on said bonds during the ensuing fiscal year. The resolution authorizing the issuance of the bonds may provide for deposit, from bond proceeds, of not to exceed 24 months interest, and may provide for use of bond proceeds as a reserve for the payment of principal of and interest on bonds.

Sec. 7 amended by Acts 1967, 60th Leg., p. 1142, ch. 507, § 1, emerg. eff. June 14, 1967.

* * * * *

Investment of Funds

Sec. 9. All moneys standing to the credit of the Reserve portion of the Interest and Sinking Fund and any moneys in the Texas Opportunity Plan Fund in excess of the amount necessary for student loans may be invested by the Board in direct obligations of or obligations the principal and interest of which are guaranteed by the United States of America or invested in direct obligations of or participation certificates guaranteed by the Federal Intermediate Credit Bank, Federal Land Banks, Federal National Mortgage Association, Federal Home Loan Banks, Banks for Cooperatives, and in certificates of deposit of any bank or trust company the deposits of which are fully secured by a pledge of securities of any of the kind hereinabove specified, or in bonds of the State of Texas, or of the several counties or municipalities or other political subdivisions of the State of Texas, provided, however, that money in the Interest and Sinking Fund, except for that which is in the Reserve portion of such fund, may be invested only in obligations which are scheduled to mature prior to the date money must be available for use for its intended purpose. All of such bonds and obligations owned in the Interest and Sinking Fund or in the Texas Opportunity Plan Fund are defined as "Securities." The Board may sell any Securities owned in the Interest and Sinking Fund or in the Texas Opportunity Plan Fund at the prevailing market price. Income from such investments shall be deposited into the Interest and Sinking Fund.

Sec. 9 amended by Acts 1967, 60th Leg., p. 1143, ch. 507, § 2, emerg. eff. June 14, 1967.

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CHAPTER NINE B—ADMINISTRATION OF PUBLIC FREE SCHOOLS

Art. 2654—1c. Advisory council for study of problems of language—handicapped children [New]. Art. 2654—3c. Establishment and procedure for operation of Regional Education Service Centers [New].

Art. 2654—1c. Advisory council for study of problems of language—handicapped children

Short title

Section 1. This Act may be cited as the "Barnes-Wright Study Act."

Definitions

Sec. 2. (a) In this Act, unless the context requires a different meaning,

- (1) "agency" means the Texas Education Agency;
(2) "commissioner" means the Commissioner of Education of the Texas Education Agency; and
(3) "council" means the Advisory Council for Language-Handicapped Children created by this Act.

(b) In this Act, the term "language-handicapped child" means a child who is deficient in the acquisition of language skills due to language disability where no other handicapping condition exists.

Council

Sec. 3. (a) There is hereby established the Advisory Council for Language-Handicapped Children.

(b) The council consists of 12 members appointed by the Governor.

(c) The Governor shall designate the chairman of the council. A majority of the appointed members, at the call of the chair, shall organize and elect the other officers that the council deems necessary.

(d) A council member serves, at the pleasure of the Governor, from the date of his appointment until August 31, 1970.

(e) A member of the council serves without compensation, but, upon voucher signed by the chairman of the council and approved by the commissioner, is entitled to receive reimbursement for actual expenses incurred while traveling on official council business.

(f) A majority of the council is a quorum for the conduct of business.

(g) The duty of the council is to study the problems of language-handicapped children and to advise the commissioner and the agency in the development of programs designed to diagnose and treat the problems of language-handicapped children.

(h) The council shall report to the 62nd Legislature its findings and recommendations concerning the establishment of statewide diagnostic and treatment facilities for language-handicapped children.

(i) The Governor shall appoint the members of the council as soon after the effective date of this Act as possible. Because of the diverse nature of the problem of language-handicapped children, the Governor is hereby encouraged by the Legislature to make some appointments from the fields of psychology, medicine, and education.

Powers and duties of the agency

Sec. 4. (a) The agency, with the advice of the council, shall develop programs designed to diagnose and treat the problems of language handicapped children.

(b) The agency, with the advice of the council, shall establish at least three regional experimental diagnostic facilities.

(c) The agency shall develop rules, regulations, and guidelines governing the operation of the experimental diagnostic facilities.

(d) The agency may make the necessary agreements and contacts to establish the regional diagnostic facilities provided in Subsection (b) of this section.

(e) The agency shall actively seek the advice and cooperation of all appropriate public agencies and private institutions in the development of a program of diagnosis and treatment of language-handicapped children.

(f) The agency is directed to seek and may accept grants from public and private sources to finance research and to develop a program designed to diagnose and treat language-handicapped children.

(g) The agency shall provide necessary staff, offices, and facilities for the council to conduct its business.

Commissioner to report

Sec. 5. The commissioner shall transmit to the 61st Legislature an interim report on the status of the research into the problem of diagnosing and treating language-handicapped children. He shall include in his report an itemized estimate of the money required to satisfactorily conclude the research project by August 31, 1970.

Council dissolved

Sec. 6. The council created by this Act ceases to exist at midnight August 31, 1970.

Effective date

Sec. 7. The provisions of this Act take effect on September 1, 1968. Acts 1967, 60th Leg., p. 1024, ch. 451, eff. Sept. 1, 1968.

Art. 2654—3e. Establishment and procedure for operation of Regional Education Service Centers

Section 1. The State Board of Education is hereby authorized to provide for the establishment and a procedure for the operation of Regional Education Service Centers by rules and regulations adopted under provisions of this law and the provisions of Senate Bill No. 408, Acts of the 59th Legislature,¹ to provide educational services to the school districts and to coordinate educational planning in the region.

Sec. 2. The governing board of each Regional Education Service Center is authorized, under rules and regulations of the State Board of Education, to enter into contracts for grants from both public and private organizations and to expend such funds for the specific purposes in accordance with the terms of the contract with the contracting agency. Acts 1967, 60th Leg., p. 105, ch. 49, emerg. eff. April 14, 1967.

¹ Article 2654—3d.

Section 3 of the Act of 1967 was a severability provision.

Title of Act:

An Act authorizing the State Board of Education to provide for the establishment and procedure for operation of Regional Education Service Centers under provisions hereof and Senate Bill No. 408, Acts of the 59th Legislature (codified Article 2654—3d, V.T.C.S.) for providing educational services to school districts and

coordinating educational planning in the region; authorizing the governing board of each such center to contract and to expend grants received from public and private organizations for purpose(s) contracted, pursuant to rules and regulations of the State Board of Education; providing a severability clause; and declaring an emergency. Acts 1967, 60th Leg., p. 105, ch. 49.

CHAPTER TEN—STATE DEPARTMENT OF EDUCATION

1. STATE SUPERINTENDENT

Art.

2663b—3. Courses in police administration and fire protection administration [New].

1. STATE SUPERINTENDENT

Art. 2663b—1. Instruction in constitutions, government or political science

* * * * *

Sec. 2. All colleges and universities receiving state support or state aid from public funds shall give a course of instruction in Government or Political Science which includes consideration of the Constitution of the United States and the constitutions of the states, with special emphasis on that of Texas. This course shall have a credit value of not less than six semester hours or its equivalent. No college or university receiving state support or state aid from public funds may grant a baccalaureate degree or a lesser degree or academic certificate to any person unless he has credit for such a course. The college or university may determine that a student has satisfied this requirement in whole or in part upon the basis of credit granted to him by the college or university for a substantially equivalent course completed at another accredited college or university or upon the basis of the student's successful completion of an advanced standing examination administered upon the conditions and under the circumstances common for the college or university's advanced standing examinations. The college or university may grant as much as three

For Annotations and Historical Notes, see V.A.T.S.

semester hours of credit or its equivalent towards satisfaction of this requirement for substantially equivalent work completed by the student in the program of an approved senior R.O.T.C. unit. Credit for the advanced standing examination referred to above shall never exceed three semester hours.

Sec. 2 amended by Acts 1967, 60th Leg., p. 714, ch. 298, § 1, eff. Aug. 28, 1967.

* * * * *

Sec. 4. No person may be certified to teach in the public schools of this State unless he has secured credit for a course or courses in Government or Political Science giving consideration to the Constitution of the United States and the constitutions of the states, with special emphasis on that of Texas, or in lieu of such course or courses has passed an examination set by the State Commissioner of Education on the state and federal constitutions of the United States.

Sec. 4 amended by Acts 1967, 60th Leg., p. 715, ch. 298, § 2, eff. Aug. 28, 1967.

* * * * *

Art. 2663b—2. Instruction in American or Texas History

Section 1. No college or university receiving state support or state aid from public funds may grant a baccalaureate degree or a lesser degree or academic certificate to any person unless he has credit for six semester hours or its equivalent in American History. A student is entitled to submit as much as three semester hours of credit or its equivalent in Texas History in partial satisfaction of this requirement. The college or university may determine that a student has satisfied this requirement in whole or part upon the basis of credit granted to him by the college or university for a substantially equivalent course completed at another accredited college or university, or upon the basis of the student's successful completion of an advanced standing examination administered upon the conditions and under the circumstances common for the college or university's advanced standing examinations. The college or university may grant as much as three semester hours of credit or its equivalent toward satisfaction of this requirement for substantially equivalent work completed by a student in the program of an approved senior R.O.T.C. unit. Credit for the advanced standing examination referred to above shall never exceed three semester hours.

Sec. 1 amended by Acts 1967, 60th Leg., p. 715, ch. 298, § 3, eff. Aug. 28, 1967.

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Art. 2663b—3. Courses in police administration and fire protection administration

Section 1. The State Department of Education shall develop curricula and teaching materials for one-semester high school senior courses in police administration and fire protection administration.

Sec. 2. Beginning with the 1967-1968 school year, every independent school district in a county having a population of 200,000 or more, according to the last preceding federal census, may offer in each high school for senior students a one-semester course in police administration and a one-semester course in fire protection administration, to be conducted according to the State Department of Education's requirements relating to curricula and teaching materials. Such courses, if offered, shall be elective courses.

Acts 1967, 60th Leg., p. 469, ch. 213, eff. Aug. 28, 1967.

Title of Act:

An Act relating to courses in police administration and fire protection administration in the senior high schools of certain independent school districts; and declaring an emergency. Acts 1967, 60th Leg., p. 469, ch. 213.

Art. 2669. 2736 Investing school fund

(a) The State Board of Education is authorized and empowered to invest the permanent public free school funds of the state in bonds of the United States, the State of Texas, or any county thereof, and the independent or common school districts, road precincts, drainage, irrigation, navigation and levee districts in this state, and the bonds of incorporated cities and towns, and the obligations and pledges of The University of Texas, corporate bonds of United States corporations of at least "A" rating, and bonds issued, assumed, or guaranteed by the Inter-American Development Bank.

Par. (a) amended by Acts 1967, 60th Leg., p. 1829, ch. 707, § 2, eff. Aug. 28, 1967.

* * * * *
Acts 1967, 60th Leg., p. 1829, ch. 707, § 1 amended V.A.T.S. Insurance Code, art. 3.39 and sections 3 and 4 thereof amended article 2591a conditioned on the adoption of amendment to Const. art. 7, § 11a proposed by Acts 1967, 60th Leg., H.J.R. No. 20, p. 2987.

5. REHABILITATION DISTRICTS

Art. 2675k. Rehabilitation districts for handicapped persons

* * * * *

Entrance requirements

Sec. 6. Any handicapped person six (6) years of age or older not subject to the exceptions in the Subsections of this Section may be admitted into a District for education and training.

* * * * *

(b) No handicapped person in attendance at a regular public school, between the ages of six (6) and twenty-one (21) shall be admitted to a Rehabilitation District without having been referred or assigned to it by the independent school district in which he resides, or by the County School Superintendent. If a handicapped person applying to a Rehabilitation District for admission is over sixteen (16) years of age or under twenty-one (21) years of age and is in attendance at a regular public school, he shall not be admitted to the Rehabilitation District for education and training without having been referred to it for that purpose by the County School Superintendent, if such public school be situated without an independent school district, or by an independent school district if such public school is within such independent school district.

Sec. 6, subsec. (b) amended by Acts 1967, 60th Leg., p. 1165, ch. 519, § 1, eff. Aug. 28, 1967.

* * * * *

(d) (1) To provide for the continuance of an educational program for handicapped persons between the ages of six (6) and twenty-one (21) inclusive, the training facility(s) operated by and within the District shall be eligible for and allotted exceptional children teacher units to the extent herein provided, directly through the Foundation School Program of the Central Education Agency.

(2) The basis for establishing, operating and the formula to be used for determining allocation of said exceptional teacher units shall be as required by the Central Education Agency of independent school districts except that the District's allocation shall be limited, computed upon and restricted to include only exceptional children between the ages of fourteen (14) and twenty-one (21), both inclusive. Provided, however, that no local fund assignment shall be charged to a Rehabilitation District.

(3) The cost of approved professional units authorized including the per unit operational cost provided by law shall be considered by the

For Annotations and Historical Notes, see V.A.T.S.

Foundation Program Committee in estimating the funds needed for Foundation Program purposes.

Sec. 6, subsec. (d) amended by Acts 1967, 60th Leg., p. 1165, ch. 519, § 2, eff. Aug. 28, 1967.

* * * * *

Board of Directors

Sec. 7.

* * * * *

(i) Powers of the Board of Directors. In addition to other powers granted herein, the Board of Directors is empowered and required to:

(1) Govern the District; employ all administrators, teachers, special and/or exceptional children teachers, psychologist, social workers, house-keeping and other personnel as may be required to carry out the purposes of the District; and to discharge persons so employed.

The teachers and other employees of any such Rehabilitation District shall be eligible to become members of the Teacher Retirement System of Texas on the same basis and under the circumstances as teachers and employees of an independent school district;

(2) Fix such fees and tuition rates as are deemed necessary to supplement other sources of funds for maintaining and operating the District in carrying out its functions, with authority, however, to reduce fees and tuition, or waive them altogether, in cases where the parents or guardians of trainees are able to pay a portion only or none of such tuition or fees, in the judgment of the Board of Directors, or in the judgment of an agency created by the Board of Directors to determine such matters;

(3) Levy taxes and make such distribution of such taxes as it may deem necessary for providing needed housing and facilities, and for the support of the Rehabilitation program, except that the total annual tax for all District purposes shall not exceed the rate of five cents (5¢) on each One Hundred Dollars (\$100) of assessed valuation of taxable property located in such District;

(4) In behalf of the District, accept donations, gifts, and endowments for the District, to be taken in trust and administered by the Board of Directors for such purposes, and under such directions, limitations, and provisions, if any, as may be prescribed in writing by the donor, not inconsistent with the proper management and objects of the Rehabilitation District;

(5) Conduct the business affairs of the District with the same powers and duties provided by law for the Board of Trustees of independent school districts;

(6) Adopt an official seal and name for the Rehabilitation District;

(7) Plan the residential program and the curriculum of the District, or have them planned under its direction; but in any event, plans must be approved by the Board of Directors, and also by the State Commission of Education and by the Executive Director of the Texas Department of Mental Health and Mental Retardation;

(8) Make reasonable limitation on the duration of residence and attendance by trainees, according to standards adopted by it;

(9) Itself, or through an agency established by it for attending to such matters, terminate the training of any trainee who proves to be unadaptable to the training program of the District, or who is so disturbing in conduct to the other trainees as to be detrimental to the District. The exercise of the termination power is unreviewable; and

(10) Apply to any agency of the Federal Government for funds made available, as loans or grants, by the United States Government to carry out

the purposes of such Rehabilitation District, in the same manner, according to the same procedures, and in all respects as provided for the receipt of such funds by independent school districts.

Provided, further, that for rehabilitation program purposes only and to receive any funds available for rehabilitation purposes for which the District otherwise may be eligible, the authority of the District shall be restricted and enlarged to include persons not over twenty-five (25) years of age.

Sec. 7, subsec. (i) amended by Acts 1967, 60th Leg., p. 1166, ch. 519, § 3, eff. Aug. 28, 1967.

* * * * *

Acts 1967, 60th Leg., p. 1165, ch. 519, which amended sections 6 and 7 of this article, provided in sections 4 and 5:

"Sec. 4. If any provision of this amendatory Act is held unconstitutional or invalid, the same shall not operate to de-

feat the whole Act, but all other parts shall stand and remain in full force.

"Sec. 5. This Act shall become effective for the scholastic year beginning September 1, 1967, and thereafter."

CHAPTER ELEVEN—COUNTY SCHOOLS

2. SUPERINTENDENT

- Art. 2688h—1. Counties of 12,700 to 12,725 population; county board of school trustees and county superintendent; abolition of offices; transfer of duties [New].
- 2688i—2. Counties of 86,472 to 86,500; abolition of office; transfer of duties to county executive school secretary [New].
- 2688k—1. Counties of 17,645 to 17,740; county superintendents; abolition of office; transfer of duties [New].

- Art. 2688n—1. Counties of 40,000 to 40,400; county superintendents; abolition of office; transfer of duties [New].
- 2688p. Counties of 28,200 to 29,900; county superintendents; abolition of office; transfer of duties [New].
- 2700e—1. Salaries of assistants in counties of 19,795 to 19,930 and 18,500 to 18,800 [New].
- 2700e—2. Salaries of assistants in certain counties [New].

1. TRUSTEES

Art. 2687. Meetings

(a) The County School Trustees shall hold meetings once each quarter, on the first Monday in August, February, May and November, or as soon thereafter as practicable, and at other times when called by the President of the County School Trustee or at the instance of any two (2) members of the County School Trustees and the County Superintendent, the meeting place to be at the county seat and in the office of the County Superintendent. Each Trustees shall be paid Six Dollars (\$6) per day, but not to exceed Seventy-two Dollars (\$72) in any one year, for the time spent in attending such meetings, out of the State and County Available School Fund by warrants drawn on order of the County Superintendent and signed by the President of the County School Trustees, after approval of the account, properly sworn to by the President of the County School Trustees.

(b) In all counties in Texas having a population of not less than 95,000 and not more than 115,000 according to the last preceding federal census, each Trustee shall be paid Twelve Dollars (\$12) per day, but not to exceed Seven Hundred and Twenty Dollars (\$720) in any one year, in the same manner and for the same purposes as Trustees are paid under Subdivision (a) of this Article.

Amended by Acts 1967, 60th Leg., p. 1140, ch. 504, § 1, eff. Aug. 28, 1967.

2. SUPERINTENDENT

Art. 2688h—1. Counties of 12,700 to 12,725 population; county board of school trustees and county superintendent; abolition of offices; transfer of duties

Section 1. The county board of school trustees and the office of county superintendent of schools are abolished in counties having a population of not less than 12,700 nor more than 12,725 according to the last preceding federal census.

Sec. 2. (a) All duties and functions, except as hereinafter provided, that are now required by law of the office of the county school superintendent shall be performed by the superintendents of the independent school districts; and all the duties that may now be required by law of the county board of school trustees shall be performed by the elected boards of trustees of the independent school districts.

(b) The commissioners court shall receive, hear, and pass upon all petitions for the calling of elections for the creation, change, or abolishment of county school districts.

(c) All authorized appeals from the independent school boards of trustees shall be made directly to the State Board of Education or to the courts as provided by law.

(d) All records and documents of the office of the county school superintendent shall be transferred to the control and custody of the county clerk.

Acts 1967, 60th Leg., p. 109, ch. 54, eff. Aug. 28, 1967.

Acts 1967, 60th Leg., p. 109, ch. 54, § 3 repealed conflicting laws; section 4 thereof was a severability provision.

Title of Act:

An Act abolishing the county board of school trustees and the office of county

school superintendent and transferring certain duties, functions, and records in certain counties, repealing laws in conflict; and declaring an emergency. Acts 1967, 60th Leg., p. 109, ch. 54.

Art. 2688i—2. Counties of 86,472 to 86,500; abolition of office; transfer of duties to county executive school secretary

Section 1. From and after the effective date of this Act the duties now performed by the county superintendent in any county in this state, having a population of not less than 86,472 nor more than 86,500, according to the last preceding federal census, and in which there are only independent school districts, shall be performed by the county executive school secretary appointed by the Board of County School Trustees of that county and the office of county school superintendent shall cease to exist. The county superintendent now holding office in any such county as of the effective date of this Act shall serve until the expiration of the term to which he was elected. However, if a vacancy occurs before the expiration of the term, by resignation of the incumbent county superintendent, or otherwise, the office of county superintendent shall cease to exist.

Sec. 2. The county executive school secretary shall serve in an administrative capacity concerning such school duties formerly performed by the county superintendent as remain, and shall also serve as secretary of the Board of County School Trustees.

Sec. 3. The Board of County School Trustees in setting the County School Administration budget from year to year shall fix and determine the salary of the county executive school secretary in an amount not to exceed \$5,200 per year.

Sec. 4. The Board of County School Trustees and the board of trustees of any district in the county may make a cooperative agreement for the

hiring of special service teachers, supervisors, or counselors. The Board of County School Trustees shall employ those persons upon recommendation of the superintendents of the districts making the agreement. Such an employee shall be supervised by the superintendent of the district or districts where he works.

Sec. 5. The Board of County School Trustees, in establishing and operating economical transportation systems in any county governed by this Act, may, with the approval of one or more of the boards of trustees of districts comprising the county transportation unit, authorize the employment of bus drivers by the boards of trustees of districts requesting that authorization. Funds for paying salaries of bus drivers employed by the districts pursuant to this authorization shall be paid to the transportation account of the districts. The Board of County School Trustees shall approve and issue warrants drawn on the County Board Transportation Fund for this purpose. Drivers shall be paid salaries determined and fixed by a uniform salary schedule adopted by the boards of county and district trustees.

Sec. 6. The Board of County School Trustees, in any county governed by this Act may provide for payment of expenses incidental to operation of the office of the county executive school secretary and travel allowance for such officer not to exceed \$1,050 per year.

Sec. 7. The salary of the county executive school secretary and office and travel allowance expenses shall be paid from the State Available School Fund in the manner provided by law.

Sec. 8. The county executive school secretary shall be provided by the commissioners court with an office in the courthouse with necessary office furniture and fixtures.

Acts 1967, 60th Leg., p. 1112, ch. 493, eff. Aug. 28, 1967.

Title of Act:

An Act relating to the abolishing of office of county superintendent in all counties of this state having a population of not less than 86,472 nor more than 86,500 according to the last preceding federal

census and consisting of only independent school districts; relating to hiring of certain personnel; relating to the hiring and salaries of school bus drivers; and declaring an emergency. Acts 1967, 60th Leg., p. 1112, ch. 493.

Art. 2688j. Counties of 16,820 to 16,920; abolition of office; transfer of duties

(a) Subject to the limitations stated in Paragraph (b) the office of county superintendent in all counties of this state having a population of not less than sixteen thousand, eight hundred and twenty (16,820) and not more than sixteen thousand, nine hundred and twenty (16,920) according to the last preceding Federal Census, is abolished and the duties of such office shall be performed by the county judge as ex officio county superintendent. The county judge may be compensated for performing such duties in an amount not to exceed Six Hundred Dollars (\$600) per annum as determined by the County Board of School Trustees, in accordance with the general laws of the State of Texas affecting the same. Such board may provide for an assistant to the ex officio county superintendent at a yearly salary not to exceed Three Thousand, Seven Hundred and Twenty Dollars (\$3,720). Such additional compensation and expenses, if any, paid the ex officio county superintendent or the salary paid the assistant herein authorized shall be paid out of the State Available School Fund.

Subsec. (a) amended by Acts 1967, 60th Leg., p. 1208, ch. 543, § 1, emerg. eff. June 14, 1967.

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For Annotations and Historical Notes, see V.A.T.S.

Art. 2688k—1. Counties of 17,645 to 17,740; county superintendents; abolition of office; transfer of duties

Office of county superintendent abolished in certain counties

Section 1. The office of county superintendent in all counties having a population of not less than 17,645 nor more than 17,740, according to the last preceding federal census, is abolished and the duties of the office shall be performed by the county judge as ex officio county superintendent.

Compensation and staff

Sec. 2. (a) The County Judge may hire an assistant ex officio county superintendent.

(b) The salaries and expense allowances of the ex officio county superintendent and assistant ex officio county superintendent shall be determined by the county board of school trustees in the respective counties, and strictly in compliance with provisions of Article 3888, Revised Civil Statutes of Texas, 1925, as amended.

Elected superintendents now holding office to serve until term expires

Sec. 3. (a) The county superintendents holding office in the counties affected by this Act on the effective date of this Act shall serve until the expiration of the term for which they were elected. However, if a vacancy occurs before the expiration of the term by reason of resignation, death, or other cause, the office of county superintendent is abolished when the vacancy occurs and the county judge shall thereafter serve as ex officio county superintendent.

(b) A vacancy occurs when a county superintendent submits to the commissioners court of the county and to the county board of school trustees, his, or her resignation in writing, or when the office is vacated by death or other causes.

Acts 1967, 60th Leg., p. 565, ch. 253, emerg. eff. May 22, 1967.

Title of Act:

An Act relating to the abolition of the counties; and declaring an emergency. office of county superintendent in certain Acts 1967, 60th Leg., p. 565, ch. 253.

Art. 2688n—1. Counties of 40,000 to 40,400; county superintendents; abolition of office; transfer of duties

The office of County Superintendent is abolished in all counties having a population of not less than 40,000 nor more than 40,400 according to the last preceding Federal Census. After the effective date of this Act, the duties of the office shall be performed by the County Judge as ex officio County Superintendent.

Acts 1967, 60th Leg., p. 51, ch. 26, § 1, emerg. eff. March 23, 1967.

Title of Act:

An Act abolishing the office of County Superintendent, and transferring its duties to the County Judge, in certain counties; and declaring an emergency. Acts 1967, 60th Leg., p. 51, ch. 26.

Art. 2688p. Counties of 28,200 to 29,900; county superintendents; abolition of office; transfer of duties

Office of county superintendent abolished in certain counties

Section 1. The office of county superintendent in all counties having a population of not less than 28,200 nor more than 29,900, according to the last preceding federal census, is abolished and the duties of the office shall be performed by the county judge as ex officio county superintendent.

Compensation and staff

Sec. 2. (a) The county judge is entitled to additional compensation of \$1,800 a year for serving as ex officio county superintendent.

(b) The county judge may hire a secretary to assist him in his duties as ex officio county superintendent. The secretary is entitled to a salary of \$3,000 a year.

Acts 1967, 60th Leg., p. 302, ch. 145, eff. Sept. 1, 1967.

Section 3 of Acts 1967, 60th Leg., p. 302, ch. 145, provided: "This Act takes effect September 1, 1967, or at an earlier date if a vacancy occurs."

Title of Act:
An Act relating to the abolition of the office of county superintendent in certain counties, and declaring an emergency. Acts 1967, 60th Leg., p. 302, ch. 145.

Art. 2700e—1. Salaries of assistants in counties of 19,795 to 19,930 and 18,500 to 18,800

(a) The first assistant to the county school superintendent is entitled to receive an annual salary of not more than \$5,500 in counties having a population, according to the last preceding federal census of more than 19,795 but less than 19,930, and more than 18,500 but less than 18,800.

(b) The aggregate annual salaries of all assistants to the county school superintendent shall not exceed \$8,800.

Acts 1967, 60th Leg., p. 135, ch. 69, § 1, eff. Aug. 28, 1967.

Title of Act:
An Act relating to the annual salaries of assistants to the county school superintendent in certain counties; and declaring an emergency. Acts 1967, 60th Leg., p. 135, ch. 69.

Art. 2700e—2. Salaries of assistants in certain counties

Section 1. (a) The first assistant to the county school superintendent is entitled to receive an annual salary of not more than \$5,500 in counties having a population, according to the last preceding Federal Census, of:

- (1) more than 22,050 but less than 22,150;
- (2) more than 24,600 but less than 24,700;
- (3) more than 33,100 but less than 33,200;
- (4) more than 28,150 but less than 28,250;
- (5) more than 10,650 but less than 10,750;
- (6) more than 12,475 but less than 12,575; and
- (7) more than 19,300 but less than 19,500.

(b) The aggregate annual salaries of all assistants to the county school superintendent shall not exceed \$7,200.

Sec. 2. (a) The first assistant to the county school superintendent is entitled to receive an annual salary of not more than \$5,800 in counties having a population, according to the last preceding Federal Census, of more than 212,100 but less than 212,200.

(b) The aggregate annual salaries of all assistants to the county school superintendent under this Section shall not exceed \$7,500.

Sec. 3. (a) The first assistant to the county school superintendent is entitled to receive an annual salary of not more than \$5,500 in counties having a population, according to the last preceding Federal Census, of:

- (1) more than 20,400 but less than 20,500; and
- (2) more than 23,800 but less than 23,900.

(b) The aggregate annual salaries of all assistants to the county school superintendent shall not exceed \$8,800.

Acts 1967, 60th Leg., p. 759, ch. 314, eff. Aug. 28, 1967.

Title of Act:
An Act relating to the annual salaries of assistants to the county school superintendent in certain counties; and declaring an emergency. Acts 1967, 60th Leg., p. 759, ch. 314.

CHAPTER THIRTEEN—SCHOOL DISTRICTS

3. INDEPENDENT DISTRICTS IN
CITIES

- Art.
2775a—8. Election of trustees in districts within counties of 140,000 to 150,000 population [New].
- 2775a—9. Election of trustees in certain districts; alternating years [New].
- 2775f—1. Election of trustees of certain independent districts in Counties of 150,000 to 151,000 population [New].
- 2777—1. Filling vacancies on boards of trustees of independent school districts [New].
- 2781a. Consultation with teachers on matters of educational policy and conditions of employment [New].

4. TAXES AND BONDS

- 2784e—8. Additional tax for certain rural high school districts in counties of 20,650 to 20,700 population [New].
- 2784e—9. Additional tax for county-line common school districts in counties of 21,900 to 22,200 and counties of 39,400 to 40,000 population [New].
- 2784e—10. Additional tax for common school districts in counties of 14,550 to 14,850 population [New].
- 2790d—11. Time warrants of independent districts; counties of 5,500 to 6,500 [New].

- Art.
2790d—12. Time warrants of independent districts; counties of 6,400 to 6,425 [New].
- 2792—1. Assessment and collection of taxes by city assessor and collector in certain independent districts having 200,000 or more scholastics [New].
- 2802e—5. Contracts by independent school districts for use of stadiums and other athletic facilities [New].

6. DISTRICTS IN LARGE COUNTIES

- 2815g—59. Validation of districts; resolutions, orders and ordinances for divorcement or separation from municipal control; bonds; boundaries [New].

7. JUNIOR COLLEGES

- 2815h—1a. Governing bodies of junior colleges [New].
- 2815k—4. Agreements making junior college services available to scholastics in certain school districts [New].
- 2815m—3. Additional trustees for certain junior college districts enlarged by addition of parts of two or more counties [New].

8. REGIONAL COLLEGE DISTRICTS

- 2815t—3. Transfer of assets of certain Regional College Districts [New].

1. COMMON SCHOOL DISTRICTS

Art. 2742f. Detachment of territory from school district and annexation to contiguous school district

Section 1. (a) In each county of this State the County Board of Trustees shall have the authority, when duly petitioned as herein provided, to detach from and annex to any school district territory contiguous to the common boundary line of the two districts; provided, the Board of Trustees of the district to which the annexation is to be made approves, by majority vote, the proposed transfer of territory.

(b) However, unless the petition is signed by a majority of the trustees of the district from which the territory is to be detached, no school district territory may be detached where the ratio of the number of scholastics residing in the area to be detached to the total number of the scholastics residing in the district from which the territory to be detached is less than one half ($\frac{1}{2}$) the ratio of the assessed valuation (based on preceding year valuations) in the territory to be detached to the total assessed valuation (based on the preceding year valuations) of the district from which the area is to be detached.

(c) If the territory to be detached exceeds ten percent (10%) of the entire district, the petition must be signed by a majority of the trustees of said district in addition to a majority of the qualified voters of the territory to be detached.

(d) The petition shall give the metes and bounds of the territory to be detached from the one and added to the other district and must be signed by a majority of the qualified voters residing in the said territory so detached.

(e) Upon receipt of the said petition, duly signed, and upon notice of the approval of the proposed annexation by the Board of Trustees of the district to which the territory is to be added, the County Board of Trustees shall pass an order transferring the said territory and redefining the boundaries of the districts affected by said transfer, the said order to be recorded in the Minutes of the County Board of Trustees. Provided, that no school district shall be reduced to an area of less than nine square miles.

(f) This Act is not intended to, and shall not in anywise be construed to, amend or supersede Section 7, Acts 1963, 58th Legislature, page 1348, Chapter 511 (Article 2676a, Section 7, Vernon's Texas Civil Statutes), which shall continue in full force and effect.

Sec. 1 amended by Acts 1967, 60th Leg., p. 1106, ch. 487, § 1, emerg. eff. June 12, 1967.

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3. INDEPENDENT DISTRICTS IN CITIES

Art. 2775a—8. Election of trustees in districts within counties of 140,000 to 150,000 population

Section 1. This Act applies to all independent school districts, whether created by general law or special act, in counties having a population of more than 140,000 and less than 150,000 according to the last preceding Federal Census; provided, however, that this Act does not apply to any district unless and until the board of trustees thereof adopts by majority vote an order or resolution adopting the provisions thereof. The board of trustees of an independent district may adopt an order or resolution adopting all or any one or more of the provisions hereof, then thereafter for a period of three successive years all trustee elections in such district shall be held and governed by the terms and provisions thereof.

Sec. 2. The trustees of any independent school district coming within the purview of Section 1 may order by official resolution that the election for the purpose of electing school trustees be held on either the first Saturday in April or the first Saturday in October. The board of trustees shall adopt and make public the resolution setting the date of the election at least 60 days prior to the election. Except for the special provisions contained here, the general laws applying to such elections shall govern.

Sec. 3. The board of trustees of any independent school district coming within the purview of Section 1 may adopt an order or resolution providing for the election of trustees by majority vote in accordance with the following provisions:

(1) The order or resolution providing for the election of trustees by majority vote shall be adopted and made public at least 60 days prior to the election date.

(2) The results of the first election shall be canvassed by the board of trustees within five days after the election. In the event no candidate in a position received a majority of the votes cast therein, the board of trustees shall order a special election to be held not less than 10 days nor more than 30 days from the date of the first election and shall cause the names of the two candidates receiving the highest number of votes in any position in which no candidate received a majority to

For Annotations and Historical Notes, see V.A.T.S.

be placed on the ballot as candidates for that position. The election shall be held and conducted in the manner prescribed by law for regular trustee elections.

Acts 1967, 60th Leg., p. 840, ch. 351, eff. Aug. 28, 1967.

Title of Act:

An Act to authorize the board of trustees of certain independent school districts to fix the date of election of trustees on a

certain date and to provide for the election of trustees by a majority vote; and declaring an emergency. Acts 1967, 60th Leg., p. 840, ch. 351.

Art. 2775a—9. Election of trustees in certain districts ; alternating years

Section 1. This Act shall apply to any independent school district incorporated under the provisions of Article 2757 or 2742j (Vernon's Texas Civil Statutes) having a board of seven trustees and whereunder in alternate years four (4) trustees are elected for two (2) year terms and three (3) trustees are elected for two (2) year terms.

Sec. 2. Immediately after any next regular election of a board of trustees in any independent school district to which this Act applies, members of such board of school trustees may draw lots. Those members drawing numbers 1, 2, and 3 shall serve for a term of one year and until their respective successors are duly elected and qualified. Those members drawing numbers 4 and 5 shall serve for a term of two (2) years and until their respective successors are duly elected and qualified. Those drawing numbers 6 and 7 shall serve for a term of three (3) years and until their respective successors be duly elected and qualified.

Sec. 3. Those members of the board of trustees, in any district to which this Act applies, who are elected at the expiration of each of the terms provided for in Section 2 herein shall serve for a term of three (3) years and the term of office of members of such board of school trustees shall continue to be three (3) years with two (2) or three (3) members thereof, as the case may be, being elected each year thereafter.

Sec. 4. If any vacancy occurs in the membership of any such board of school trustees, such vacancy or vacancies shall be filled by a majority vote of the remaining school trustees of such district; any school trustee so appointed to fill a vacancy shall serve for the unexpired term of his or her predecessor.

Sec. 5. This Act shall be regarded as permissive and shall be cumulative of all the general laws on the subject.

Acts 1967, 60th Leg., p. 839, ch. 350, eff. Aug. 28, 1967.

Title of Act:

An Act relating to the election and terms of office of members of the Board of Trustees in certain independent school districts whose seven members in alternate years (four one year, three the next) are elected for two-year terms; permitting and provid-

ing for three-year terms on a 3-2-2 alternating years basis; prescribing the rotation procedure therefor; providing that the provisions of this Act shall be regarded as permissive and cumulative of other laws on the subject; and declaring an emergency. Acts 1967, 60th Leg., p. 839, ch. 350.

Art. 2775f. Election of trustees of certain independent districts in counties of 46,400 to 46,600 population

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Sec. 2. (a) The board of trustees of the independent school district may, by appropriate action, order that the candidates for trustee be voted upon and elected separately for positions on the board of trustees, and all candidates shall be designated on the official ballot according to the number of the position to which they seek election. The board shall hold an election each year to elect trustees for either two or three of the positions, as the case may be, as provided by Section 3 of this Act.

(b) The applications of candidates for a place on the ballot shall be filed, not less than 30 days prior to the day of the election, with the secretary of the board of trustees of the independent school district. The application shall be in writing, shall designate the position for which the

applicant seeks election, and shall be signed by the applicant. The names of the candidates for each position shall be arranged by lot by the board of trustees.

(c) If the order under Subsection (a) of this section is made during the 35-day period preceding the date of the next election of trustees, then the deadline for filing applications of candidates is extended through the 10th day after the date of the order, unless the 10th day follows the last permissible date for ordering the election under Section 4A of this Act, in which case the deadline for filing is extended only through the second day after the date the order under Subsection (a) of this section is made. If the order under Subsection (a) of this section is made after any person has filed an application as a candidate for trustee in a forthcoming election, the candidate may either file a new application with the secretary of the board of trustees of the school district, in which case the application must be in the form prescribed by Subsection (b) of this section, or he may have the county judge forward his previously-filed application to the secretary of the board of trustees of the school district with a written designation of the position for which he seeks election.

(d) Once a board of trustees has adopted the foregoing procedure for elections, the board or its successors may not rescind the action which adopted the foregoing procedure.

Sec. 2 amended by Acts 1967, 60th Leg., p. 46, ch. 24, § 1, emerg. eff. March 21, 1967.

Sec. 4A. The board of trustees of the independent school district shall order and conduct the annual election of trustees. The order shall be made at least 10 days before the date of the election. The board shall post a notice of the order at three different places in the district. At the time of ordering an election, the board shall appoint three persons to hold the election, and shall designate the places where the polls shall be open. Elections shall be held in accordance with the general election laws, and returns shall be made to the board of trustees. The board of trustees shall canvass the returns, declare the result of the election, and issue certificates of election to the persons shown by the returns to be elected. The expenses of the election shall be paid by the school district.

Sec. 4A added by Acts 1967, 60th Leg., p. 46, ch. 24, § 2, emerg. eff. March 21, 1967.

Art. 2775f—1. Election of trustees of certain independent districts in counties of 150,000 to 151,000 population

Section 1. This Act applies to each independent school district, created under general or special law, having 500 or more scholastics according to the last preceding scholastic census,

(1) if the largest portion of the area of the school district is inside the boundaries of a county having a population of more than 150,000 and less than 151,000, according to the last preceding Federal Census; and

(2) if the district has, until the effective date of this Act, elected four trustees for two-year terms in even-numbered years, and elected three trustees for two-year terms in odd numbered years.

Sec. 2. (a) The board of trustees of the independent school district may, by appropriate action, order that the candidates for trustee be voted upon and elected separately for positions on the board of trustees, and all candidates shall be designated on the official ballots according to the number of the position to which they seek election. The board shall hold an election each year to elect trustees for either two or three of the positions, as the case may be, as provided by Section 3 of this Act.

(b) If the order under Subsection (a) of this Section is made during the 35-day period preceding the date of the next election of trustees, then the deadline for filing applications of candidates is extended through the

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10th day after the date of the order, unless the 10th day follows the last permissible date for ordering the election, in which case the deadline for filing is extended only through the second day after the date the order under Subsection (a) of this Section is made. If the order under Subsection (a) of this Section is made after any person has filed an application as a candidate for trustee in a forthcoming election, the candidate may either file a new application with the secretary of the board of trustees of the school district, in which case the application must designate the position for which the applicant seeks election, or he may amend his previously filed application by designating the position for which he seeks election.

(c) Once a board of trustees has adopted the foregoing procedure for elections, the board or its successors may not rescind the action which adopted the foregoing procedure.

Sec. 3. (a) At the first odd-year election immediately following the date of the order made under Section 2(a) of this Act, positions 1, 2, and 3 shall be filled by election for two-year terms. Upon the expiration of the two-year term the positions are filled by election for three-year terms, and there shall be an election each third year to fill these positions.

(b) At the first even-year election following the election under Subsection (a) of this Section, positions 4, 5, 6, and 7 shall be filled by election. At the first board meeting after the certificates of election are issued, the persons elected to these positions shall determine by drawing lots which two of them shall serve terms of two years and which two shall serve terms of three years. Thereafter, upon the expiration of the terms for these positions, the positions are filled by election for three-year terms.

Sec. 4. If a position is vacated before the term expires, the remaining trustees shall, by majority vote, select a person to serve in that position. A person so selected serves the unexpired term and the position is then filled by election.

Acts 1967, 60th Leg., p. 59, ch. 34, eff. Aug. 28, 1967.

Title of Act:

An Act relating to the election of school trustees in certain counties; and declaring an emergency. Acts 1967, 60th Leg., p. 59, ch. 34.

Art. 2777—1. Filling vacancies on boards of trustees of independent school districts

In all independent school districts in the state, regardless of the number of scholastics enrolled, if a vacancy occurs in the board of trustees, the remaining members of the board of trustees shall fill the vacancy until the next regular election for members of the board of trustees. If, at the time of that election, there remains any portion of the term so filled, a person shall be elected to serve out the remainder of the unexpired term.

(a) The provisions of this Act shall not apply to school districts where the school board is appointed by the city commission.

Acts 1967, 60th Leg., p. 1073, ch. 468, § 1, eff. Aug. 28, 1967.

Section 2 of the act of 1967 provided: "All special, local, and general laws in conflict with this Act are repealed to the extent of the conflict."

Title of Act:

An Act relating to the filling of vacancies on boards of trustees of independent school districts; making certain exceptions to the Act; repealing conflicting laws; and declaring an emergency. Acts 1967, 60th Leg., p. 1073, ch. 468.

Art. 2781a. Consultation with teachers on matters of educational policy and conditions of employment

Section 1. The Board of Trustees of each independent school district, rural high school district and common school district, and their administrative personnel, may consult with teachers with respect to

matters of educational policy and conditions of employment, and such Boards of Trustees may adopt and make reasonable rules, regulations and agreements to provide for such consultation. This statute shall not limit or affect the power of said trustees to manage and govern said schools.

Sec. 2. Nothing in this Act shall repeal, modify, or in any way affect provisions of Chapter 135, Acts of the 50th Legislature, Regular Session, 1947 (Article 5154c, Vernon's Texas Civil Statutes), and Chapter 387, Acts of the 54th Legislature, Regular Session, 1955 (Article 5154g, Vernon's Texas Civil Statutes). If any of the provisions of this Act are held to be in conflict with said laws, said laws shall govern. Acts 1967, 60th Leg., p. 596, ch. 270, eff. Aug. 28, 1967.

Title of Act:

An Act authorizing Boards of Trustees of independent school districts, rural high school districts and common school districts, and their administrative personnel, to consult with teachers with respect to matters of educational policy and conditions

of employment, and to adopt and make reasonable rules, regulations and agreements to provide for such consultation; saving certain laws from repeal; and declaring an emergency. Acts 1967, 60th Leg., p. 596, ch. 270.

Art. 2783d. Separation from municipal control of extended municipal school district having city of 290,000 or more

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Election to board of trustees; majority vote; date of run-off

Sec. 6a. Candidates for election to said Board shall be nominated by a majority vote of the electors voting in such election, and in the event no candidate receives a majority of the votes cast therein the Board of Education, after canvassing the results thereof, shall cause the names of the two (2) candidates receiving the highest number of votes to be placed on the ballot to be voted upon at a special run-off election which shall be held on the third Saturday following said election beginning with the first such election held after the effective date of this Act. Said election shall be held and conducted in the manner prescribed by law for regular trustee elections, except the Board of Education, if it deems advisable may provide that absentee votes in any regular or special election shall be cast at the Administration Building of the District. Provided, however, that this Act shall not become effective until January 1, 1968. Trustees elected pursuant to this Act shall be installed the second Wednesday of May.

Sec. 6a amended by Acts 1967, 60th Leg., p. 1016, ch. 445, § 1, eff. Jan. 1, 1968.

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4. TAXES AND BONDS

Art. 2784e—8. Additional tax for certain rural high school districts in counties of 20,650 to 20,700 population

Section 1. The Board of Trustees of any rural high school district having a scholastic population of 200 or less, according to the last preceding scholastic census, and lying within a county having a population of not less than 20,650 nor more than 20,700 persons, according to the last preceding federal census, may levy and cause to be collected a tax, in addition to that authorized under Section 1, Chapter 304, Acts of the 49th Legislature, Regular Session, 1945, as amended (Article 2784e, Vernon's Texas Civil Statutes), or authorized under Section 1, Chapter 528, Acts of the 54th Legislature, Regular Session, 1955, as amended (Article 2784e—1, Vernon's Texas Civil Statutes), not to exceed 50 cents on the \$100 valuation of taxable property for the district for the maintenance and

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use of the schools therein. The limitation imposed by Subsection 3, Section 1, Chapter 304, Acts of the 49th Legislature, Regular Session, 1945, as amended (Article 2784e, Vernon's Texas Civil Statutes), shall not apply to the additional tax provided for in this section and the tax provided for in this section shall be in addition to that limit.

Sec. 2. No tax shall be levied, collected, abrogated, diminished, or increased under the provisions of this Act until such action has been authorized by a majority of the votes cast at an election held in the district for such purposes, at which none but property taxpaying qualified voters of the district shall be entitled to vote.

Acts 1967, 60th Leg., p. 118, ch. 63, eff. Aug. 28, 1967.

Title of Act:

An Act relating to an increased maintenance tax in certain rural high school districts; and declaring an emergency. Acts 1967, 60th Leg., p. 118, ch. 63.

Art. 2784e—9. Additional tax for county-line common school districts in counties of 21,900 to 22,200 and counties of 39,400 to 40,000 population

Section 1. The Board of Trustees of any county-line common school district lying within a county having a population of not less than 21,900 nor more than 22,200 persons, and in a county having a population of not less than 39,400 nor more than 40,000, according to the last preceding federal census, may levy and cause to be collected a tax, in addition to that authorized under Section 1, Chapter 304, Acts of the 49th Legislature, 1945, as amended (Article 2784e, Vernon's Texas Civil Statutes), or authorized under Section 1, Chapter 528, Acts of the 54th Legislature, 1955, as amended (Article 2784e—1, Vernon's Texas Civil Statutes), not to exceed 50 cents on the \$100 valuation of taxable property for the district for the maintenance and use of the schools therein. The limitation imposed by Subsection 3, Section 1, Chapter 304, Acts of the 49th Legislature, 1945, as amended (Article 2784e, Vernon's Texas Civil Statutes), shall not apply to the additional tax provided for in this section and the tax provided for in this section shall be in addition to that limit.

Sec. 2. No tax shall be levied, collected, abrogated, diminished, or increased under the provisions of this Act until such action has been authorized by a majority of the votes cast at an election held in the district for such purposes, at which none but property taxpaying qualified voters of the district shall be entitled to vote.

Acts 1967, 60th Leg., p. 527, ch. 231, eff. Aug. 28, 1967.

Title of Act:

An Act relating to an increased maintenance tax in certain county-line common school districts; and declaring an emergency. Acts 1967, 60th Leg., p. 527, ch. 231.

Art. 2784e—10. Additional tax for common school districts in counties of 14,550 to 14,850 population

Section 1. (a) The commissioners court for the common school districts in all counties having a population of not less than 14,550 persons nor more than 14,850, according to the last preceding federal census, may levy and collect a tax, in addition to that authorized under Section 1, Chapter 304, Acts of the 49th Legislature, 1945, as amended (Article 2784e, Vernon's Texas Civil Statutes), not to exceed \$1.50 on the \$100 valuation of taxable property of the district for the payment of school bonds and for the maintenance and use of the schools in the district.

(b) The limitation imposed by Subsection 3, Section 1, Chapter 304, Acts of the 49th Legislature, 1945, as amended (Article 2784e, Vernon's Texas Civil Statutes), does not apply to the additional tax authorized by Subsection (a) of this section.

Sec. 2. No tax may be levied, collected, abrogated, diminished, or increased under this Act until that action has been authorized at an elec-

tion held in the district for that purpose, by a majority of the qualified property taxpaying electors of the district voting at the election. Acts 1967, 60th Leg., p. 1846, ch. 719, emerg. eff. June 17, 1967.

Title of Act:

An Act relating to an additional tax for and declaring an emergency. Acts 1967, common school districts in certain counties; 60th Leg., p. 1846, ch. 719.

Art. 2790d—11. Time warrants of independent districts; counties of 5,500 to 6,500

Section 1. This Act shall apply to all independent school districts situated in parts of three or more counties and containing a city within such district boundaries having a population of not more than 6,500 and not less than 5,500 according to the last preceding federal census with corporate limits situated in parts of two or more counties, and having an approved tax roll assessment for said school district for the year 1966 of not less than \$20,000,000 and not more than \$22,000,000. If during the scholastic year the Board of Trustees of any such independent school district determines a need to repair or renovate school buildings; purchase school buildings; cause to be constructed new school buildings; purchase school furniture, furnishings, or equipment; equip school properties with necessary heating, water, sanitation, lunchroom, and electrical facilities; and said school district is financially unable out of available funds to make such repairs, renovations, purchases, or equip such school properties with said facilities, said board is hereby authorized to issue time warrants for the purpose of obtaining funds with which to repair or renovate school buildings; purchase school buildings; cause to be constructed new school buildings; purchase school furniture, furnishings, or equipment; equip school properties with necessary heating, water, sanitation, lunchroom, and electrical facilities. Said board shall authorize the issuance of said time warrants by appropriate order which order shall further create an interest and sinking fund into which there shall be deposited, out of each year's taxes while said warrants are unpaid and in existence, a sufficient amount of money to pay the principal and interest on said warrants when the same become due and payable, and a tax, within the limits otherwise provided by law, shall be levied for the payment of the interest on and principal of such warrants. Said warrants shall be payable serially and annually for a period of years not to exceed five (5), and shall bear interest at a rate not to exceed five percent (5%) per annum, with the option to call any part or all of said warrants for payment on any interest installment or paying date, and may provide for the payment of interest on a quarterly or semiannual basis. Said warrants shall be signed by the president of the Board of Trustees and countersigned by the secretary; provided, however, that their facsimile signatures may be printed or lithographed on any coupon, if any, attached to said warrants. Said warrants shall not be sold for less than par and accrued interest. Monies placed in said interest and sinking fund shall be paid out only to pay the interest and principal requirements on said warrants. The aggregate amount of time warrants that may be outstanding as to unpaid principal shall never exceed \$75,000.

Sec. 2. The interest and principal requirements which shall mature during the district's fiscal year shall be reflected in the district's budget for that fiscal year.

Sec. 3. No warrants authorized to be issued or executed under this Act shall be issued or executed after the expiration of two years from the effective date of this Act.

Sec. 4. Upon the issuance of any warrants provided for in this Act the affidavit of the president and secretary of the said Board of Trustees that said warrants have been issued in conformity with this Act, and the statement on the fact of each such warrant so issued or executed that same

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are made in compliance with and under the authority of this Act, shall be prima facie evidence of the validity of said warrants.

Sec. 5. This Act shall not be construed as repealing any laws now in existence authorizing the issuance of interest-bearing time warrants, but this Act shall be cumulative of all said existing laws and Acts. Acts 1967, 60th Leg., p. 117, ch. 62, emerg. eff. April 17, 1967.

Title of Act:

An Act relating to issuance of time warrants by certain independent school districts; and declaring an emergency. Acts 1967, 60th Leg., p. 117, ch. 62.

Art. 2790d—12. Time warrants of independent districts; counties of 6,400 to 6,425

Section 1. (a) This Act applies to independent school districts with an assessed valuation of not less than \$16 million nor more than \$18 million, in counties with a population of not less than 6,400 nor more than 6,425 according to the last preceding federal census.

(b) The Board of Trustees of an independent school district described in Subsection (a) of this Act, may, upon a determination that there are insufficient funds to properly operate and maintain the district's schools, make and enter an order in their minutes directing

(1) the issuing of time warrants sufficient to obtain funds for operation and maintenance of the district's schools during the remainder of the scholastic year;

(2) the levying of a tax sufficient to pay the principal and interest on the bonds; and

(3) the creation of an interest and sinking fund.

(c) The Board shall deposit in the sinking fund, created by the order in Subsection (b) of this section, an amount from each year's taxes sufficient to pay the principal and interest on outstanding warrants when they become due and payable, and the funds may only be used to pay the principal and interest on the warrants.

(d) The Board may pay the warrants serially or annually, but they shall pay the bonds not later than eight years from the date the bonds are issued.

(e) The interest on the bonds is five percent or less a year, however, the Board may pay interest semiannually.

(f) The president of the Board shall sign the warrants and the secretary shall countersign them.

(g) The Board may not sell the warrants for less than par value and accrued interest.

(h) The Board may not issue warrants in an aggregate amount exceeding \$100,000 in any scholastic year.

(i) The Board may not issue or execute a warrant after the expiration of two years from the effective date of this Act.

Sec. 2. After warrants have been issued, they are prima facie valid if

(1) the director of the Division of Research of the Texas Education Agency signs an affidavit stating the school issuing the warrants is, according to the agency's records, within the authorization of this Act; and

(2) the Board's president and secretary sign an affidavit stating the warrants were issued in conformity with this Act and that all proper and necessary orders were issued.

Sec. 3. This Act is cumulative of, and is not to be construed as repealing, any existing laws authorizing issuing interest-bearing time warrants.

Acts 1967, 60th Leg., p. 120, ch. 65, eff. Aug. 28, 1967.

Title of Act:

An Act authorizing certain independent school districts to issue time warrants; and declaring an emergency. Acts 1967, 60th Leg., p. 120, ch. 65.

Art. 2792—1. Assessment and collection of taxes by city assessor and collector in certain independent districts having 200,000 or more scholastics

When the majority of the Board of Trustees of any independent school district, whether created by general law or by special law, having two hundred thousand (200,000) or more scholastics according to the preceding scholastic census and wherein there is situated all or part of a city having a population of nine hundred thousand (900,000) or more inhabitants according to the preceding Federal Census, prefer to have the taxes of their district assessed and collected by the city assessor and collector of an incorporated city or town in the limits of which the school district, or a part thereof is located, same may be assessed and collected by said city officers and turned over to the treasurer of the independent school district for which such taxes have been collected. The property of such districts having their taxes assessed and collected by the city assessor and collector may be assessed at a greater value than that assessed for city or municipal purposes, notwithstanding any contrary provision in any other general or special law; provided, however, that the assessed value of the taxable property within said district as determined by the Board shall not exceed sixty (60) percent of the total appraised fair cash market value of all real, personal and mixed property within said district as determined by the city assessor and collector unless a greater percentage is approved by a majority of the qualified property taxpaying voters of the district voting at an election to be held for that purpose and provided further that any increase in the assessed value of the taxable property within said district above the percentage of fair cash market value being applied by the city assessor and collector for municipal tax purposes shall be initially approved by a majority vote of the qualified property taxpaying voters of the district voting in an election to be held for that purpose. Thereafter, the Board of Trustees of said district shall have the authority to adjust the assessment ratio so long as the assessment ratio does not exceed the assessment ratio most recently approved by a majority of the qualified property taxpaying voters of the district as provided herein. When the property of such districts is assessed at a greater value than that assessed for city or municipal purposes by the city assessor and collector, the city tax assessor and collector may assess the taxes for said district on separate assessment blanks furnished by said district and shall prepare the rolls for said district in accordance with the assessment values which have been equalized by a Board of Equalization appointed by the Board of Trustees for that purpose which may be a separate Board of Equalization or may be the same Board of Equalization that serves as the Board of Equalization for the incorporated city or town for which the assessor and collector serves as city assessor and collector of taxes. When the assessor and collector of an incorporated city, or town, as hereinbefore provided, is required to assess and collect the taxes of any independent school district, the Board of Trustees of such school district may contract with the governing body of said city for payment for such services as they may see fit to allow, not to exceed the actual cost incurred in assessing and collecting said taxes.

Acts 1967, 60th Leg., p. 102, ch. 47, § 1, emerg. eff. April 18, 1967.

Acts 1967, 60th Leg., p. 102, ch. 47, § 2 provided: "If any section, sentence, clause, phrase or word of this Act is for any reason held to be invalid, the invalidity of the remaining portions of this Act shall not be affected thereby, it being the intent of the Legislature that no portion of this Act shall be inoperative by the reason of the invalidity of any other portion."

Title of Act:

An Act relating to the assessment and collection of taxes for any independent school district having two hundred thousand (200,000) or more scholastics according to the preceding official scholastic census and wherein there is situated all or part of a city having a population of nine hundred thousand (900,000) or more inhabitants according to the last Federal Census; providing for a maximum assessment

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ratio and also providing that any increase in the assessed value of the taxable property within said district different than the assessed value used by the city assessor and collector shall be initially approved by a majority vote of the qualified voters of

the district and further providing that any increase over and above the maximum assessment ratio will also require approval by an election of the qualified voters; and declaring an emergency. Acts 1967, 60th Leg., p. 102, ch. 47.

Art. 2802e—5. Contracts by independent school districts for use of stadiums and other athletic facilities

Eligible district; definition

Section 1. As used in this Act the term "Eligible District" shall mean any independent school district which has an incorporated city and the campus of an institution of higher learning of the State of Texas (a State University or College) located wholly or partially within its boundaries.

Contracts; duration; terms and conditions

Sec. 2. Any Eligible District, acting by and through its Board of Trustees, is hereby authorized to enter into a contract with any corporation, or any city or any institution of higher learning of the State of Texas (State University or College) located wholly or partially within its boundaries, for the use of any stadium and other athletic facilities owned by, or under the control of, any such entity. Such contract may be for any period, not exceeding 75 years, and may contain such terms and conditions as may be agreed upon between the parties.

Purpose of contracts

Sec. 3. Any Eligible District may enter into such contract for the use of such stadium and other athletic facilities for any purpose related to sports activities and other physical education programs for the students at the public free schools operated and maintained by such Eligible District.

Consideration; maintenance tax

Sec. 4. The consideration for any such contract may be paid from any source available to such Eligible District; but if voted, as hereinafter provided, such Eligible District shall be authorized to pledge to the payment of said contract an annual maintenance tax in an amount sufficient, without limitation, to provide all of such consideration. If so voted and pledged, such maintenance tax shall be assessed, levied, and collected annually in the same manner as provided by general law applicable to independent school districts for other maintenance taxes.

Election

Sec. 5. No maintenance tax shall be pledged to the payment of any such contract or assessed, levied, or collected unless an election is held in the Eligible District and any such maintenance tax is duly and favorably voted by a majority of the resident, qualified electors of the Eligible District who own taxable property therein and who have duly rendered the same for taxation, voting at said election. Each such election shall be called by order of the Board of Trustees of the Eligible District. The election order shall set forth the date of the election, the proposition to be submitted and voted on, the polling place or places, and any other matters deemed advisable by the Board of Trustees. Notice of said election shall be given by posting a substantial copy of the order calling the election at three public places in the Eligible District at least ten days prior to the election. Except as herein otherwise specifically provided, any such election shall be held in accordance with the Texas Election Code.

Acts 1967, 60th Leg., p. 488, ch. 217, emerg. eff. May 19, 1967.

Title of Act:

An Act defining an Eligible District as any independent school district which has an incorporated city and the campus of

an institution of higher learning of the State of Texas (a State University or College) located wholly or partially within its boundaries; authorizing any Eligible

District to contract for the use of stadium and other athletic facilities owned or controlled by other entities; authorizing the pledge of annual maintenance taxes to the payment of the consideration for any

such contract provided that such tax is voted at an election; and declaring an emergency. Acts 1967, 60th Leg., p. 488, ch. 217.

Art. 2802i—29. Tax rate in common school districts in counties of less than 3,250 and in certain districts of less than 1,000 population

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Sec. 1A. If a common school district is located in a county lying North of the 33rd degree of latitude North and having a population of one thousand (1,000) or less, according to the last preceding Federal Census, the district may levy, assess, and collect taxes not to exceed the following rates: For maintenance purposes, Two Dollars and Fifty Cents (\$2.50) per hundred dollars of assessed valuation; for bond interest and sinking fund purposes, seventy-five cents (75¢) per hundred dollars of assessed valuation; but the combined tax for both purposes shall never exceed Two Dollars and Fifty Cents (\$2.50) per hundred dollars of assessed valuation. Such taxes shall be assessed, levied, and collected pursuant to the provisions of this Act and of the general law applicable to such districts. Sec. 1A added by Acts 1967, 60th Leg., p. 470, ch. 214, § 1, emerg. eff. May 19, 1967.

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The Title and introductory clause of Acts 1967, 60th Leg., p. 470, ch. 214, purported to amend "Chapter 226, Acts of the 52nd Legislature, 1951 (Article 2801i—29, Vernon's Texas Civil Statutes)". Article 2801i—29 was enacted by Acts 1951, 52nd Leg., p. 426, ch. 266.

5. ADDITIONS AND CONSOLIDATIONS

Art. 2803. 2883 Extension of city limits for school purposes

Any city or town that has taken charge of the public free schools within its limits, or that shall hereafter take charge of the same, may, by ordinance, extend its corporation lines for school purposes only, on a petition signed by a majority of the resident qualified voters of the territory, which is to be taken into said city or town for school purposes only, and recommended by a majority vote of the trustees of the public free schools of said city or town; provided, that the proposed change shall not deprive the scholastic children of the remaining part, if any, of the common or independent school district or districts which may be affected by the proposed change, of the opportunity of attendance upon school. The added territory shall bear its pro rata part according to taxable values of any school debt or debts that may be owed or contracted by said city or town to which it shall have been added, and shall not bear any part of any other debt that may be owed or contracted by such town or city. The property of the added territory shall bear its pro rata part of all school taxes, but of no other taxes. The added territory shall not affect the city's debts or business relations in any manner whatever, except for school purposes as provided above. The officers whose duty it is to assess and collect school taxes within the city limits shall also assess and collect school taxes within the territory added for school purposes as herein provided.

Provided further, that when hereafter an entire territory of a contiguous district or districts is added for school purposes only, under the provisions of this Article, the extended city control district shall be regarded as eligible for incentive aid to the extent and under the conditions prescribed in Chapter 361, Acts 58th Legislature, Regular Session, as amended (Article 2815—4, V.T.C.S., as amended). Amended by Acts 1967, 60th Leg., p. 427, ch. 193, § 1, emerg. eff. May 15, 1967.

For Annotations and Historical Notes, see V.A.T.S.

Art. 2803b. Counties over 210,000; annexation of independent school districts, common school districts, rural high school districts, or any other type of school districts to contiguous independent school districts

Petition; election

Section 1. In every county in this state having a population of two hundred and ten thousand (210,000) or more, according to the last preceding Federal Census, any independent school district or common school district, rural high school district, or any other type of school district may be annexed to any contiguous independent school district as herein provided. A petition requesting annexation and stating the metes and bounds of the school district to be annexed and added to such other district, signed by a majority of the Board of Trustees of the district seeking annexation, or by not less than twenty (20) qualified voters of such district, shall be filed with the County Board of Trustees of the county. Upon receipt of such petition, duly signed, and upon the filing of a consent to the proposed annexation by a majority of the Board of Trustees of the District to which any school district is sought to be annexed, if it appears to the County Board that said annexation will be to the best interest of the districts affected and the public schools involved the Board shall enter its order for an election to be held within the petitioning district, and at its expense, at which election there shall be submitted to the qualified voters within said district the following propositions:

“For the annexation of _____ School District to _____ School District,” and the contrary thereof.

Notice of said election shall be given and said election shall be held and the results thereof canvassed and certified in accordance with the provisions of Article 2815a of the General Laws of Texas.

Should the results of said election show that a majority of the qualified voters in such petitioning district voting at such election voted in favor of the question submitted, the County Board of Trustees shall certify such fact to the Board of Trustees of the receiving district and such Board and the County Board shall enter an order on their respective minutes declaring such petitioning district to be duly annexed to the receiving district and subject to all the laws governing the same and redefining the boundaries of the receiving district after annexation. A certified copy of the order of the County Board of Trustees shall be transmitted to the County Clerk of the county and recorded in the “Record of School Districts” of such county.

Effect of annexation

Sec. 2. In event a common, independent school district, rural high school district, or any other type of school district be annexed to an independent school district under this Act, title to all property, real and personal, shall vest in the receiving district, which shall also have complete authority over and management of the public schools in the territory annexed and the receiving district shall in consideration of the transfer of such property and the authority over the operation and maintenance of said schools assume all outstanding indebtedness of the annexed district, bonded or otherwise. Any tax in effect in said independent school district receiving such territory shall continue and become effective in the territory annexed so that said tax and the rate thereof shall be effective and apply to the entire independent district as constituted after said annexation is completed and said tax shall remain in effect until changed as provided by law.

Taxes; unissued bonds

Sec. 3. No election in the receiving district shall be necessary on the question of annexation and the governing board of the receiving independ-

ent school district, without the necessity of an additional election, shall have the power to assess, levy and collect ad valorem taxes on all taxable property within the boundaries of the district as changed, for the purposes of the maintenance of public free schools therein, and the payment of principal of and interest on all bonded indebtedness outstanding against, or attributable, adjusted or allocated to, such district or any territory therein, in the amount, at the rate, or not to exceed the rate, and in the manner authorized in the district prior to the change in its boundaries, and further in accordance with the laws under which all such bonds, respectively, were voted; and such governing body also shall have the power, without the necessity of an additional election, to sell and deliver any unissued bonds voted in the district prior to any such change in boundaries, and to assess, levy and collect ad valorem taxes on all taxable property in the district as changed, for the payment of principal of and interest on such bonds in the manner permitted by the laws under which such bonds were voted.

Independent district not affected

Sec. 4. The annexation of any district under this Act shall not affect the independent district to which said territory is added, whether created under General or Special Law, but such district shall continue as the same district and operate in all respects as it was prior to such annexation, save that the annexed territory shall become liable for all indebtedness, subject to all taxes, and be a part thereof for all purposes as though originally included therein.

Application; act as cumulative

Sec. 5. This Act shall apply to any independent school district, to any common school district, to any rural high school district, or to any other type of school district, however created, and the method of annexation herein provided shall not be exclusive, but shall be cumulative of all other laws relating to the subject.

Amended by Acts 1967, 60th Leg., p. 1770, ch. 672, § 1, emerg. eff. June 17, 1967.

Art. 2806e. Trustees of larger district as trustees of consolidated district until terms expire

Whenever under existing law or under any law hereinafter enacted, an independent school district is consolidated with one or more independent school districts and/or one or more common school districts and/or one or more rural high school districts and/or one or more school districts of any other type and one of said independent school districts so consolidated shall have at the time of said consolidation election a scholastic enrollment in excess of five (5) times that of the other district, or in excess of five (5) times the combined scholastic enrollment of all the other districts included in such consolidation, the Board of Trustees of said larger district shall serve as the Board of Trustees of the consolidated district until the terms of the respective members thereof shall expire, at which time their successors shall be elected from the consolidated district as provided by law; it being the intention to provide herein that the respective trustees of the larger district shall serve until their current terms expire and their successors are elected from the consolidated district; and it shall not be necessary to elect another new Board for the consolidated district at the next general election following the consolidation, but there shall be elected from such consolidated district at such time only the successors to those members of the Board whose terms expire then.

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Amended by Acts 1967, 60th Leg., p. 304, ch. 147, § 1, emerg. eff. May 9, 1967.

Sections 2-4 of the 1967 amendatory act provided:

"Sec. 2. The terms and provisions of Section 1 above shall apply to all elections for trustees in consolidated districts held after the effective date of this Act regardless of whether or not the consolidation election consolidating said districts was held before or after the effective date of this Act.

"Sec. 3. If any provision, Section or clause of this Act or application thereof to any person or circumstances is held invalid,

such invalidity shall not affect other provisions or applications thereof which can be given effect without the invalid provision, Section or clause, and to this end the provisions of this Act are declared to be severable.

"Sec. 4. All laws or parts of laws in conflict herewith are expressly repealed to the extent of the conflict only; otherwise this Act shall be cumulative of all other existing laws relative to the consolidation of school districts."

6. DISTRICTS IN LARGE COUNTIES

Art. 2815g—59. Validation of districts; resolutions, orders and ordinances for divorcement or separation from municipal control; bonds; boundaries

Section 1. All school districts of every kind and type whatsoever, including all types of junior and regional college districts, for the creation of which an election was held and at which a majority of the persons voting thereat voted in favor of such creation, are hereby validated in all respects as though they had been duly and legally created, established, and/or organized in the first instance, and the boundary lines and names of all such school districts are likewise validated. Without in any manner limiting the foregoing and in addition thereto, all resolutions, orders, ordinances, and other acts or attempted acts of all county boards of school trustees and county boards of education, Commissioners Courts, and county judges, in calling elections, declaring such districts created and/or declaring other matters relating to the proceedings in connection with such creations and/or elections, or in changing or attempting to change the boundaries of any school district of any kind or type whatsoever, including all types of junior and regional college districts, whether by rearrangement or boundaries or correction of boundary lines, by subdividing or detachment, by annexation or consolidation of all or part of one or more such school districts to or with all or part of one or more other such school districts, by grouping of such school districts, or otherwise, or in creating or attempting to create any such school district, or in abolishing or attempting to abolish any such school district, or in converting or attempting to convert any such school district into any other type of school district, are hereby validated in all respects, and all such boundary changes, creations, abolitions, and annexations, or attempts thereat, shall be valid as though they had been duly and legally accomplished in the first instance. The election of all members of the board of trustees of such school districts who have received favorable votes of a majority of the qualified electors voting at an election heretofore held is hereby in all things validated.

Sec. 2. All resolutions, orders, ordinances, and other acts or attempted acts of all governing bodies of all municipalities and of all governing bodies of all municipally controlled or assumed school districts and extended municipal school districts, in separating or divorcing or attempting to separate or divorce such schools or school districts from municipal control, jurisdiction, or authority, and/or of the governing bodies of all municipalities in annexing or attempting to annex any territory to any such municipally controlled, assumed, or extended school districts, are hereby validated in all respects, and all such separations or divorcements and annexations, or attempts thereat, shall be valid as though they had been duly and legally accomplished in the first instance.

Sec. 3. All bonds, including both tax and revenue bonds, and including voted or authorized but undelivered bonds as well as outstanding bonds, and all voted bond taxes and voted maintenance taxes, of and in all school districts of every kind and type whatsoever, including all types of junior and regional college districts, and all bond, maintenance tax, and bond assumption elections heretofore held in all such school districts, together with all proceedings, resolutions, orders, ordinances, and other acts or attempted acts of the governing bodies or bond-issuing authorities of all such school districts, pertaining to, or attempting to issue or authorize, any such bonds, bond taxes, maintenance taxes, and bond assumptions, be and are hereby validated in all respects, and all such bonds, bond taxes, maintenance taxes, and bond assumptions shall be valid as though they had been duly and legally issued, authorized, or accomplished in the first instance.

Sec. 4. Nothing in this Act shall be construed as validating any boundary change made or attempted to be made by any ex parte order, resolution, or other act of the board of trustees of any school district, and this Act shall have no application to litigation pending in any court of competent jurisdiction in this state on the effective date hereof questioning the validity of any matters hereby validated if such litigation is ultimately determined against the validity of the same. Nor shall this Act apply to proceedings pending before the County Boards of Trustees, the State Commissioner of Education, or the State Board of Education on the effective date hereof questioning the validity of any matters hereby validated if such proceedings are ultimately determined against the validity of the same. Nor shall this Act apply to any district which has heretofore been declared invalid by a court of competent jurisdiction in this state or which may have been established and which was later returned to its original status.

Acts 1967, 60th Leg., p. 153, ch. 81, emerg. eff. April 27, 1967.

Section 5 of Acts 1967, 60th Leg., p. 153, ch. 81 was a savings clause.

Title of Act:

An Act validating all school districts, including all types of junior and regional college districts, together with the boundaries and names thereof; validating the creation, abolition, and conversion of all such school districts, and all changes in boundaries in all such school districts; validating the election of certain members to boards of trustees; validating the annexation of territory and the divorcement or separation from municipal control in all municipally controlled school districts; validating all bonds, bond taxes, maintenance taxes, and bond assumptions and the elections authorizing same, of and in all school districts, including all types of junior and regional college districts; pro-

viding this Act shall not be construed as validating any boundary change made or attempted to be made by any ex parte order, resolution, or other act of the board of trustees of any school district; providing that this Act shall have no application to litigation now pending questioning the validity of matters hereby validated, or to proceedings now pending before the County Boards of Trustees, State Commissioner of Education, or the State Board of Education, or to any district which has heretofore been declared invalid by certain courts, or to districts which may have been established and later returned to original status, providing such litigation or proceedings are ultimately determined against the validity of matters hereby validated; providing a savings clause; and declaring an emergency. Acts 1967, 60th Leg., p. 153, ch. 81.

7. JUNIOR COLLEGES

Art. 2815h. Junior college districts

* * * * *

Annexation of adjacent territory to Junior College District

Sec. 21. Territory consisting of school districts or parts of school districts adjoining or lying adjacent to any Junior College District may be annexed to such Junior College District for Junior College purposes only by either of the following methods, to-wit:

(a) By Contract: Upon petition presented to the governing board of any Junior College District executed by all property owners of all

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property situated in the territory proposed for annexation, which petition shall contain a legally sufficient description of such territory proposed for annexation, the governing board of such Junior College District, if such board deems such annexation to be in the best interest of the District, shall enter an order authorizing the annexation of such territory by contract and, thereupon, shall enter into a written agreement duly executed and acknowledged by all persons, corporations, and entities owning property within such territory thereby effecting such annexation.

(b) By Election: Any such territory may be annexed to a Junior College District for Junior College purposes only by an election called upon petition of five percent (5%) of the property tax paying voters in the territory seeking to be annexed, said petition to contain a legally sufficient description of the territory proposed for annexation and to be presented to The County School Trustees of such County, or the County Board of Education, or to the County Commissioners Court of the County in case there be no County School Trustees or County Board of Education, together with a certified copy of an order by the governing board of the Junior College District affected approving the proposed annexation of such territory to the Junior College District for Junior College purposes only. The County School Trustees, or the County Board of Education, or the County Commissioners Court, shall issue an order for an election to be held in such territory proposed for annexation, said election to be held not less than twenty (20) days nor more than thirty (30) days from the date of said order and shall give notice of the date of such election by posting notices of such election in three (3) public places within such territory proposed for annexation. Only those legally qualified voters residing in such territory proposed for annexation shall be permitted to vote. The County School Trustees, or the County Board of Education, or the County Commissioners Court, shall, at a meeting held not more than five (5) days after said election, canvass the returns of such election, and if the votes cast therein show a majority in favor of such annexation, then the County School Trustees, the County Board of Education, or the County Commissioners Court, shall declare such territory annexed to the Junior College District for Junior College purposes only, and the said County School Trustees, or County Board of Education, or County Commissioners Court, shall cause a certified copy of such order to be transmitted to the governing board of said Junior College District.

At the next regular or special meeting of the governing board of the Junior College District to which territory has been annexed, such governing board shall, in the event of annexation by election, enter an order concurring in the order of the County School Trustees, County Board of Education, or County Commissioners Court, and, in any event, shall enter an order re-defining the boundary lines of the Junior College District as enlarged and extended and shall cause the same to be recorded upon the minutes of the governing board of said Junior College District.

Sec. 21 amended by Acts 1965, 59th Leg., p. 195, ch. 80, § 1, eff. Aug. 30, 1965; Acts 1967, 60th Leg., p. 449, ch. 203, § 1, emerg. eff. May 17, 1967.

Acts 1967, 60th Leg., p. 449, ch. 203, § 1 amended section 21 of this article; section 2 of the act of 1967 provided: "If any part of this Act is declared unconstitutional or invalid by any court of competent jurisdiction the remainder of this Act shall nevertheless remain in full force and effect."

Art. 2815h—1a. Governing bodies of junior colleges

In a statute describing or creating a junior college, the terms "board," "board of directors," "directors," "commission," "Board of Regents,"

“Board of Trustees” and “Board of Education” mean the governing body of the junior college being described or created.
Acts 1967, 60th Leg., p. 1107, ch. 488, § 1, eff. Aug. 28, 1967.

Title of Act:

An Act to provide that certain terms in a statute describing or creating a junior college mean the governing body of the junior college being described or created in the statute; and declaring an emergency.
Acts 1967, 60th Leg., p. 1107, ch. 488.

Art. 2815h—3b. Bonds of junior colleges for buildings and equipment; taxes; validation

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Sec. 3a. All such bonds shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, saving and loan associations and insurance companies. Such bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas and any and all public funds of cities, towns, villages, counties, school districts, or other political corporations, agencies, or subdivisions of the State of Texas, and such bonds shall be lawful and sufficient security for said deposits to the extent of the principal amount thereof, or their value on the market, whichever is the lesser, when accompanied by all unmatured coupons appurtenant thereto.

Sec. 3a added by Acts 1967, 60th Leg., p. 28, ch. 9, § 1, emerg. eff. March 7, 1967.

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Art. 2815k—1. Board of Trustees for certain Junior College Districts extending into two or more counties

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Sec. 8a. On the first election held after the passage of this Act, the trustees who are then elected shall be elected for a term of six (6) years; at the next election the trustees then elected shall be elected for a term of three (3) years; and at the third election the trustees who are then elected shall be elected for a term of six (6) years; and at all subsequent elections the trustees elected shall serve for a term of six (6) years.

On the first Saturday of April of each year after such trustees first elected pursuant hereto shall have served for the periods above designated, an election shall be held to fill the offices of the members or trustees whose terms expire that year.

Sec. 8a added by Acts 1967, 60th Leg., p. 5, ch. 5, § 1, emerg. eff. Feb. 27, 1967.

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Acts 1967, 60th Leg., p. 5, ch. 5, § 2 was a severability provision and section 3 thereof repealed conflicting laws.

Art. 2815k—4. Agreements making junior college services available to scholastics in certain school districts

Authority to enter into contracts; services; duration of contracts

Section 1. In any public junior college district which was originally organized or created as a county junior college district and which contains territory in three (3) or more counties on or after the effective date of this Act, the governing board of such public junior college district is hereby authorized and empowered to enter into agreements with any or all of the Boards of Trustees or other governing boards of school districts of any and every type or designation which are not a part of such public junior college district but which have all or part of the territory

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of such school districts located or situated in any of the counties in which any part of such public junior college district may be located or situated under which agreements the public junior college district will furnish junior college services to eligible scholastics residing in such school districts, which services may include such services as provisions for enrollment of eligible scholastics residing in such school districts in such public junior college district's educational and other programs, participation by such enrolled scholastics in courses and other activities offered by such public junior college upon such terms as may be agreed between the respective governing boards of the public junior college district and such school district or districts with respect to payment of tuition charges and fees, provision of transportation facilities and payment for same, and all other matters involved in arranging for attendance of such scholastics in such public junior college or the providing of services by the public junior college to the school district or districts or the scholastics residing in such district or districts. Any such contracts or agreements shall be for a period not to exceed three (3) years.

Approval of agreements; taxes; election

Sec. 2. The Board of Trustees or other governing board of any school district of any type or designation which is not included in or part of a junior college district which contains territory in or is wholly situated in any county which contains territory of any public junior college of the type or classification designated in Section 1 of this Act is authorized and empowered to enter into agreements with the governing board of such junior college district for the purposes and in the manner set out in Section 1 of this Act, provided that any such agreement made on behalf of any school district classed as a common school district must be approved by the county superintendent or ex officio county superintendent of the county having administrative supervision of such school district before such agreement shall be binding on such school district. No funds of any school district shall be used for payment of any charges or expenses under agreements authorized by this or the preceding Section except funds raised by taxes expressly and specifically authorized for such purposes at an election in such school district at which only qualified voters who own taxable property therein and who have duly rendered same for taxation are permitted to vote.

Levy and collection of tax

Sec. 3. The Commissioners Court for the common school districts in the county, and the district school trustees for the independent school districts incorporated for school purposes only, and the trustees of the rural high school districts and the trustees of all other school districts shall have the power to levy and cause to be collected in addition to all other taxes authorized by law an additional annual ad valorem tax not to exceed Twenty-five Cents (25¢) on the One Hundred Dollars (\$100.00) valuation of taxable property in the district for the purpose of financing agreements with the governing board of a public junior college district under the authority of the provisions of the preceding Sections of this Act, subject to the following provisions:

(1) No such tax shall be levied, collected, abrogated, diminished or increased hereunder until such action has been authorized by a majority of the votes cast at an election held in the district for such purposes, at which none but property taxpaying qualified voters of such district shall be entitled to vote, which election shall be held in accordance with the provisions of Article 2785, Revised Civil Statutes of 1925, as amended.

(2) The proceeds of such tax shall be used for the purpose of paying the public junior college district with which any of the agreements authorized by this Act may have been made for services rendered by such

public junior college under the terms of any such agreements, and for such purposes only.

Acts 1967, 60th Leg., p. 669, ch. 280, emerg. eff. May 25, 1967.

Section 4 of Acts 1967, 60th Leg., p. 669, ch. 280, provided: "If any part of this Act is declared to be invalid or unconstitutional by any court of competent jurisdiction the remainder of the Act shall not be invalidated thereby."

Title of Act:

An Act authorizing governing boards of public junior college districts originally created as county junior college districts which have been enlarged to contain ter-

ritory in three (3) or more counties to enter into agreements making junior college services available to scholastics in school districts having territory in such counties but not in the junior college district; authorizing school districts to levy, assess and collect a special tax to finance any such agreements after an election; providing a severability clause; and declaring an emergency. Acts 1967, 60th Leg., p. 669, ch. 280.

Art. 2815m-3. Additional trustees for certain junior college districts enlarged by addition of parts of two or more counties

Enlargement of membership of board; appointment; vacancies

Section 1. In any public junior college district which was originally organized or created as a county junior college district and which at the effective date of this Act contains territory in three (3) or more counties, the Board of Trustees of such junior college district is hereby authorized to enlarge the membership of the Board of Trustees of such district by providing for additional trustees for such district by the enactment of resolutions duly entered in the minutes of such Board of Trustees. If the Board of Trustees shall vote to enlarge the membership of such Board of Trustees then one (1) additional trustee shall be authorized for each part of a county in such district in addition to the original county forming such district. All new trustees added to the Board of Trustees under the provisions of this Act shall be appointed by the Board of Trustees which orders the enlargement of the membership of such Board. All vacancies on the Board of Trustees shall be filled at once for the unexpired term only by appointments made by the remaining members of such Board.

Residency requirements

Sec. 2. When a Board of Trustees of a public junior college district shall be enlarged in accordance with the provisions of this Act, the trustees appointed by the Board shall be residents of the part of a county for which the additional trustees or trustee were or was authorized, and succeeding trustees shall be appointed or elected from such respective part of a county. The seven (7) trustees originally authorized for such district under the General Law and their successors shall be residents of the county which originally formed the junior college district.

Terms of office

Sec. 3. The terms of office of the trustees authorized by this Act shall be six (6) years. Those trustees serving as trustees at the effective date of this Act shall continue in office for the remainder of their respective terms and then until such time as their successors shall have been elected and qualified, and thereafter in each even-numbered year three (3), two (2), or two (2) trustees as the case may be shall be elected from the county originally forming the county junior college district to succeed those trustees whose terms are expiring.

Designation of terms to be served; resolution

Sec. 4. Where additional trustee positions are provided under the terms of this Act the Board of Trustees at the time of such authorization shall designate by resolution duly recorded in the minutes of such Board the term to be served by each such additional trustee, provided that the first trustee authorized and appointed shall serve only until

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the next regular trustee election, the second such trustee shall serve until the trustee election two (2) years after the next regular trustee election, and the third trustee shall serve until the trustee election four (4) years after the next regular trustee election, with additional trustees which may be authorized to follow the same rotation of terms until all terms of additional trustees provided under the terms of this Act have been fixed to expire at the next regular trustee election, or at the trustee election two (2) years after the next regular trustee election, or at the trustee election four (4) years after the next regular trustee election. Additional trustees appointed to such terms shall serve for such terms and until such times as their successors shall have been elected and qualified, and thereafter the terms of such trustees shall be for six (6) years.

Annexation of additional parts of counties

Sec. 5. Whenever additional parts of counties may be annexed to or become a part of any public junior college district affected by the terms of this Act additional trustees may be provided in the same manner for such additional parts of counties as is herein authorized for parts of such district existing at the effective date of this Act.

Trustee elections

Sec. 6. Trustee elections in all parts of the districts affected by the provisions of this Act shall be held at the times and in the manner now provided for public junior colleges by General Law. All qualified voters of such districts shall be entitled to vote in the election of all trustees of the district without regard to the county or part of a county from which such trustee or trustees are to be elected.

Cumulative effect

Sec. 7. The provisions of this Act shall be cumulative of existing laws governing elections of trustees in public junior college districts. Acts 1967, 60th Leg., p. 592, ch. 267, emerg. eff. May 23, 1967.

Acts 1967, 60th Leg., p. 592, ch. 267, § 8 provided: "If any part of this Act shall ever be held to be invalid or unconstitutional the remainder of the Act shall not be affected thereby, but the same shall continue to be in effect as though such decision had not been rendered."

Title of Act:

An Act authorizing additional trustees for public junior college districts originally cre-

ated as county junior college districts which have been enlarged by addition of parts of two (2) or more counties; fixing terms of trustees and providing for election and appointment; authorizing appointments to fill vacancies; providing Act shall be cumulative of existing laws; providing partial invalidity shall not affect remainder of Act; and declaring an emergency. Acts 1967, 60th Leg., p. 592, ch. 267.

8. REGIONAL COLLEGE DISTRICTS

Art. 2815t. Creation and regulation of regional college districts

Establishment authorized

Section 1. A regional college district may be established according to the method outlined herein by a county which contains a public junior college district, or by a combination of counties if one of such counties contains a public junior college district, and if the county seat of said county, or if the proposed regional college district is composed of a combination of counties, the respective county seats of such counties, is located at least 90 miles by the then direct regularly traveled road or highway from the county seat of any county containing a state-supported senior college or university, provided that the assessed property valuation of the proposed regional college district, for state and county purposes according to the most recent tax rolls is at least \$52,000,000 and that the scholastic population of such proposed district is not less than 20,000 scholastics according to the most recent scholastic census thereof, as

approved by the appropriate state authority, and provided that the population of such county containing a public junior college district is not less than 80,000 according to the last preceding Federal Census.

Sec. 1 amended by Acts 1967, 60th Leg., p. 225, ch. 124, § 1, eff. Aug. 28, 1967.

Colleges subject to Higher Education Coordinating Act of 1965; date courses to begin

Sec. 1a. Any college created under the authority of said Chapter 272¹ shall be subject to all provisions of Chapter 487, Acts of the 54th Legislature, Regular Session, 1955, as amended by Chapter 488, Acts of the 56th Legislature, 1959, as amended by Chapter 12, Acts of the 59th Legislature, Regular Session, 1965 (codified as Article 2919e—2, Vernon's Texas Civil Statutes), and it is further provided that the Coordinating Board, Texas College and University System, shall determine the date upon which any college of any grade or level created hereunder shall begin courses of instruction, such date to be determined only if a feasibility study by the Coordinating Board, Texas College and University System, shall establish a need for any such college.

Sec. 1a added by Acts 1967, 60th Leg., p. 225, ch. 124, § 1, eff. Aug. 28, 1967.

¹ This article.

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Board of regents

Sec. 5. If the merger herein provided for is effected by said election or any subsequent election held for said purposes, under the further provisions hereof, such regional college district shall thereafter be governed by a Board of Regents, constituted as herein provided. Said Board of Regents shall be made up in part of one (1) regent at large, from each of the counties approving participation in the regional college district. In addition, there shall be one (1) regent from each county for each fifteen thousand (15,000) scholastics of the respective counties or a major fraction thereof, as determined by the proper state authority and provided further in addition there shall be one regent from each county for each \$50,000,000 of assessed property valuation, or major fraction thereof, as determined by the county tax assessor-collector of each approving county of said district. The first regents, constituting said Board of Regents, from each of such counties, shall be appointed by the Commissioners Court of said respective counties except as modified herein and shall be made within thirty (30) days after the election at which said merger shall have been effected; however, in the event that only the county containing the junior college votes favorably for the proposed regional senior college district, the Board of Regents of the junior college district may decide (1) whether to activate the regional college district or (2) whether to continue the present junior college district and in the event that the decision is to activate the regional college district, the present junior college board will continue as the Board of Regents for the Regional College and shall operate under all present and future junior college statutes as pertaining to junior colleges; that is to say, that in the event that more than one county votes to participate in the Regional College, the Board of Regents shall be constituted as follows: (a) one regent at large from each approving county; (b) one regent from each approving county for each 15,000 scholastics or major fraction thereof; and (c) one regent from each approving county for each \$50,000,000 assessed property evaluation or major fraction thereof; and further the first regents, constituting said Board of Regents, shall be appointed as follows: (a) from the original Junior College District, the Board of Regents of the Junior College District shall appoint the members of the Board from that county, (b)

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from each of the several counties, the Commissioners Court shall appoint the members of the Board of Regents from that county. All appointments shall be made within 30 days from the date of the election. Each and every Regent shall take the oath of office as prescribed for Junior College Board members.

The Board of Regents thus appointed shall first meet within twenty-one (21) days of the time the members are appointed at a time and place appointed by the then president of the Board of Regents of the Junior College District and shall proceed to organize by electing from its members a President, a Vice President, a Secretary and an Assistant Secretary from members of the Board. At the first meeting of said Board of Regents, the Regents from each county shall draw lots for terms of office. The appointed regents from each county shall elect one of its members to draw for terms and all regents from the county drawing the lowest number shall serve a term of two years; all regents from the county drawing the second lowest number shall serve four years; all regents from the county drawing the third lowest number shall serve six years. In case there are more than three counties, there shall be two lowest lots; then two next lowest lots, etc.; that is to say that no Board member shall serve longer than six years and all regents from any one county shall have the same term. If only the county in which the Junior College is located forms the Senior College District, the terms of office shall remain the same as under the statute under which the junior college district presently operates. The Board of Regents shall cause a permanent record to be made and preserved of the term of office of each appointed regent determined by lot as herein provided. At the expiration of the terms of office of each regent, a successor shall be elected at elections held within the respective counties at large, at the same time and in the same manner as is now presently prescribed for the existing Junior College District, provided that such elections shall be called and conducted in the manner presently prescribed for junior colleges. Costs of such regent elections shall be paid for from college funds. The returns of such Board elections shall be canvassed and certified by the Board of Regents as is now presently prescribed for junior colleges. All provisions hereof with reference to elections of regents in counties originally constituting said Regional College District shall extend and apply to election of regents in entire counties that may hereafter be annexed to said college district under the further provisions hereof.

Sec. 5 amended by Acts 1967, 60th Leg., p. 225, ch. 124, § 2, eff. Aug. 28, 1967.

Property, funds and resources of junior college district; contracts

Sec. 6. Upon the merger of said public junior college district into and with the regional college district, all property, funds and resources of the public junior college district are authorized and shall pass to and belong to said regional college district, and all contracts of such public junior college district shall extend to and be binding upon such regional college district; provided that the management and control of the property and affairs of the public junior college district shall continue in the Board of Trustees of such public junior college district until the appointment and organization of the Board of Regents of the regional college district, at which time the Board of Trustees of said public junior college district shall turn over all records, property and affairs of the said public junior college district to the Board of Regents of said regional college district and shall cease to exist as a Junior College Board of Trustees.

Sec. 6 amended by Acts 1967, 60th Leg., p. 227, ch. 124, § 3, eff. Aug. 28, 1967.

Assessed tax values and scholastic census; number of regents; conduct of election; vacancies; organization of board; meetings; office

Sec. 7. The amount of assessed tax values of said counties, for the purposes herein provided, shall be determined in the first instance, and from time to time, according to the most recent figures available, by the county tax assessor-collector of each approving county in the district. Such assessed tax values for ascertaining the number of regents at large to which said respective counties are entitled hereunder, to be appointed under the provisions hereof, shall first be made by the county tax-assessor-collector of said county or respective counties. Such determination shall thereafter be made and certified before each biennial election of regents, by the Board of Regents. The number of scholastics of each of said counties, for the purposes herein provided, shall be determined in the first instance, and from time to time, according to the most recent scholastic census of each of said respective counties, as approved by the state agency then authorized to approve such census. Such scholastic census of said respective counties for ascertaining the number of regents at large to which said respective counties are entitled hereunder, to be appointed under the provisions hereof, shall first be made by the superintendent of schools of the prospective Independent School Districts located in the respective counties. Such determination shall thereafter be made and certified before each biennial election of regents at large, by the Board of Regents. All elections herein provided for shall be conducted according to the general election laws of the State of Texas, except as herein otherwise provided. All vacancies occurring in the Board of Regents shall be filled by appointment by the Board of Regents. After each election of regents the Board of Regents shall organize as herein provided. The Board of Regents shall select and maintain a regular office for their meetings and the transaction of their business, at such place as they determine, and shall hold regular meetings at such times as may be provided in the rules or bylaws of said Board of Regents, and may hold special meetings at the call of the President of the Board.

Sec. 7 amended by Acts 1967, 60th Leg., p. 227, ch. 124, § 4, eff. Aug. 28, 1967.

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Annexation of contiguous county or independent districts

Sec. 11. The entire area of any county located in Texas, the county seat of which is located at least ninety (90) miles by the then direct regularly traveled road or highway from the county seat of any county containing a state-supported senior college or university, or the area of any one or more independent school districts of a county in Texas who meets the requirements above, may be annexed to, and assume its pro rata part of the bonded indebtedness of said regional college district, in the manner herein provided. A petition of one hundred (100) of the property taxpaying voters of any such county or of any such independent school district, proposing that the entire area of such county, or of such independent school district, as the case may be, be annexed to, and that such county-wide area or such district area assume its pro rata part of the bonded indebtedness of said regional college district, may be submitted to the Board of Regents of such regional college district. If the said Board of Regents determines that it would be to the interest of said regional college district and of the area proposed to be annexed, that such annexation be accomplished, said Board of Regents shall adopt a resolution so finding, and said petition and certified copy of said resolution shall be submitted to the Commissioners Court of said county, and it shall be the duty of said Commissioners Court, within fifteen (15) days after the presentation of such petition and copy of such resolu-

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tion, to order an election to be held in said county at large, or in such school district, or districts, as the case may be, for the purpose of determining if the area of said county, or the area of such school district, or districts, shall be annexed to said regional college district, and assume its pro rata part of the bonded indebtedness of said regional college district; said election to be held not earlier than sixty (60) days nor later than ninety (90) days after passage of such order. The proposition to be voted on at said election and to be printed on the ballots therefor shall be:

"FOR annexation to the regional college district and assumption of pro rata part of its bonded indebtedness."

"AGAINST annexation to the regional college district and assumption of pro rata part of its bonded indebtedness."

The name of such District shall be inserted in the proposition.

Said Commissioners Court shall designate the polling place of said election and appoint the officers thereof, and furnish the supplies therefor. Only qualified electors who own taxable property in said county or school district, as the case may be, and who have duly rendered the same for taxation, shall be qualified to vote at said election. Said election shall be conducted in accordance with the general election laws of Texas, insofar as applicable. Returns of said election shall be made to said Commissioners Court and canvassed by said court.

If the majority of the votes cast at such election are in favor of said proposition, such fact shall be certified by the Commissioners Court to the Board of Regents of said regional college district, and the entire area of said county, or of said school district, or districts, as the case may be, shall be deemed to have been annexed to and shall be a part of said regional college district and shall be subject to taxation for the payment of the existing bonded indebtedness and the maintenance of said regional college district the same as other property in the area of said regional college district.

In the event an entire county is so annexed, the Commissioners Court of such county shall forthwith appoint a regent or regents for said college from the county in accordance with the number of regents allowed as herein above provided. All such regents shall, before entering upon the duties of their offices, take the oath as herein prescribed for regents. Such appointment shall be certified by the Clerk of the Commissioners Court to the Board of Regents of said regional college district. At the first meeting of the Board of Regents after the appointment and qualification of regents from such annexed county, the regents shall determine by lot in the manner provided by the Board of Regents, their term of office. Thereafter, successors to the regents from said annexed county shall be elected in the manner provided for other counties in said district.

In the event the area of one (1) or more independent school districts of a county, instead of the entire county, is annexed to said regional college district, said annexed territory shall be entitled to the number of regents as they may qualify for in terms of scholastics and tax values. Immediately after such annexation the Commissioners Court of the county in which such area is situated shall appoint from said area, the number of regents to which such area is entitled. This regent or regents as the case may be, so appointed, shall hold office until the expiration of the term of office of the regents of said county of which they are a part. At the expiration of the term of each regent from such annexed territory his successor shall be elected at an election to be held in the annexed area, to be called by the Board of Regents, which shall designate the polling place or places, the officers of the election, provide the supplies therefor and pay the expenses thereof."

Sec. 11 amended by Acts 1967, 60th Leg., p. 228, ch. 124, § 5, eff. Aug. 28, 1967.

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Section 6 of the 1967 amendatory act 7 thereof repealed conflicting laws and was a severability provision and section parts of laws.

Art. 2815t—3. Transfer of assets of certain Regional College Districts

All regional college districts which have been converted to fully state supported institutions of higher learning are hereby authorized to transfer all assets of such districts, real, personal, tangible or intangible to the governing boards of such institutions provided that each such governing board shall continue the payment of all notes and bonds payable from revenues theretofore issued by such districts and each county in which any such regional college district is located continues to levy and collect taxes in support of all tax obligations theretofore authorized and issued by such district.

Acts 1967, 60th Leg., p. 81, ch. 41, § 1, eff. Aug. 28, 1967.

Title of Act:

An Act authorizing all regional college districts which have been converted to fully state supported institutions of higher learning to transfer all assets of such districts, real, personal, tangible or intangible to the governing boards of such institutions provided that each such governing board shall continue the payment of all

notes and bonds payable from revenues theretofore issued by such districts and each county in which any such regional college district is located continues to levy and collect taxes in support of all tax obligations theretofore authorized and issued by such district; and declaring an emergency. Acts 1967, 60th Leg., p. 81, ch. 41.

CHAPTER FIFTEEN—SCHOOL FUNDS

Art. 2832c. School Depository Act of 1967 [New].

Art. 2832c. School Depository Act of 1967

Short Title

Section 1. This Act shall be known as and may be cited as The School Depository Act of 1967.

Application

Sec. 2. Any independent school district of more than 150 scholastics of this state may elect by a majority vote of its Board of Trustees to adopt the terms and provisions of The School Depository Act of 1967. After the adoption of said Act by said Board of Trustees, the school depository or depositories for said school district shall be selected in accordance with the terms and provisions of this Act.

Definitions

Sec. 3. As used in this Act the following words and terms, unless otherwise clearly indicated by the content, shall have the meanings specified below:

- a. School District: shall mean and include any public independent school district of more than 150 scholastics in this state.
- b. Bank: shall mean and include a state bank authorized and regulated under the laws of the State of Texas pertaining to banking and in particular authorized and regulated by the Banking Department Self-Support and Administration Act and a national bank authorized and regulated by the Acts of Congress of the United States of America.

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c. Time Deposits (including time certificates and time deposit—open account): shall mean and shall have the same definition as adopted for said terms by the Board of Governors of the Federal Reserve System.

d. Approved Securities: shall mean bonds of the United States, bonds of the State of Texas, bonds of the counties of the State of Texas, bonds of school districts of the State of Texas, bonds of any town or city of the State of Texas, and bonds of any other district or political subdivision of the State of Texas.

Qualifications of Depository

Sec. 4. (a) A school depository under the terms and provisions of this Act shall be a bank, if any, located within the territory of the school district selecting said depository, and, if none, a bank within the territory of an adjoining school district. (b) In the event a member of the Board of Trustees of school district is a stockholder, officer, director or employee of a bank located in said school district, or a bank located in an adjoining school district as referred to in (a) above, said bank shall not be disqualified from bidding and becoming the school depository of said school district provided said bank is selected by a majority vote of the Board of Trustees of said school district or a majority vote of a quorum when only a quorum eligible to vote is present. Common law rules in conflict with the terms and provisions of this Act are hereby modified as herein provided. If a member of the Board of Trustees of school district is a stockholder, officer, director or employee of a bank that has bid to become the depository for said school district, said member of said Board of Trustees shall not vote on the awarding of the depository contract to said Bank and said school depository contract shall be awarded by a majority vote of said Board of Trustees as above provided who are not either a stockholder, officer, director or employee of the bank receiving said school district depository contract.

Term of Depository Contract

Sec. 5. The depository bank when thus selected shall serve for a term of two years and until its successor shall have been duly selected and qualified, and shall give bond as hereinafter provided. Said term shall commence on September 1 and terminate on August 31. No premium on any depository bond shall be paid out of funds of the school district.

Notice for Bid Request and Uniform Bid Blank

Sec. 6. The Board of Trustees of any school district adopting this Act shall at least 30 days prior to the termination of the then current depository contract, mail to each bank located in said school district, if any, otherwise to each of the banks located in an adjoining school district, a notice stating the time and place in which bid applications will be received for school depository. Attached to said notice shall be a uniform bid blank which shall be substantially in the following form:

Board of Trustees

_____ School District

Gentlemen:

The undersigned, a state or national banking corporation, hereinafter called bidder, for the privilege of acting as Depository of the _____ School District of _____ County, Texas, hereinafter called District, for a term of two years, beginning September 1, 19___, and ending August 31, 19___, and for the further privilege of receiving all funds or only certain funds to be designated by the District if more than one depository is selected, at its option to place on demand or interest bearing time de-

posits as provided in The School Depository Act of 1967, bidder will pay District as follows:

1. _____% interest per annum compounded quarterly on time deposits having a maturity date 90 days or more after the date of deposit or payable upon written notice of 90 days or more.

2. _____% interest per annum compounded quarterly on time deposits having a maturity date less than 90 days after the date of deposit or payable upon written notice of less than 90 days.

3. _____% interest rate to be paid by District to Bidder on overdrafts or their equivalent. (Overdraft as used in this paragraph shall mean that District does not have a compensating balance in other funds or accounts in the then current school year in Bidder's bank.)

4. Bidder will charge District \$_____ for keeping District's deposit records and accounts for the period covered by this bid. Included in and required as a part of this duty are the following:

(a) Preparation of monthly statements showing debits, credits and balance of each separate fund.

(b) Preparation of all accounts, reports, and records as provided in Article 2919g, Vernon's Civil Statutes, as amended.

(c) Preparation of such other reports, accounts and records which may, from time to time, be required by District in order to properly discharge the duties as provided by law of Depository.

(d) Furnishing of the quantity, quality and type of checks necessary for District's use during the period for which this bid is submitted.

5. District reserves the right to invest any and all of its funds in bonds of the United States of America or other type of bonds, securities, certificates, warrants, etc. which District is authorized by law to invest in. Bidder will and shall aid and assist District in any investment without charge.

6. Bidder shall furnish to District a bond in the amount and conditioned as provided in The School Depository Act of 1967, or in lieu pledged approved securities in an amount sufficient as determined by the Board of Trustees of District to adequately protect the funds of the District deposited with Bidder. District reserves the right to alter from time to time the required amount of securities to be sufficiently adequate to protect said funds and to approve or reject the securities so pledged. Bidder shall have the right and privilege of substituting securities upon obtaining the approval of District, provided the total amount of securities deposited is adequate as herein provided.

7. This bid was requested by District and is made by Bidder with the expressed agreement and understanding that District reserves the right to reject any and all bids and the further right that if any portion or provision of this bid and/or any contract between Bidder and District entered into by virtue thereof is invalid, the remainder of this bid and/or resulting contract at the option of the District shall remain in full force and effect, and not be affected by said invalid portion or provision.

8. Attached hereto is certified, or Cashier's Check in the sum of \$_____, payable to the _____ School District. If this bid to be Depository of all of District funds or to be Depository of only a designated amount of said funds, is accepted, said check is to secure the performance of said bid, and if Bidder fails to enter into a contract with District as provided in bid, then said check shall be retained by District as liquidated damages for said failure. In the event this bid is not accepted, the above check is to be returned to the Bidder immediately after the award is made.

DATED this the _____ day of _____, 19____.

BIDDER _____

BY _____

TITLE _____

Tie Bids

Sec. 7. If tie bids are received for said School Depository contract and each of said tie bidders has bid to pay School District the maximum interest rate allowed by law by the Board of Governors of the Federal Reserve System and the Board of Directors of the Federal Deposit Insurance Corporation and said tie bids are otherwise equal in the judgment and discretion of the Board of Trustees of said School District and two or more of said tie bidders in the judgment and discretion of said School District has the facilities and ability to render the necessary services of School Depository for said School District, said Board of Trustees may award said Depository Contract in accordance with any one of the following methods:

1. Award said contract, at the discretion of the Board of Trustees, to any one of said tie bidders, or
2. Determine by lot which of said tie bidders shall receive said depository contract, or
3. Award a depository contract to each of said tie bidders or to as many of said tie bidders as the Board of Trustees may select. Said Board of Trustees shall have the discretion from time to time during the period of said contract to determine the amount of funds to be deposited in each of said depository banks and to determine the account services which are to be rendered by each of said banks in its capacity as School Depository. Provided, however, that all funds received by District from or through the Central Education Agency shall be deposited and retained in one depository bank to be designated by District as its depository for said funds.

Highest Bid and Best Bid and Right to Reject Bids

Sec. 8. The Board of Trustees of school district shall at a regular meeting or special meeting consider all bids received in accordance with the terms and provisions of the above mentioned procedure and in determining the highest and best bid or in case of tie bids as above provided the highest and best tie bids said Board of Trustees shall consider the interest rate bid on time deposits, charge for keeping district accounts, records, and reports and furnishing checks, and the ability of the bidder to render the necessary services and perform the duties as school depository together with all other matters which in the judgment of said Board of Trustees would be to the best interest of said school district. The Board of Trustees of said school district shall have the right to reject any and all bids.

Contract and Bond

Sec. 9. The bank or banks selected as school depository or depositories in accordance with the terms and provisions of this Act, and school district shall make and enter into a depository contract or contracts, bond or bonds, or such other necessary instruments setting forth the duties, responsibilities, and agreements pertaining to said depository, and said depository bank shall attach to said contract and file with school district a bond in an amount equal to the estimated highest daily balance to be determined by the Board of Trustees of District of all deposits which school district will have in said depository. Said bond shall be payable to school district and shall be signed by said depository bank and by some surety company authorized to do business in the State of Texas.

Said bond shall be conditioned for the faithful performance of all duties and obligations devolving by law upon said depository, and for the payment upon presentation of all checks or drafts upon order of the Board of Trustees of said school district, in accordance with its orders duly entered by said Board of Trustees according to the laws of the State

of Texas; for the payment upon demand of any demand deposit in said depository; for the payment after the expiration of the period of notice required, of any time deposit in said depository; and that said school funds shall be faithfully kept by said depository and accounted for according to law and shall faithfully pay over to the successor depository all balances remaining in said accounts. Said bond and the surety thereon shall be approved by the Board of Trustees of said School District and a copy of said depository contract and bond shall be filed with the State Department of Education.

In lieu of the above mentioned bond, depository bank shall have the option of depositing or pledging with school district or with a Trustee designated by school district approved securities in an amount sufficient to adequately protect the funds of school district deposited with depository bank. School district shall designate from time to time the amount of approved securities to adequately protect district. Depository bank shall have the right and privilege of substituting approved securities upon obtaining the approval of school district.

Investment Rights

Sec. 10. School district shall have the right to place on time deposits or to invest any and all of its funds in bonds of the United States of America or other types of bonds, securities, certificates, warrants, etc. which district is authorized by law to invest it.

Depository Bank Acts as Treasurer

Sec. 11. The bank or banks selected as school depository or depositories under the terms and provisions of this Act shall also be known as treasurer for said school district and all depository duties of a treasurer of a school district provided in other statutes shall be performed by said depository bank or banks without any additional charge.

Alternate Clause

Sec. 12. This Act shall be an alternate method of selecting a school depository or depositories and shall be applicable only to the districts adopting same as provided in Sec. 2 above. A district adopting this Act shall select its depository or depositories in accordance with the terms and provisions hereof and all other statutes pertaining to the selection of a depository shall not apply. A district adopting this Act may, by majority vote of its board of trustees, discontinue the selection of its depository as herein provided.

Severability Clause

Sec. 13. If any provision, section or clause of this Act or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications thereof which can be given effect without the invalid provision, section or clause, and to this end the provisions of this Act are declared to be severable.

Acts 1967, 60th Leg., p. 1040, ch. 456, eff. Aug. 28, 1967.

Title of Act:

An Act authorizing independent school districts of more than 150 scholastics to adopt an alternate method of selecting a school depository or depositories by the adoption of an Act known as The School Depository Act of 1967, and said Act containing definitions, qualifications of school depository, term of depository contract, notice for bid request and uniform bid blank, tie bid procedure, highest and best bids and right to reject bids, providing for de-

pository contract and bond or securities in lieu thereof, investment rights, performing services as treasurer, providing this Act shall be an alternate method of selecting a school depository, providing that other statutes pertaining to selecting a school depository shall not apply, providing a district may discontinue the selection of its depository as this Act provides, providing a saving clause; and declaring an emergency. Acts 1967, 60th Leg., p. 1040, ch. 456.

**CHAPTER SEVENTEEN—TEACHERS' CERTIFICATES,
SALARIES AND CONTRACTS**

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|--|---|
| <p>2A. CERTIFICATION OF TEACHERS</p> <p>Art.
2891c. Program to encourage entry into teaching and teacher-training programs [New].</p> | <p>4. CONTRACTS</p> <p>Art.
2891—50. Employment of teachers by probationary or continuing continuing contract [New].</p> |
|--|---|
- 3. SALARIES**
- 2891—2. Salaries of persons holding bachelor of laws or doctor of jurisprudence degrees [New].

2A. CERTIFICATION OF TEACHERS

Art. 2891b. Teacher's Certificates; application; qualifications; classifications

* * * * *

Certificates from other States

Sec. 13.
* * * * *

b. No temporary or permanent Texas teacher certificate shall be issued to a person from another state, as provided in above Subdivision a, until that person has secured credit from a college or university in this State in a course or courses which give special emphasis upon the Constitution of the State of Texas and has secured credit from a college or university in a course or courses which give special emphasis upon the Constitution of the United States, or shall have passed examination(s), administered under the direction of the Central Education Agency, in the one or both, as the situation demands. Such course or courses may be taken by correspondence, extension classes, or in residence.

Sec. 13, subsec. (b) amended by Acts 1967, 60th Leg., p. 562, ch. 250, § 1, emerg. eff. May 22, 1967.

* * * * *

Art. 2891c. Program to encourage entry into teaching and teacher-training programs

Duty of State Board of Education to develop and publicize program

Section 1. The State Board of Education shall develop and publicize a program specifically designed to encourage and facilitate the entry into public-school teaching and into teacher-training programs of a corps of intelligent, mature, and concerned persons who have received bachelor's degrees from accredited institutions of higher learning.

Procedures for individual evaluation and appraisal of training needs

Sec. 2. To accomplish the purposes of this Act, the State Board of Education and the institutions of higher learning in this state that are approved for teacher education shall cooperate to develop procedures for the individual evaluation and appraisal of the training and training needs of persons applying for teacher certification who have possessed a bachelor's degree from an accredited institution of higher learning for a period of three years or longer and who are eligible under the laws of Texas to be certified, and to provide to these persons teacher-training programs that are appropriate to their needs and that can be completed in a reasonable time.

Evaluation teams; membership

Sec. 3. To perform the individual evaluation and determine the individual training needs referred to in Section 2, there shall be appointed by the president or chancellor of each college or university in this state approved for teacher training, a three-member evaluation team to be comprised of two members of the faculty of the department or school of education and one member from the school or college of arts and sciences if the individual is applying for evaluation for elementary certification or from the teaching field of the individual if the applicant is applying for evaluation for secondary certification. More than one such team may be appointed at an institution when needed.

Evaluation of transcripts and work experience of applicants; recommendations; reevaluation

Sec. 4. When an applicant meeting the requirements in Section 2 of this Act seeks to become certified to teach in the public schools of Texas he shall present his transcript and also information covering any work experience or additional qualifications to an institution of higher learning approved for teacher education. The institution's evaluation team, as provided for in Section 3, shall evaluate the applicant's transcript and work experience, and when practicable interview the applicant, to determine any deficiencies in either professional or content preparation, with respect to the area of teaching specialization chosen by the applicant. The evaluation team shall give due consideration to the applicant's work experience, as well as to his academic record, and to any other evidence bearing upon his qualification as a teacher. The evaluation team shall then recommend what additional course work or other preparation is needed by the applicant to qualify for certification under standards established by the State Board of Education pursuant to Section 5 of this Act. While the applicant is pursuing the study and preparation recommended by the evaluation team, he will remain under its general guidance. His training may be reevaluated by the team when necessary, as when any teaching experience is acquired by the applicant either in student teaching or under emergency permit. When the team finds the applicant has satisfactorily met the requirements for certification, the team shall recommend him for a provisional certificate.

Pattern of minimum standards for certification; waiver of current requirements for provisional certificates

Sec. 5. The State Board of Education, with the advice and assistance of the State Commissioner of Education, shall develop a pattern of minimum standards for the certification of persons under this Act, said pattern to recognize the role and responsibility of the evaluation teams. So far as the training of persons under this Act is concerned, the board shall allow the waiver of any current requirements for the provisional certificate not stipulated or implied by the standards developed for the guidance of institutions for this particular program. However, nothing in this Act shall be construed as permitting more requirements of an applicant under this Act than would be made in an undergraduate program of teacher preparation; to the contrary, the legislative intent of this Act is that, in recognition of the maturity, experience, and level of achievement of applicants in this program, course requirements would more likely be reduced, compressed, or combined, and would be more freely interchangeable with similar courses.

Publicity materials; use of funds by Texas Education Agency

Sec. 6. The Texas Education Agency is hereby authorized and directed to prepare, or have prepared, publicity materials, and to make these materials available for use to television and radio stations, newspapers and

For Annotations and Historical Notes, see V.A.T.S.

other periodicals, and any other appropriate communications media, to encourage qualified persons to enter the teaching profession and to publicize the training program directed in this Act, as well as other teacher-training programs. The Texas Education Agency is hereby authorized to use for this purpose any funds that have been or may be appropriated to it, and to accept and spend for this purpose any gifts or donations of funds made for this purpose.

Trade or industrial courses; waiver of degree requirement

Sec. 7. When the Commissioner of Education shall so direct, in the case of applicants seeking to enter this program to qualify to teach in trade or industrial courses, the requirement herein for a bachelor's degree may be waived.

Rules and regulations

Sec. 8. The State Board of Education, with the advice and assistance of the State Commissioner of Education, is hereby authorized to establish such rules and regulations as are not inconsistent with the provisions of this Act and which may be necessary to implement and carry out the legislative policy expressed herein.

Acts 1967, 60th Leg., p. 874, ch. 379, emerg. eff. June 8, 1967.

Title of Act:

An Act relating to directing the State Board of Education to develop and publicize a program to encourage and facilitate the

entry into public school teaching and teacher-training programs of certain qualified persons; and declaring an emergency. Acts 1967, 60th Leg., p. 874, ch. 379.

3. SALARIES

Art. 2891—2. Salaries of persons holding bachelor of laws or doctor of jurisprudence degrees

Any person certified to teach in the public schools of Texas who holds a bachelor of laws or doctor of jurisprudence degree from an accredited school of law shall have his minimum salary calculated on the basis of a master's degree.

Acts 1967, 60th Leg., p. 1817, ch. 698, § 1, eff. Aug. 28, 1967.

Title of Act:

An Act to provide that any person certified to teach in the public schools of Texas who holds a bachelor of laws or doctor of jurisprudence degree from an accredited

school of law shall have his minimum salary calculated on the basis of a master's degree; and declaring an emergency. Acts 1967, 60th Leg., p. 1817, ch. 698.

4. CONTRACTS

Art. 2891—50. Employment of teachers by probationary or continuing contract

Definitions

Section 1. As used in this Act—

(a) "School district" shall mean and include any independent school district, rural high school district, common school district, or other public free school corporation created or organized under the laws of this State, and any city or town having control of the public free schools therein.

(b) "Board of trustees" means the governing board of any school district, as above defined.

(c) "Teacher" means one engaged in classroom instruction of academic subjects who holds a permanent teaching certificate under the laws of this State and for whom certification is required by the employing board of trustees.

(d) "Immorality" means the commission of any act of felony gravity or any misdemeanor involving moral turpitude which would be punishable by law in case of conviction therefor.

(e) "Inefficiency" means the inability to perform, or the persistent failure to perform, the duties of a specified employment in a manner equal to or in excess of the minimum standard of competence generally required or accepted for the particular duties or position.

(f) "Neglect of duties" means the failure to perform assigned duties; habitual tardiness; repeated unexcused absences from post of duty.

(g) "Physical or mental incapacity" means such an ailment or condition of body or mind that materially impairs the teacher's ability to perform his assigned, normal duties, and is a condition which is established by competent medical opinion as is likely to continue for a period materially in excess of the sick leave permitted under the rules and regulations adopted by the board of trustees of the employing school district.

(h) "School year" means the period beginning on September 1st of a particular calendar year, and ending on the 31st day of August of the calendar year next ensuing.

(i) "Necessary reduction of personnel" means the reduction of the number of employees of a stated classification actually engaged by the school district, and resulting from consolidation of school districts, consolidation of classes, loss of student population, or change in curriculum.

**Teachers to be employed by either probationary contracts
or continuing contracts**

Sec. 2. Each teacher hereafter employed by any school district in this State shall be employed under, and shall receive from such district, a contract that is either a "probationary contract" or a "continuing contract" in accordance with the provisions of this Act if the school board chooses to offer such teacher a "probationary contract" or a "continuing contract." All such contracts shall be in writing, in such form as may be promulgated by or approved by the State Commissioner of Education of the State of Texas, and shall embody the terms and conditions of employment hereinafter set forth, and such other provisions not inconsistent with this Act, as may be appropriate.

Probationary contracts

Sec. 3. (a) Any person who is employed as a teacher by any school district for the first time, or who has not been employed by such district for three (3) consecutive school years subsequent to the effective date of this Act, shall be employed under a "probationary contract," which shall be for a fixed term as therein stated; provided, that no such contract shall be for a term exceeding three (3) school years beginning on September 1st next ensuing from the making of such contract; and provided further that no such contract shall be made which extends the probationary contract period beyond the end of the third (3rd) consecutive school year of such teacher's employment by the school district, unless the board of trustees determines and recites that it is in doubt whether the particular teacher should be given a continuing contract, in which event a probationary contract may be made with such teacher for a term ending with the fourth (4th) consecutive school year of such teacher's employment with the school district, at which time the employment of such teacher by such school district shall be terminated, or such teacher shall be employed under a continuing contract as hereinafter provided.

(b) The board of trustees of any school district may terminate the employment of any teacher holding a probationary contract at the end of the contract period, if in their judgment the best interests of the school district will be served thereby; provided, that notice of intention to terminate the employment shall be given by the board of trustees to the teacher on or before the 1st day of April preceding the end of the employment

For Annotations and Historical Notes, see V.A.T.S.

term fixed in the contract. In event of failure to give such notice of intention to terminate within the time above specified, the board of trustees shall thereby elect to employ such probationary teacher in the same capacity, and under probationary contract status for the succeeding school year if the teacher has been employed by such district for less than three (3) successive school years, or in a continuing contract position if such teacher has been employed during three (3) consecutive school years.

(c) In event a teacher holding a probationary contract is notified of the intention of the board of trustees to terminate his employment at the end of his current contract period, he shall have a right upon written request to a hearing before the board of trustees, and at such hearing, the teacher shall be given the reasons for termination of his employment. After such hearing, the board of trustees may confirm or revoke its previous action of termination; but in any event, the decision of the board of trustees shall be final and non-appealable.

(d) The requirement set out in this section for the serving of a probationary period shall not apply to any teacher who has previously completed a probationary period under a contract with the school district where presently employed and who is considered on the effective date of this Act to be on a permanent contract status as defined by the school district in which he or she is employed.

Continuing contracts

Sec. 4. (a) Any teacher employed by a school district who is performing his third (3rd) or where permitted, fourth (4th) consecutive year of service with the district under probationary contract, and who is elected to employment by the board of trustees of such district for the succeeding year, shall be notified in writing of his election to continuing contract status with such district, and such teacher shall within thirty (30) days after such notification file with the board of trustees of the employing school district notification in writing of his acceptance of the continuing contract, beginning with the school year following the conclusion of his period of probationary contract employment. Failure of the teacher to accept the contract within such thirty (30) day period shall be considered a refusal on the part of the teacher to accept the contract. Each teacher with whom a continuing contract has been made as herein provided shall be entitled to continue in his position or a position as defined in Subsection (c), Section 1, with the school district at a salary authorized by the board of trustees of said district complying with the minimum salary provisions of the foundation aid law, for future school years without the necessity for annual nomination or reappointment, until such time as the person:

- (1) resigns, or retires under the Teacher Retirement System;
- (2) is released from employment by the school district at the end of a school year because of necessary reduction of personnel as herein defined;
- (3) is discharged for lawful cause, as defined in Section 5 below, and in accordance with the procedures hereinafter provided;
- (4) is dismissed at the end of a school year for any reason as set out in Section 6, and pursuant to the procedures hereinafter provided in such cases; or
- (5) is returned to probationary status, as authorized in Section 6 of this Act.

(b) The board of trustees may grant to a person who has served as superintendent, principal, supervisor, or other person employed in any administrative position for which certification is required, at the completion of his service in such capacity, a continuing contract to serve as a teacher as defined in Subsection (c) of Section 1 above; and the period of service in such other capacity shall be construed as contract service as a teacher within the meaning of this Act.

Discharge during school year

Sec. 5. Any teacher, whether employed under a probationary contract, or under a continuing contract, may be discharged during the school year, for one or more of the following reasons, which shall constitute lawful cause for discharge, viz.: immorality; conviction of any felony or other crime involving moral turpitude; drunkenness; repeated failure to comply with official directives and established school board policy; physical or mental incapacity preventing performance of the contract of employment; and repeated and continuing neglect of duties.

Dismissal or return to probationary contract status at end of school year

Sec. 6. Any teacher employed under a continuing contract may be released at the end of any school year and his employment with the school district terminated at that time, or he may be returned to probationary contract employment for not exceeding the three (3) succeeding school years, upon notice and hearing (if requested) as hereinafter provided, for any reason enumerated in Section 5 above or for any of the following additional reasons:

- (a) inefficiency or incompetency in performance of duties;
- (b) failure to comply with such reasonable requirements as the board of trustees of the employing school district may prescribe for achieving professional improvement and growth;
- (c) willful failure to pay debts;
- (d) habitual use of addictive drugs or hallucinogens;
- (e) excessive use of alcoholic beverages; or
- (f) necessary reduction of personnel by the school district (Such reductions shall be made in the reverse order of seniority in the specific teaching fields.);
- (g) for good cause as determined by the local school board, good cause being the failure of a teacher to meet the accepted standards of conduct for the profession as generally recognized and applied in similarly situated school districts throughout Texas.

Charges and hearings by board of trustees; appeals from administrative orders

Sec. 7. (a) Before any teacher shall be discharged during the year for any of the causes mentioned in Section 5 above, or before any probationary contract teacher shall be dismissed at the end of a school year before the end of the term fixed in his contract, or before any teacher holding a continuing contract shall be dismissed or returned to probationary contract status at the end of a school year for any of the reasons mentioned in Section 6 above, he shall be notified in writing by the board of trustees or under its direction of the proposed action and of the grounds assigned therefor. In the event the grounds for the proposed action relate to the inability or failure of the teacher to perform his assigned duties, the action shall be based upon the written recommendation by the superintendent of schools, filed with the board of trustees. Any teacher so discharged or dismissed or returned to probationary contract status shall be entitled, as a matter of right, to a copy of each and every evaluation report, or any other memorandum in writing which has been made touching or concerning the fitness or conduct of such teacher, by requesting, in writing, a copy of the same.

(b) If, upon written notification of the proposed action, the teacher desires to contest the same, he shall notify the board of trustees in writing within ten (10) days after the date of receipt by him of the official notice above prescribed, of his desire to be heard, and he shall be given a public hearing if he wishes, or if the board of trustees determines that a public hearing is necessary in the public interest. Upon any charges based upon

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grounds of inefficiency, or inability or failure of the teacher to perform his assigned duties, the board of trustees may in its discretion, establish a committee of classroom teachers and administrators, and the teacher may request a hearing before this committee prior to hearing of the matter by the board of trustees.

(c) Within ten (10) days after request for hearing made by the teacher, the board of trustees shall fix a time and place of hearing, which shall be held before the proposed action shall be effective. Such hearing shall be public unless the teacher requests in writing that it be private.

(d) At such hearing, the teacher may employ counsel, if desired, and shall have the right to hear the evidence upon which the charges are based, to cross-examine all adverse witnesses, and to present evidence in opposition thereto, or in extenuation.

(e) If the proposed action be discharge of the teacher for any of the reasons set forth in Section 5, the teacher may be suspended without pay by order of the board of trustees, or by the superintendent of schools if such power has been delegated to him by express regulation previously adopted by the board of trustees, but in such event the hearing shall not be delayed for more than fifteen (15) days after request for hearing, unless by written consent of the teacher.

(f) If the teacher upon notification of any such proposed action fails to request a hearing within ten (10) days thereafter, or after a hearing as hereinabove provided, the board of trustees shall take such action and shall enter such order as it deems lawful and appropriate; if the teacher is reinstated, he shall immediately be paid any compensation withheld during any period of suspension without pay. No order adverse to the teacher shall be entered except upon majority vote of the full membership of the board of trustees.

(g) If the board of trustees shall order the teacher discharged during the school year, pursuant to Section 5, the teacher shall have the right to appeal such action to the State Commissioner of Education, for review by him, provided notice of such appeal is filed with the board of trustees, and a copy thereof mailed to the Commissioner, within fifteen (15) days after written notice of the action taken by the board of trustees shall be given to the teacher; or, the teacher may challenge the legality of such action by suit brought in the District Court of any county in which such school district lies within thirty (30) days after such notice of the action taken by the board of trustees has been given to the teacher.

(h) If the board of trustees shall order the continuing contract status of any teacher holding such a contract abrogated at the end of any school year and such teacher returned to probationary contract status, or if the board of trustees shall order that any teacher holding a continuing contract be dismissed at the end of the school year, or that any teacher holding a probationary contract shall be dismissed at the end of a school year before the end of the employment period covered by such probationary contract, the teacher affected by such order by filing notice of such appeal with the board of trustees may appeal to the Commissioner of Education by mailing a copy of the notice of appeal to the Commissioner within fifteen (15) days after written notice of the action taken by the board of trustees has been given to the teacher.

(i) Either party to an appeal to the Commissioner shall have the right to appeal from his decision to the State Board of Education, according to the procedures prescribed by the State Board of Education. The decision of the State Board of Education shall be final on all questions of fact, but shall be subject to appeal to the District Court of any county in which such school district, or portion thereof, lies, if the decision of the State Board (1) is not supported in the record by substantial evidence, (2) is arbitrary or capricious, or (3) is in error in the application of existing law to the facts of the case. Trial procedure in the district court shall be the same as that accorded other civil cases on the docket of said court,

with the decision of the trial court to be subject to the same rights of appeal under the Texas Rules of Civil Procedure as is accorded other civil cases so tried.

Resignations by teachers; when permitted; penalty for failure to fulfill contract obligations

Sec. 8. (a) Any teacher holding a continuing contract with any school district, or holding a probationary contract with an unexpired term continuing through the ensuing school year, may relinquish the position and leave the employment of the district at the end of any school year without penalty by written resignation addressed to and filed with the board of trustees prior to the 1st day of August preceding the end of the school year that the resignation is to be effective. A written resignation mailed by prepaid certified or registered mail to the superintendent of schools of the district at the post office address of the district shall be considered filed at time of mailing.

(b) Any teacher holding a continuing contract or such unfulfilled probationary contract may resign, with the consent of the board of trustees of the employing school district at any other time mutually agreeable.

(c) A teacher holding a probationary contract or a continuing contract obligating the employing district to employ such person for the ensuing school year, who fails to resign within the time and in the manner allowed under Subsections (a) and (b) above, and who fails to perform such contract, shall be ineligible for employment by any other Texas school district during the ensuing school year covered by such contract, and his teaching certificate shall be suspended for that school year only.

Acts 1967, 60th Leg., p. 2012, ch. 745, eff. Aug. 28, 1967.

Section 9 of the act of 1967 provided: "All rights and privileges granted by this Act shall be cumulative of existing law, and should any portion hereof be found to be in conflict with any provision of existing law, the provisions hereof shall prevail."

Title of Act:

An Act defining certain words and terms as used herein; requiring that school districts of this State, as herein defined, employ teachers by probationary contract or by continuing contract as herein defined, under the circumstances and procedures and with the terms, provisions, and consequences herein prescribed; prescribing the causes for which and procedures by which holders of such contracts may be discharged during the school year, and the reasons for which and procedures by which persons

holding such contracts may be dismissed or their contractual status changed at the end of a school year; providing for review of orders discharging, dismissing, or changing the contract status of persons holding such contracts; providing teachers discharged or dismissed or returned to probationary contract status shall upon written request be entitled to copies of certain reports concerning fitness or conduct of such teachers; stating the conditions under which persons holding such contracts may resign, and the penalties for failure of such persons to resign or be released from and failure to perform such contracts; making this Act cumulative of existing laws relating to rights and privileges granted under the provisions of this Act; providing a saving clause; and declaring an emergency. Acts 1967, 60th Leg., p. 2012, ch. 745.

CHAPTER EIGHTEEN—COMPULSORY EDUCATION

Art.
2898a. Liaison officers for court-related children [New].

Art. 2898a. Liaison officers for court-related children

Each school district shall appoint at least one counsellor or teacher to act as liaison officer for court-related children who are scholastics of the district. The liaison officer shall provide counselling and services for each court-related child and his parents with the objective of es-

Fees and charges for use of buildings or facilities

Sec. 3. Any such governing board is authorized to fix fees and charges to be charged for the use of any building or structure, or addition to any building or structure authorized to be constructed or improved hereunder, or for the use of any other revenue producing building, structure, facility or other property of said institution. The fees and charges authorized herein shall be in amounts deemed to be reasonable by such governing board, taking into consideration the cost of providing the facilities, the use to be made of them and the advantages to be derived therefrom by the users thereof and by the institution.

Sec. 3 amended by Acts 1967, 60th Leg., p. 1186, ch. 530, § 3, emerg. eff. June 14, 1967.

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Section 4 of the amendatory act of 1967 was a severability provision.

Art. 2909c—1. Construction, acquisition, improvement and equipment of utility plants by certain colleges and universities

Authority and power to construct, acquire, improve and equip utility plants

Section 1. The governing boards of Texas Technological College, Pan American College, West Texas State University, and The University of Texas System are severally authorized and empowered to construct, acquire, extend, improve, and equip a utility plant or plants, when the total cost, type of construction, capacity, and plans and specifications therefor have been approved by the authorizing governing board. It is expressly provided that as used herein the term "utility plant" does not include electrical generating facilities, except as expressly authorized herein at and for The University of Texas at Austin, Texas.

Bonds

Sec. 2. For the purpose of constructing, acquiring, extending, improving or equipping such plant or plants, each said governing board is authorized to issue, sell, and deliver its negotiable revenue bonds, from time to time and in such amount or amounts as it may consider necessary. All such bonds shall be fully negotiable and may be made redeemable before maturity, at the option of such governing board, at such price or prices and under such terms and conditions as may be fixed by the board prior to the issuance of the bonds. Each such governing board may sell such bonds in such manner, either at public or at private sale, and for such price, as it may determine to be for the best interests of the board and the institution, but no such sale shall be made at a price so low as to require the payment of interest on the money received therefor at more than six (6%) per cent per annum, computed with relation to the absolute maturity of the bonds or notes in accordance with standard tables of bond values, excluding however, from such computation the amount of any premium to be paid on redemption of any bonds or notes prior to maturity.

Services from plants; charges; pledge of revenues

Sec. 3. Each such board is authorized to furnish chilled water, domestic hot water, cold water, and steam, or any of such services, from any such utility plant or plants, and the governing board of The University of Texas System is authorized to furnish electricity from any such utility plant located at The University of Texas at Austin only, to any or all buildings and facilities as may have been or may be constructed at its institution or institutions, and to determine the amounts to be charged and allocated to such buildings and facilities as the cost of furnishing such services, but no such board shall furnish electricity from any such utility

For Annotations and Historical Notes, see V.A.T.S.

plant except as expressly authorized herein. The amounts to be charged to such buildings and facilities as the cost of furnishing such services shall be no less than the actual expense of maintenance and operation of the plant or plants, the amount to pay the principal of and interest on the bonds issued pursuant to this Act to construct, acquire, extend, improve or equip such plant or plants, and establish reserves in accordance with the resolution or resolutions authorizing such bonds. Each board is authorized to pledge all or any part of the revenues from the amounts thus received for said services from revenue producing buildings and facilities to pay the principal of and interest on, and to create and maintain reserves for such bonds, and may secure said bonds additionally by pledging all or part of any of the revenues from any one or more revenue producing buildings or facilities heretofore or hereafter constructed or acquired.

Refunding bonds

Sec. 4. Each such board is authorized to issue negotiable refunding bonds for the purpose of taking up, at or prior to maturity, all or any part of an issue or issues of revenue bonds issued either under this Act or under other laws, and to refund with a single refunding issue the revenue bonds of several issues. It is authorized to include in a single refunding issue bonds for the purpose of refunding outstanding bonds and new bonds to obtain additional funds for purposes authorized in this Act. All of such refunding bonds, or refunding and new money bonds, shall be secured by a pledge of all or part of the revenues pledged for the payment of said refunded or underlying bonds, and all or part of the revenues from the buildings or facilities for which such new money bonds are issued, and may be additionally secured by pledging all or part of the revenues from any one or more other revenue producing buildings or facilities.

Subsequent pledge of revenues

Sec. 5. After the revenues of any building or of any facility, constructed, acquired, extended, improved or equipped pursuant to this Act, shall have been pledged to the payment of revenue bonds, any subsequent pledge of such revenues shall be inferior to such pledge or pledges previously made, provided that if the resolution or resolutions making the previous pledge or pledges have so provided, parity bonds may be issued.

Bonds as debt of State; demand by bondholders for payment of principal or interest

Sec. 6. The revenue bonds authorized in this Act shall not constitute indebtedness of the State of Texas or of the institutions, and the holders thereof shall never have the right to demand payment of principal or interest out of funds other than those pledged to the payment of such bonds.

Approval and registration of bonds and notes

Sec. 7. Prior to delivery thereof, all bonds and notes authorized to be issued hereunder and the records relating to their issuance shall be submitted to the Attorney General of Texas for examination and if he finds that they have been issued in accordance with the Constitution and this Act, and that they will be binding special obligations of the governing board authorizing their issuance, he shall approve them, and thereupon they shall be registered by the Comptroller of Public Accounts of the State of Texas, and after such approval and registration they shall be incontestable.

Cumulative effect

Sec. 8. This law shall be cumulative of all other laws applicable to said institutions and is not intended to repeal other existing laws on the subject, but to the extent that the provisions of this Act are inconsistent with or are in conflict with the provisions of other laws, the provisions of this Act shall be effective.

Legal and authorized investments

Sec. 9. All such bonds shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, saving and loan associations and insurance companies. Such bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas and any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas, and such bonds shall be lawful and sufficient security for said deposits to the extent of the principal amount thereof, or their value on the market, whichever is the lesser, when accompanied by all unmatured coupons appurtenant thereto.

Acts 1967, 60th Leg., p. 305, ch. 148, emerg. eff. May 9, 1967.

Title of Act:

An Act authorizing the governing boards of Texas Technological College, Pan American College, West Texas State University, and The University of Texas System to construct, acquire, extend, improve and equip a utility plant or plants, to issue negotiable revenue bonds for such purposes,

to pledge revenues to the payment of such bonds, to issue refunding bonds, declaring such bonds to be legal investments and qualifying same for security of public funds, providing other matters relating thereto; and declaring an emergency. Acts 1967, 60th Leg., p. 305, ch. 148.

Art. 2909c—2. Refunding bonds for permanent improvements at institutions of higher learning

The governing board of any institution which has heretofore issued or which hereafter issues bonds or notes pursuant to the authority of Article 7, Section 17, as amended, of the Texas Constitution shall have power and authority to issue refunding bonds to refinance or refund any or all of such bonds or notes by the issuance of its refunding bonds, and any said governing board is fully authorized to pledge all or any part of the funds allotted pursuant to said section of the Constitution to any institution governed by same, to secure such refunding bonds issued pursuant to this Act. Such refunding bonds shall be issued in such amounts as may be determined by any such governing board and shall bear interest not to exceed the rate then permitted by the Constitution and shall mature serially or otherwise in no more than 10 years. Such refunding bonds shall be examined and approved by the Attorney General of the State of Texas, and when so approved shall be incontestable, and all such bonds shall be registered by the Comptroller of Public Accounts of the State of Texas. Such refunding bonds may be exchanged for bonds or notes issued pursuant to said section of the Constitution or may be sold and the proceeds therefrom used to call and redeem such outstanding bonds and notes.

Acts 1967, 60th Leg., p. 1839, ch. 713, § 1, emerg. eff. June 17, 1967.

Acts 1967, 60th Leg., p. 1839, ch. 713, § 2 provided: "If any provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act, and the application of such provision to other persons or circumstances, shall not be affected thereby."

Title of Act:

An Act authorizing governing boards of institutions which have heretofore issued or which hereafter issue bonds or notes pursuant to Article 7, Section 17, as amended, of the Texas Constitution to refinance or refund such bonds or notes, providing other matters relative thereto; and declaring an emergency. Acts 1967, 60th Leg., p. 1839, ch. 713.

Art. 2911b. Methods of instruction in teaching deaf and deaf-mute students

A teacher may use the oral, manual, Rochester (combination method), and the language of signs methods of instruction in teaching deaf and

For Annotations and Historical Notes, see V.A.T.S.

deaf-mute students in any school of this state subject to the recommendation of his supervising teacher.

Acts 1967, 60th Leg., p. 563, ch. 251, § 1, eff. Aug. 28, 1967.

Title of Act: and deaf-mute students; and declaring an emergency. Acts 1967, 60th Leg., p. 563, ch. 251.
An Act authorizing teachers to use certain methods of instruction in teaching deaf

Art. 2919d—1. Compact for Education

Text of compact

Section 1. The Compact for Education is hereby entered into and enacted into law in the form substantially as follows:

COMPACT FOR EDUCATION

ARTICLE I. PURPOSE AND POLICY

Section A. It is the purpose of this compact to:

1. Establish and maintain close cooperation and understanding among executive, legislative, professional educational and lay leadership on a nationwide basis at the State and local levels.

2. Provide a forum for the discussion, development, crystalization and recommendation of public policy alternatives in the field of education.

3. Provide a clearing house of information on matters relating to educational problems and how they are being met in different places throughout the Nation, so that the executive and legislative branches of State Government and of local communities may have ready access to the experience and record of the entire country, and so that both lay and professional groups in the field of education may have additional avenues for the sharing of experience and the interchange of ideas in the formation of public policy in education.

4. Facilitate the improvement of State and local educational systems so that all of them will be able to meet adequate and desirable goals in a society which requires continuous qualitative and quantitative advance in educational opportunities, methods and facilities.

Section B. It is the policy of this compact to encourage and promote local and State initiative in the development, maintenance, improvement and administration of educational systems and institutions in a manner which will accord with the needs and advantages of diversity among localities and States.

Section C. The party States recognize that each of them has an interest in the quality and quantity of education furnished in each of the other States, as well as in the excellence of its own educational systems and institutions, because of the highly mobile character of individuals within the Nation, and because the products and services contributing to the health, welfare and economic advancement of each State are supplied in significant part by persons educated in other States.

ARTICLE II. STATE DEFINED

As used in this Compact, "State" means a State, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

ARTICLE III. THE COMMISSION

Section A. The Education Commission of the States, hereinafter called "the Commission," is hereby established. The Commission shall consist of seven members representing each party State. One of such members shall be the Governor or his designated representative, and six shall be appointed by and serve at the pleasure of the Governor,

unless the laws of the State otherwise provide. In addition to any other principles or requirements which a State may establish for the appointment and service of its members of the Commission, the guiding principle for the composition of the membership on the Commission from each party State shall be that the members representing such State shall, by virtue of their training, experience, knowledge or affiliations be in a position collectively to reflect broadly the interests of the State Government, higher education, the State education system, local education, lay and professional, public and non-public educational leadership. Of those appointees, one may be the head of a State agency or institution, designated by the Governor, having responsibility for one or more programs of public education. In addition to the members of the Commission representing the party States, there may be not to exceed ten non-voting commissioners selected by the steering committee for terms of one year. Such commissioners shall represent leading national organizations of professional educators or persons concerned with educational administration.

Section B. The members of the Commission shall be entitled to one vote each on the Commission. No action of the Commission shall be binding unless taken at a meeting at which a majority of the total number of votes on the Commission are cast in favor thereof. Action of the Commission shall be only at a meeting at which a majority of the commissioners are present. The Commission shall meet at least once a year. In its bylaws, and subject to such directions and limitations as may be contained therein, the Commission may delegate the exercise of any of its powers to the steering committee or the executive director, except for the power to approve budgets or requests for appropriations, the power to make policy recommendations pursuant to Article IV and adoption of the annual report pursuant to Article III(j).

Section C. The Commission shall have a seal.

Section D. The Commission shall elect annually, from among its members, a chairman, who shall be a Governor, a vice chairman and a treasurer. The Commission shall provide for the appointment of an executive director. Such executive director shall serve at the pleasure of the Commission, and together with the treasurer and such other personnel as the Commission may deem appropriate shall be bonded in such amount as the Commission shall determine. The executive director shall be secretary.

Section E. Irrespective of the civil service, personnel or other merit system laws of any of the party States, the executive director subject to the approval of the steering committee shall appoint, remove or discharge such personnel as may be necessary for the performance of the functions of the Commission, and shall fix the duties and compensation of such personnel. The Commission in its bylaws shall provide for their personnel policies and programs of the Commission.

Section F. The Commission may borrow, accept or contract for the services of personnel from any party jurisdiction, the United States, or any subdivision or agency of the aforementioned governments, or from any agency of two or more of the party jurisdictions or their subdivisions.

Section G. The Commission may accept for any of its purposes and functions under this compact any and all donations, and grants of money, equipment, supplies, materials and services, conditional or otherwise, from any State, the United States, or any other governmental agency, or from any person, firm, association, foundation, or corporation, and may receive, utilize and dispose of the same. Any donation or grant accepted by the Commission pursuant to this paragraph or services borrowed pursuant to paragraph (f) of this Article shall be reported in the annual report of the Commission. Such report shall include the nature, amount and conditions, if any, of the donation, grant, or services borrowed, and the identity of the donor or lender.

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Section H. The Commission may establish and maintain such facilities as may be necessary for the transacting of its business. The Commission may acquire, hold, and convey real and personal property and any interest therein.

Section I. The Commission shall adopt bylaws for the conduct of its business and shall have the power to amend and rescind these bylaws. The Commission shall publish its bylaws in convenient form and shall file a copy thereof and a copy of any amendment thereto, with the appropriate agency or officer in each of the party States.

Section J. The Commission annually shall make to the Governor and legislature of each party State a report covering the activities of the Commission for the preceding year. The Commission may make such additional reports as it may deem desirable.

ARTICLE IV. POWERS

In addition to authority conferred on the Commission by other provisions of the compact, the Commission shall have authority to:

1. Collect, correlate, analyze and interpret information and data concerning educational needs and resources.

2. Encourage and foster research in all aspects of education, but with special reference to the desirable scope of instruction, organization, administration, and instructional methods and standards employed or suitable for employment in public educational systems.

3. Develop proposals for adequate financing of education as a whole and at each of its many levels.

4. Conduct or participate in research of the types referred to in this Article in any instance where the Commission finds that such research is necessary for the advancement of the purposes and policies of this compact, utilizing fully the resources of national associations, regional compact organizations for higher education, and other agencies and institutions, both public and private.

5. Formulate suggested policies and plans for the improvement of public education as a whole, or for any segment thereof, and make recommendations with respect thereto available to the appropriate governmental units, agencies and public officials.

6. Do such other things as may be necessary or incidental to the administration of any of its authority or functions pursuant to this compact.

ARTICLE V. COOPERATION WITH FEDERAL GOVERNMENT

Section A. If the laws of the United States specifically so provided, or if administrative provision is made therefor within the Federal Government, the United States may be represented on the Commission by not to exceed ten representatives. Any such representative or representatives of the United States shall be appointed and serve in such manner as may be provided by or pursuant to Federal law, and may be drawn from any one or more branches of the Federal Government, but no such representative shall have a vote on the Commission.

Section B. The Commission may provide information and make recommendations to any executive or legislative agency or officer of the Federal Government concerning the common educational policies of the States, and may advise with any such agencies or officers concerning any matter of mutual interest.

ARTICLE VI. COMMITTEES

Section A. To assist in the expeditious conduct of its business when the full Commission is not meeting, the Commission shall elect a steering committee of thirty members which, subject to the provisions of this

compact and consistent with the policies of the Commission, shall be constituted and function as provided in the bylaws of the Commission. One-third of the voting membership of the steering committee shall consist of Governors, and the remainder shall consist of other members of the Commission. A Federal representative on the Commission may serve with the steering committee, but without vote. The voting members of the steering committee shall serve for terms of two years, except that members elected to the first steering committee of the Commission shall be elected as follows: fifteen for one year and fifteen for two years. The chairman, vice chairman, and treasurer of the Commission shall be members of the steering committee and, anything in this paragraph to the contrary notwithstanding, shall serve during their continuance in these offices. Vacancies in the steering committee shall not affect its authority to act, but the Commission at its next regularly ensuing meeting following the occurrence of any vacancy shall fill it for the unexpired term. No person shall serve more than two terms as a member of the steering committee; provided that service for a partial term of one year or less shall not be counted toward the two-term limitation.

Section B. The Commission may establish advisory and technical committees composed of State, local, and Federal officials, and private persons to advise it with respect to any one or more of its functions. Any advisory or technical committee may, on request of the States concerned, be established to consider any matter of special concern to two or more of the party States.

Section C. The Commission may establish such additional committees as its bylaws may provide.

ARTICLE VII. FINANCE

Section A. The Commission shall advise the Governor or designated officer or officers of each party State of its budget and estimated expenditures for such period as may be required by the laws of that party State. Each of the Commission's budgets of estimated expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each of the party States.

Section B. The total amount of appropriation requests under any budget shall be apportioned among the party States. In making such apportionment, the Commission shall devise and employ a formula which takes equitable account of the populations and per capita income levels of the party States.

Section C. The Commission shall not pledge the credit of any party States. The Commission may meet any of its obligations in whole or in part with funds available to it pursuant to Article III(g) of this compact, provided that the Commission takes specific action setting aside such funds prior to incurring an obligation to be met in whole or in part in such manner. Except where the Commission makes use of funds available to it pursuant to Article III(g) thereof, the Commission shall not incur any obligation prior to the allotment of funds by the party States adequate to meet the same.

Section D. The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the audit and accounting procedures established by its bylaws. However, all receipts and disbursements of funds handled by the Commission shall be audited yearly by a qualified public accountant, and the report of the audit shall be included in and become part of the annual reports of the Commission.

Section E. The accounts of the Commission shall be open at any reasonable time for inspection by duly constituted officers of the party States and by any persons authorized by the Commission.

For Annotations and Historical Notes, see V.A.T.S.

Section F. Nothing contained herein shall be construed to prevent Commission compliance with laws relating to audit or inspection of accounts by or on behalf of any government contributing to the support of the Commission.

ARTICLE VIII. ELIGIBLE PARTIES; ENTRY INTO AND WITHDRAWAL

Section A. This compact shall have as eligible parties all States, Territories, and Possessions of the United States, the District of Columbia, and the Commonwealth of Puerto Rico. In respect of any such jurisdiction not having a Governor, the term "Governor," as used in this compact, shall mean the closest equivalent official of such jurisdiction.

Section B. Any State or other eligible jurisdiction may enter into this compact and it shall become binding thereon when it has adopted the same: provided that in order to enter into initial effect, adoption by at least ten eligible party jurisdictions shall be required.

Section C. Adoption of the compact may be either by enactment thereof or by adherence thereto by the Governor; provided that in the absence of enactment, adherence by the Governor shall be sufficient to make his State a party only until December 31, 1967. During any period when a State is participating in this compact through gubernatorial action, the Governor shall appoint those persons who, in addition to himself, shall serve as the members of the Commission from his State, and shall provide to the Commission an equitable share of the financial support of the Commission from any source available to him.

Section D. Except for a withdrawal effective on December 31, 1967, in accordance with paragraph C of this Article, any party State may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after the Governor of the withdrawing State has given notice in writing of the withdrawal to the Governors of all other party States. No withdrawal shall affect any liability already incurred by or chargeable to a party State prior to the time of such withdrawal.

ARTICLE IX. CONSTRUCTION AND SEVERABILITY

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any State or of the United States, or the application thereof to any Government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any Government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any State participating therein, the compact shall remain in full force and effect as to the State affected as to all severable matters.

Membership of Educational Commission

Sec. 2. The Texas membership to the Educational Commission of the States shall be the Governor or his designated representative and six citizens of the State who shall be appointed and serve at the pleasure of the Governor. These seven members shall officially represent Texas on the Education Commission of the States.

Acts 1967, 60th Leg., p. 885, ch. 384, emerg. eff. Sept. 1, 1967.

Sections 3 and 4 of the act of 1967 provided:

"Sec. 3. The effective date of this act shall be September 1, 1967.

"Sec. 4. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applica-

tions of this Act which can be given effect without the invalid provisions or applications, and to this end the provisions of this Act are declared to be severable."

for Education; providing for Texas membership to the Educational Commission of the States; providing an effective date; providing a severability clause; and declaring an emergency. Acts 1967, 60th Leg., p. 885, ch. 384.

Title of Act:

An Act enabling the State of Texas to enter into and participate in the Compact

Art. 2919e—3. Western Information Network Association and other regional information network associations

SUBCHAPTER A. GENERAL PROVISIONS

Purpose

Section 1. The purpose of this Act is to promote the educational programs of state-supported institutions of higher education in Texas by authorizing the establishment and operation of a cooperative system for communication and information retrieval and transfer between the institutions and between the institutions and private educational institutions, industry, and the public. The system, employing two-way, closed-circuit television and other electronic communication facilities, is to provide a means of effecting the interchange of ideas, talents, faculties, libraries, and data processing equipment and a means of carrying out an approved program of instructional television.

Definitions

Sec. 2. In this Act unless the context requires a different definition

(1) "association" means the Western Information Network Association or any other regional network association created and named by the Coordinating Board, Texas College and University System;

(2) "member" means one of the institutions of higher education which compose an association;

(3) "associate member" means an organization other than an institution of higher education admitted to associate membership in an association;

(4) "board" means the board of directors of an association;

(5) "director" means a member of a board.

SUBCHAPTER B. THE WESTERN INFORMATION NETWORK ASSOCIATION

Association created

Sec. 3. (a) The Western Information Network Association is created. It is an agency of the state composed of the following state-supported member institutions of higher education: Amarillo College, Angelo State College, Clarendon Junior College, Frank Phillips College, Howard County Junior College, Midwestern University, Odessa College, South Plains College, Sul Ross State College, Texas Technological College, Texas Western College, and West Texas State University.

(b) The board by a majority vote may admit other state-supported institutions of higher education to membership in the association upon approval by the Coordinating Board, Texas College and University System.

(c) The board by unanimous vote may admit private institutions of higher education to membership in the association upon approval by the Coordinating Board, Texas College and University System.

(d) The board by unanimous vote may admit other organizations to associate membership in the association.

Board of directors

Sec. 4. The association is governed by a board of directors. The chief administrative officer or such person designated by the chief administrative officer of each institution of higher education holding membership in the association shall serve as a director of the board. Such service on the board is an additional duty of employment of the chief administrative officers or such persons designated by the chief administrative officers of state-supported institutions and not an additional position of honor, trust, or profit. The Legislature finds that this service is necessary in accomplishing the purpose of this Act; is compatible with their employment; and will benefit the educational program of the institution and of the state.

Director's expenses

Sec. 5. A director is entitled to receive reimbursement for actual expenses incurred in attending meetings of the board and in attending to the business of the association which is authorized by a resolution of the board.

Meetings of the board

Sec. 6. (a) The board shall hold a meeting at least once each quarter and may hold meetings at other times at the call of the chairman of the board or at the request of a majority of the other directors.

(b) A majority of the membership of the board constitutes a quorum at a meeting of the board.

(c) Action may be taken by the board by the affirmative vote of the majority of the directors present at a meeting at which a quorum is present.

Chairman and vice chairman of the board

Sec. 7. The board shall select a director to serve as chairman and a director to serve as vice chairman of the board. The chairman shall preside at meetings of the board. If the chairman is not present, or is unable to act, the vice chairman shall preside at the meeting.

Employees

Sec. 8. The board may employ a general manager who shall serve as the chief executive officer of the association. The board may employ other employees it considers necessary in carrying on the association's duties and functions.

Delegation of authority

Sec. 9. The board may delegate any of the powers, duties, or functions of the association to the general manager or to any other employee.

Bond of an officer, agent, or employee

Sec. 10. (a) The general manager, and every other agent or employee of the association charged with the collection, custody, or payment of any money of the association shall execute a bond conditioned on the faithful performance of his duties.

(b) The board shall approve the form, amount, and surety of the bond.

(c) The surety may be a surety company authorized to do business in this state.

(d) The association shall pay the premium on the bond.

Powers and duties

Sec. 11. (a) The association may acquire, operate, and maintain, or obtain by contracting with any communications common carrier in ac-

cordance with its tariffs, a multichannel, two-way communications system, including closed circuit television, linking classrooms, libraries, computer facilities, and information retrieval systems at the member-institutions.

(b) The association may acquire, operate, and maintain, or obtain by contracting with any communications common carrier in accordance with its tariffs, any facility, in addition to that described in Subsection (a) of this section, which the board considers necessary or desirable in carrying out the purposes of this Act.

(c) The association may interchange educational information with private educational institutions, school districts, the United States Government and other parties engaged in education or participating in educational projects, and use the facilities of the association only in the exchange, retrieval and transfer of information and the interchange of approved course offering and instruction between member-institutions and other parties engaged in education or participating in educational projects.

Gifts and grants

Sec. 12. The association may accept gifts, grants, or donations of real or personal property from any individual, group, association or corporation. It may accept grants from the United States Government subject to the limitations or conditions provided by law.

Fund created

Sec. 13. The Information Network Association Fund is created as a special fund in the state treasury. All money deposited in the treasury by the Western Information Network Association or any other regional network association created by the Coordinating Board, Texas College and University System, shall be credited to the special fund and disbursed as provided by legislative appropriation.

Rules and regulations

Sec. 14. The association shall adopt and publish rules to govern the conduct of its business.

Principal office

Sec. 15. The board for the Western Information Network Association shall maintain its principal office in Lubbock, Texas, at Texas Technological College. The boards for other regional information network associations created by the Coordinating Board, Texas College and University System, shall maintain their principal offices at locations designated by the Coordinating Board, Texas College and University System.

Facilities

Sec. 16. Each member-institution shall furnish suitable space to the association for a classroom-studio, a lecture-studio, and a control room. It may also furnish any additional physical plant facility needed by the association in carrying on its functions at the institution.

SUBCHAPTER C. OTHER INFORMATION NETWORK ASSOCIATIONS

Designation of regions

Sec. 17. (a) In addition to the Western Information Network Association, the Coordinating Board, Texas College and University System, shall at such times as such board shall determine, divide the state into information network association regions consisting of state-supported institutions

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of higher education located within geographical boundaries prescribed by the coordinating board.

(b) The coordinating board shall give due consideration to the geographical proximity and number of institutions of higher education to be included within a proposed region.

Creation

Sec. 18. (a) The Coordinating Board, Texas College and University System, shall create and name an information network association within an information network region if

(1) a majority of the institutions of higher education within a region apply to create an association; and

(2) the institutions applying show good cause for creating an association.

(b) The Coordinating Board, Texas College and University System, may not create more than one information network association in an information network region.

(c) Each information network association created is an agency of the state.

Applicability

Sec. 19. Except for Subsection (a), Section 3, of Subchapter B, the provisions of Subchapters A and B of this Act shall apply to any additional information network association created by the Coordinating Board, Texas College and University System.

Acts 1967, 60th Leg., p. 726, ch. 305, eff. Aug. 28, 1967.

Section 20 of Subchapter D, Temporary Provisions, of Acts 1967, 60th Leg., p. 726, ch. 305, provided: "If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable."

Title of Act:

An Act relating to the creation and operation of the Western Information Network Association and the creation and op-

eration of additional regional information network associations by the Coordinating Board, Texas College and University System, all of which associations are state agencies comprised of certain institutions of higher education in the State of Texas whose function is the acquisition and operation of a cooperative system for communication, information retrieval and transfer, and instructional television interchange between the institutions and by contract between the institutions and private educational institutions, school districts, industry, and the general public; providing for severability; and declaring an emergency. Acts 1967, 60th Leg., p. 726, ch. 305.

Art. 2919i. Use of protective eye devices in public schools

* * * * *

Sec. 3A. Whenever an accident occurs during the conduct of any of the courses described in Section 1 of this Act, and an injury to the eye of a teacher or pupil results, the principal shall make a full written report of the accident and injury to the State Department of Education. The department shall prescribe the form and content of the reports and shall maintain a file of all reports submitted.

Sec. 3A added by Acts 1967, 60th Leg., p. 333, ch. 156, § 1, emerg. eff. May 12, 1967.

Art. 2919j. Protection and policing of buildings and grounds of state institutions of higher learning

General and criminal laws; force and effect

Section 1. All of the general and criminal laws of the state are declared to be in full force and effect within the areas under the control and jurisdiction of the state institutions of higher education of this state.

Rules and regulations of governing boards

Sec. 2. Each governing board of the state institutions of higher education including public junior colleges of this state is hereby authorized to promulgate rules and regulations for the safety and welfare of students, employees and property and such other rules and regulations as it may deem necessary to carry out the provisions of this Act and the governance of the respective institutions, providing for the operation and parking of vehicles upon the grounds, streets, drives and alleys or any other institutional property under its control but not limited to the following:

- (1) Limiting the rate of speed;
- (2) Assigning parking spaces and designating parking areas and their use and assessing a charge therefor;
- (3) Prohibiting parking as it deems necessary;
- (4) Removing vehicles parked in violation of institutional rules and regulations or law at the expense of the violator;
- (5) Instituting a system of registration for vehicle identification, including a reasonable charge.

Any person who violates any of the provisions of this Act or any rules or regulation of any governing board of any state institution of higher education of this state promulgated under the authority of this Act shall upon conviction thereof be punished by a fine of not more than \$200.

Campus security personnel; power, privileges and immunities; oath and bond

Sec. 3. The governing boards of the state institutions of higher education of this state are hereby authorized to employ campus security personnel for the purpose of carrying out the provisions of this Act and may commission such officers as peace officers. Any officer commissioned hereunder is hereby vested with all the powers, privileges and immunities of peace officers while on the property under the control and jurisdiction of the respective state institutions of higher education of this state or otherwise in the performance of their duties. It is further provided that any officers assigned to duty and commissioned shall take and file the oath required of peace officers, and shall execute and file a good and sufficient bond in the sum of \$1,000 payable to the Governor of this state and his successors in office with two or more good and sufficient sureties, conditioned that he will fairly, impartially and faithfully perform all of the duties as may be required of him by law. Such bond may be sued upon from time to time in the name of any person injured until the whole amount thereof is recovered.

Trespass; damage to property

Sec. 4. It shall be unlawful for any person to trespass upon the grounds of any of the state institutions of higher education of this state or to damage or deface any of the buildings, statues, monuments, memorials, trees, shrubs, grasses or flowers on the grounds of any of the state institutions of higher education.

Parking; blocking or impeding traffic

Sec. 5. It shall be unlawful for any person to park a vehicle upon any property under the control and jurisdiction of the state institutions of higher education of this state except in the manner designated by said institutions and in the spaces marked and designated by the governing boards or that may be hereafter marked and designated, or to block or impede traffic through the driveways of any of said properties. All laws regulating traffic upon highways and streets shall apply to the operation of vehicles within the properties of said institutions, except as may be modified in this Act.

Parking and traffic tickets; summons; arrest warrants

Sec. 6. In connection with traffic and parking violations only the officers authorized to enforce the provisions of this Act shall have the authority to issue and use traffic tickets and summons of the type now used by the Texas Highway Patrol with such changes as are necessitated by reason of this Act. Upon the issuance of any parking and traffic ticket or summons the same procedures shall be followed as now prevail in connection with the use of parking and traffic violation tickets by the cities of this state and the Texas Highway Patrol. Nothing herein shall restrict the application and use of regular arrest warrants.

Vehicle identification insignia

Sec. 7. Authority is hereby granted for the issuance and use of suitable vehicle identification insignia to be issued and after proper certification to be affixed to said vehicle. It is also provided that the respective institutions may bar or suspend the permit of any and all vehicles from driving or parking upon any institutional property for the violation of any of the rules or regulations promulgated by said Boards as well as a violation of this Act. Reinstatement of such privileges may be permitted and a reasonable fee assessed therefor.

Jurisdiction over offenses

Sec. 8. The judge of a municipal court or any justice of the peace of any city or county where property under the control and jurisdiction of state institutions of higher education of this state is located is each hereby separately vested with all jurisdiction necessary to hear and determine criminal cases involving violations hereof where the punishment does not exceed a fine of \$200.

Refusing entry of undesirable persons; identification

Sec. 9. The governing boards of the respective state institutions of higher education or their authorized representatives shall be vested with authority to refuse to allow persons having no legitimate business to enter upon any property under the control and jurisdiction of any state institution of higher education of this state and to eject any undesirable person from said property upon their refusal to leave peaceably upon request. Authority is given to require identification of any person upon the property of any of the state institutions of higher education.

Enforcement of rules and regulations

Sec. 10. Notwithstanding any of the provisions of this Act, all officers commissioned by the governing boards of the respective state institutions of higher education of this state may be authorized and empowered by the respective board to enforce rules and regulations promulgated by the Board. Nothing herein is intended to limit or restrict the authority of each institution to promulgate and enforce appropriate rules and regulations for the orderly conduct of the institution in carrying out its purposes and objectives or the right of separate jurisdiction relating to the conduct of its students and personnel.

Severability

Sec. 11. If any provision of this Act is held invalid, such invalidity shall not affect other provisions which can be given effect without the invalid provision, and to this end the provisions of this Act are declared to be severable.

Cumulative effect

Sec. 12. The provisions of this Act shall be cumulative of all other laws.

Acts 1967, 60th Leg., p. 151, ch. 80, emerg. eff. April 27, 1967.

Title of Act:

An Act providing for the protection, safety and welfare of students and employees of the respective governing boards and for the protection and policing of the buildings and grounds of the state institutions of higher education including public junior colleges of this state; authorizing the promulgation of rules and regulations and providing for their enforcement; providing for peace officers and prescribing their duties and powers; providing for the en-

forcement of this Act by such commissioned officers of each institution; prescribing punishments; prohibiting trespasses and damage to property; regulating and controlling traffic and parking and the use of parking facilities; providing for the issuance of vehicle identification insignia; providing for jurisdiction over offenses; repealing all laws and parts of laws in conflict herewith; providing a savings clause; and declaring an emergency. Acts 1967, 60th Leg., p. 151, ch. 80.

CHAPTER NINETEEN A—RURAL HIGH SCHOOLS

Art. 2922a. Authority to establish

In each organized county in this state, and in any county which shall hereafter be organized, the county school trustees shall have the authority to form one or more rural high school districts, by grouping contiguous common school districts having less than four hundred (400) scholastic population and independent school districts having less than two hundred fifty (250) scholastic population, for the purpose of establishing and operating rural high schools; provided, also, that the county school trustees may annex one or more common school districts or rural high school districts, or one or more independent school districts having less than two hundred fifty (250) scholastic population to a common school district having four hundred (400) or more scholastic population, or to an independent district having one hundred fifty (150) or more scholastic population. Provided, that the county school trustees shall have the authority to abolish a rural high school district on a petition signed by a majority of the voters of each elementary school district composing the rural high school district, and when such district has been abolished the elementary districts shall automatically revert back to their original status, with the exception that in the event there are any outstanding indebtednesses against the said rural school district each elementary district shall assume its proportional part of the debts, bonded or otherwise.

As amended by Acts 1967, 60th Leg., p. 545, ch. 240, § 1, eff. Aug. 28, 1967.

CHAPTER TWENTY—TEACHERS' RETIREMENT

- Art. 2922—1g. Supplemental service retirement benefits [New].
- 2922—1h. Current membership service credit for military service during World War II [New].

- Art. 2922—1i. Optional retirement program for teachers and administrative personnel employed by state-supported institutions of higher education [New].

Art. 2922—1. Teachers' Retirement System

* * * * *

Membership

Sec. 3. The membership in said Retirement System shall be composed as follows:

* * * * *

3. Membership in the Retirement System shall terminate if:

- (a) The member dies; or

For Annotations and Historical Notes, see V.A.T.S.

(b) The member, while absent from service, withdraws his accumulated deposits; or

(c) The member accepts retirement under this Act; or

(d) The member shall be absent from service more than five (5) consecutive years within any period of six (6) consecutive years. The performance of a period of active military duty by a member shall not be construed as absence from service; nor shall absence from service terminate membership if the member does not withdraw his accumulated contributions and has ten (10) or more years of creditable service, regardless of age, at or before the time he ceases to be employed in the public schools of Texas.

Sec. 3, subsec. 3 amended by Acts 1967, 60th Leg., p. 525, ch. 229, § 1, emerg. eff. May 19, 1967.

* * * * *

Death and Survivor Benefits

Sec. 7.

* * * * *

5. (a) Any unremarried widow or widower, as designated beneficiary of a member of the Teacher Retirement System of Texas with twenty-five (25) or more years of creditable service who died prior to April 8, 1957, shall be entitled to receive survivor benefits provided in this Act for beneficiaries of members with a creditable year of service after the effective date of this Act, except that the \$500 lump sum amount shall not be payable, and provided that such beneficiary did not receive or is not receiving a death benefit other than the return of the member's deposits plus accumulated interest.

(b) Any unremarried widow or widower, as designated beneficiary of a retired member who did not have a creditable year of service after November 23, 1956 and who died prior to August 23, 1963 while receiving a retirement annuity from the Teacher Retirement System of Texas, shall be entitled to receive survivor benefits provided elsewhere in this Act for beneficiaries of retired members who had a creditable year of service after the effective date of this Act, except that the lump sum amount shall not be payable.

(c) Benefits provided in this subsection shall become effective on the last day of the month in which the qualified beneficiary applies to the Retirement System in such form as may be prescribed by the Board of Trustees and payments shall be due from and after that date only. The same age requirements specified elsewhere in this Act shall apply to the provisions of this subsection.

Sec. 7, subsec. 5 added by Acts 1967, 60th Leg., p. 83, ch. 43, § 1, emerg. eff. April 7, 1967.

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Method of Financing

Sec. 10.

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4. Interest Fund.

The Interest Fund is hereby created to facilitate the crediting of interest to the various other funds. All income, interest, and dividends derived from the deposits and investments authorized by the Act, shall be paid into the Interest Fund. Once each year, on August 31st, interest shall be allowed and transferred to the Teacher Savings Fund, in the amount requisite to allow crediting of interest at the rate of two and one-half percent (2½%) (as above provided) upon the accumulated contributions of the several members. Likewise, on August 31st of each year, additional transfers from the Interest Fund shall be made as follows: (1)

to the Retired Reserve Fund the amount requisite to allow, on the mean balance of said Reserve Fund for the year ending on said date, interest at the rate of three percent (3%) per annum; (2) to the Expense Fund, such sum as the State Board of Trustees under Subsection 5 hereof may direct, but not in excess of one percent of the Interest Fund on such date; and (3) the balance then remaining in the Interest Fund shall be transferred as interest to the State Contribution Fund.

Sec. 10, subsec. 4 amended by Acts 1967, 60th Leg., p. 1833, ch. 710, § 1, eff. Aug. 28, 1967.

5. Expense Fund.

* * * * *

(b) Each member shall pay with the first payment to the Teacher Savings Fund each year, and in addition thereto, the sum of Five Dollars (\$5.00) which amount shall be credited to the Expense Fund. Said payments for the Expense Fund shall be made to the State Board of Trustees in the same way as payments to the Teacher Savings Fund shall be made, as provided for in this Act; provided however, that if said payment for the Expense Fund of any member is not made with said first payment of said member, the State Board of Trustees may deduct the amount of the payment for the Expense Fund from said first payment of said member.

Sec. 10, subsec. 5(b) amended by Acts 1967, 60th Leg., p. 134, ch. 68, § 1, eff. Aug. 28, 1967.

(c) If the amount estimated to be required to meet the expenses of the State Board of Trustees is in excess of Two Dollars (\$2.00) per contributor for the year, the State Board of Trustees, as evidenced by a resolution of that Board recorded in its minutes, shall transfer to the Expense Fund, from the Interest Fund, an amount necessary to cover the expenses as estimated for the year, including the expense of servicing mortgages insured by the Federal Housing Administration under the National Housing Act; but in no event shall the amount so transferred exceed, in any one year, one percent of the Interest Fund on the date of the transfer.

Sec. 10, subsec. 5(c) amended by Acts 1967, 60th Leg., p. 1834, ch. 710, § 2, eff. Aug. 28, 1967.

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Acts 1967, 60th Leg., p. 134, ch. 68, § 1, amending subsection 5(b) of section 10 of this Article is effective 90 days after date of adjournment for 1967-68 school year and thereafter.

Art. 2922—1b. Re-employment of retired teachers

Section 1. (a) Any person receiving a service retirement benefit from the Teacher Retirement System of Texas may be employed in the public schools of Texas

(1) on a part-time day-to-day basis only not to exceed eighty (80) school days in a single school year as a substitute for an employee who is absent from duty,

(2) as a substitute in a vacant position until such position can be filled, but not to exceed 30 school days, without affecting existing benefits under the system, including the right to receive a retirement allowance. Any such person who reports for duty as a substitute during any day and works any portion of that day, shall be considered to have worked one day. Any substitute employment in a vacant position as outlined hereinabove shall be deducted from the 80 days permitted as a substitute for an absent employee. Substitute employment does not entitle the person to additional creditable service under the retirement system.

(b) Any person receiving service retirement benefits from the Teacher Retirement System of Texas and who is over age 60, may be employed in a public school of Texas on as much as a one-third time basis. This employment shall in no way affect his rights to continue receiving benefits under the Teacher Retirement System. However, this employment does

not entitle the person to receive additional creditable service under the system and the person so employed shall not be required to make further contributions to the Teacher Retirement System.

(c) Any retired person receiving a service retirement from the Teacher Retirement System of Texas and who is employed in any position in the public schools of Texas except as provided hereinabove, shall forfeit all retirement benefits for any month in which such employment occurs. Employment which begins as substituting may become permanent employment. A person who substitutes on a day-to-day basis in a regular position for an absent employee for more than 80 school days or for 30 school days in a vacant position and then continues in the same position shall be considered to have been a regular employee since the first day of employment and forfeits his retirement benefits for all months of employment in that position.

Sec. 2. Any term defined by Chapter 470, Acts of the 45th Legislature, Regular Session, 1937, as heretofore amended,¹ shall, when used in this Act, have the same meaning, unless the context plainly indicates otherwise. The Board of Trustees of the Teacher Retirement System of Texas shall by rule define "one-third time basis" and shall adopt rules governing the employment of a substitute.

Amended by Acts 1967, 60th Leg., p. 2055, ch. 759, § 1, emerg. eff. June 18, 1967.

¹ Article 2922—1.

Art. 2922—1g. Supplemental service retirement benefits

Section 1. (a) Each person who as a teacher member of the Teacher Retirement System of Texas has retired prior to the effective date of this Act and who is on said date receiving from said System a service retirement benefit based on his own service, shall thereafter be entitled to receive and shall be paid by the Teacher Retirement System of Texas a supplemental service retirement benefit each month, calculated as hereinafter provided, and which shall be in addition to the service retirement benefit which he is receiving on said date. The supplemental service retirement benefit herein provided for shall be payable only to and during the lifetime of such retired teacher, and shall be a monthly amount of One Dollar and Fifty Cents (\$1.50) multiplied by each year which has elapsed after the date such person retired under the Teacher Retirement System of Texas, and prior to the effective date of this Act. Such supplemental service retirement benefit shall be paid with the regular monthly service retirement benefit of the member, and out of the same moneys and reserves of the System.

(b) Apart from the term "supplemental service retirement benefit," any term defined by Chapter 470, Acts Regular Session, 45th Legislature¹ as heretofore amended, shall, when used in this Act, have the same meaning, unless the context plainly indicates otherwise.

Sec. 2. The provisions of this Act shall be in addition to and cumulative of the rights guaranteed to members and beneficiaries of the Teacher Retirement System of Texas, under Chapter 470, Acts Regular Session, 45th Legislature, as heretofore amended and other existing laws, and shall in no event be construed as reducing any benefit heretofore allowed or any benefit allowable under other provisions of existing laws.

Acts 1967, 60th Leg., p. 33, ch. 14, emerg. eff. March 11, 1967.

¹ Article 2922—1.

Title of Act:

An Act providing for payment by the Teacher Retirement System of Texas of supplemental service retirement benefits as herein prescribed to each person who has retired as a teacher member prior to the effective date of this Act; prescribing the

amount of such benefit, its duration, and source from which such benefits are to be paid; defining certain terms as used herein; declaring the Act to be cumulative; and declaring an emergency. Acts 1967, 60th Leg., p. 33, ch. 14.

Art. 2922—1h. Current membership service credit for military service during World War II

Section 1. (a) Any member of the Retirement System who rendered active military service in the Armed Forces of the United States during World War II and within a period of 12 months thereafter shall be permitted to contribute to the Teacher Retirement System of Texas for each year of such active military service, but not to exceed five years, a sum equal to the amount contributed by him to said system during the first full year he was employed as a teacher or auxiliary employee after becoming a member of the Teacher Retirement System following his leaving military service; the sum so contributed shall be deposited to the member's individual account in the Teacher Savings Fund; and for each such year during which the equivalent contribution is made, the member shall be given one year's current membership service credit.

(b) Apart from the term "active military service" any term defined by Chapter 470, Acts of the 45th Legislature, Regular Session, 1937,¹ as heretofore amended, shall, when used in this Act, have the same meaning, unless the context plainly indicates otherwise.

Sec. 2. The provisions of this Act shall be in addition to and cumulative of the rights guaranteed to members and beneficiaries of the Teacher Retirement System of Texas under Chapter 470, Acts of the 45th Legislature, Regular Session, 1937,¹ as heretofore amended and other existing laws, and shall in no event be construed as reducing any benefit heretofore allowed or any benefit allowable under the other provisions of existing laws.

Acts 1967, 60th Leg., p. 1104, ch. 485, emerg. eff. June 12, 1967.

¹ Article 2922—1.

Title of Act:

An Act to permit any member of the Teacher Retirement System who has heretofore performed active military service as a member of the Armed Forces of the United States during World War II or a period of 12 months thereafter to make deposits with the Teacher Retirement System

and receive current membership service credit for each creditable year of military service; prescribing the amount of the deposit; defining certain terms used herein; declaring the Act to be cumulative; and declaring an emergency. Acts 1967, 60th Leg., p. 1104, ch. 485.

Art. 2922—1i. Optional retirement program for teachers and administrative personnel employed by state-supported institutions of higher education

Legislative Finding and Purpose

Section 1. The Legislature finds that higher education is vitally important to the welfare, if not the survival, of Texas and the United States at this stage in history and that the quality of higher education is dependent upon the quality of college and university faculties. The Legislature finds, therefore, that moneys spent on recognized means for producing an excellent system of public higher education is money spent to serve a public purpose of great importance. The Legislature finds further that a sound faculty retirement program that provides full and complete retirement benefits to teachers and administrators who have given faithful service to state-supported institutions of higher education is a well-recognized means for improving a state's program of public higher education. The Legislature's purpose in establishing the retirement program provided for by this Act is to improve further the higher education available to the youth at the state-supported colleges and universities and to establish this retirement program as part of the plan of compensation for the faculty of these colleges and universities.

Definitions

Sec. 2. As used in this Act, unless the context otherwise requires:

(a) "State Board of Trustees" means the board established under the provisions of Chapter 470, Acts, Regular Session, 45th Legislature (1937), as amended.¹

(b) "Retirement System" means the Teacher Retirement System of Texas as defined under the provisions of Chapter 470, Acts, Regular Session, 45th Legislature (1937), as amended.

(c) "Institution of higher education" means an institution of higher education as defined under the provisions of Chapter 12, Acts, Regular Session, 59th Legislature (1965),² and including James Connally Technical Institute, except the Rodent and Predatory Animal Control Service.

(d) "Faculty member" means a person employed by an institution of higher education on a full time basis as a member of the faculty or staff and whose duties include teaching, research, administration, including professional librarians, or the performance of professional services but does not mean a person employed in a position which is in the institution's classified personnel system or a person employed in a similar type of position if the institution does not have a classified personnel system.

(e) "Governing Board" means the body charged with policy direction of any institution of higher education.

(f) "Optional Retirement Program" means the optional retirement program created by this Act to provide fixed or variable retirement annuities, including retirement unit annuity certificates of participation for faculty members.

Establishment of the Optional Retirement Program

Sec. 3.

(a) There is hereby established an Optional Retirement Program. Participation in the Optional Retirement Program is in lieu of active membership in the Retirement System. The Governing Boards for all institutions of higher education shall make available to all faculty members in their component institutions, agencies and units the Optional Retirement Program which shall provide for the vesting of benefits after one year of participation.

(b) All faculty members are eligible to participate in the Optional Retirement Program, subject to such rules as may be prescribed by the Governing Board of the institution of higher education at which they are employed.

Administration of the Optional Retirement Program

Sec. 4. In administering the Optional Retirement Program a Governing Board may provide for the purchase of annuity contracts from any insurance or annuity company qualified and admitted to do business in this state. Any life insurance or annuity company qualified and admitted to do business in this state shall be exempt from the payment of all franchise or premium taxes as to all annuity or group insurance contracts made pursuant to a benefit program authorized by the governing board of an institution of higher education, or by any private non-profit educational institution of higher learning, which benefit program is paid for in whole or in part from the funds of such institution. Where a Governing Board has more than one component institution, agency or unit under its jurisdiction, it may provide a separate Optional Retirement Program for each component institution, agency or unit or place two or more component institutions, agencies or units under a single program.

Membership in the Optional Retirement Program

Sec. 5. A faculty member (including one so employed on the effective date of this Act) who becomes eligible to participate in the Optional Retirement Program and who is a member of the Retirement System is hereby extended the option of continuing his membership in the Retirement System or participating in the Optional Retirement Program and retaining a limited membership in the Retirement System as hereinafter set forth. A faculty member who is eligible to participate in the Optional Retirement Program on the date the Optional Retirement Program becomes available at the institution of higher education at which such faculty member is employed, no later than the 1st day of August of the calendar year following the date on which the Optional Retirement Program becomes available at the institution of higher education at which such faculty member is employed, shall elect to participate or not to participate in the Optional Retirement Program. A faculty member who becomes eligible to participate in the Optional Retirement Program subsequent to the date on which the Optional Retirement Program becomes available at the institution of higher education at which such faculty member is employed shall make such election within ninety (90) days following the date on which such faculty member becomes eligible to participate in the Optional Retirement Program. A faculty member exercising the option to participate in the Optional Retirement Program as aforesaid shall not thereafter be eligible for membership in the Retirement System except as a limited member pursuant to Section 7 hereof unless such member ceases to be employed by an institution of higher education and becomes employed by the Texas Public School System other than in an institution of higher education. A faculty member not exercising the option to participate in the Optional Retirement Program as aforesaid shall be deemed to have chosen to continue membership in the Retirement System in lieu of exercising such option to participate in the Optional Retirement Program.

Withdrawal of Contribution to Retirement System

Sec. 6. A faculty member who elects to participate in the Optional Retirement Program as provided under Section 5 may further elect to withdraw the total amount of all contributions he has made to the Retirement System, upon application in writing as prescribed by the State Board of Trustees and the applicable amounts shall be paid within twelve (12) months from the date such application is received. Upon such withdrawal of funds, the faculty member shall thereby forfeit and relinquish all accrued rights as a member of the Retirement System.

**Limited Membership in the Retirement System for Faculty Members
Electing to Participate in the Optional Retirement Program**

Sec. 7. A faculty member with ten (10) or more years of creditable service under the Retirement System who has elected to participate in the Optional Retirement Program in accordance with the provisions of Section 5 and who has not further elected to withdraw his contribution as provided in Section 6 shall become a limited member of the Retirement System for the purpose of accruing Service Retirement Benefits as hereafter provided but shall no longer be considered as a member of the Retirement System for the purpose of accruing Disability, Death and Survivor Benefits thereunder and no such disability, death and survivor benefits shall be payable by reason of limited membership except as hereafter provided. If a limited member shall die before retirement and during any school year in which the member is in service, there shall be paid to his designated beneficiary the accumulated contributions standing to the account of the member in the Teacher Savings

For Annotations and Historical Notes, see V.A.T.S.

Fund; however, no other death or survivor benefit or option shall be payable by reason thereof. The faculty member on limited membership shall be required to make no further contributions to the Retirement System. A limited member shall be entitled to Service Retirement Benefits under the Retirement System; provided, however, that for the purpose of computing the Standard Annuity under the methods provided by law and thus the amount of such benefits only the faculty member's creditable service and compensation prior to making an election to participate in the Optional Retirement Program shall be considered.

Contributions

Sec. 8. With respect to a faculty member who has elected in accordance with Section 5 to participate in the Optional Retirement Program, the following amounts shall be disbursed and credited each fiscal year to the benefit of the faculty member in the Optional Retirement Program:

(a) by the faculty member the amount which he would have been required to deposit during that year as a member of the Retirement System;

(b) by the state the amount which it would have been required to allocate and contribute during that year to the Retirement System to the credit of the faculty member as a member of the Retirement System.

(c) by the faculty member an amount equal to six per cent of that portion of his salary for that year which exceeds the amount of annual salary which is subject to computation of contributions to the Retirement System that year to the extent that such contribution is not prohibited by other applicable laws of this state now or hereafter in force and effect; and

(d) by the state an amount equal to that required to be contributed by the faculty member under Subsection (c).

The contributions of faculty members participating in the Optional Retirement Program in each institution of higher education shall be deducted as provided by law applicable to the System. The contribution of the state for faculty members participating in the Optional Retirement Program in each institution of higher education shall be paid by the Comptroller of Public Accounts of the State of Texas to the applicable institution of higher education. The disbursing officer of such institution of higher education shall pay the total of such contributions from both the faculty member and the state to the company providing the Optional Retirement Program for that institution. Each institution of higher education shall certify estimates to the Comptroller of Public Accounts of funds required for payments under its Optional Retirement Program as required by law for the System.

Acts 1967, 60th Leg., p. 1955, ch. 729, eff. Aug. 28, 1967.

¹ Article 2922—1.

² Article 2919c—2.

Section 9 of the act of 1967 provided: "If any provision of this Act or the application thereof to any person or circumstance is held invalid, this invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared severable."

Title of Act:

An Act concerning an optional retirement program for teachers and administrative personnel employed by state-supported institutions of higher education and annuity and insurance contracts issued for these and related purposes; and declaring an emergency. Acts 1967, 60th Leg., p. 1955, ch. 721.

CHAPTER TWENTY-TWO—FOUNDATION SCHOOL PROGRAM

Art.
2922—26. Quarterly semester pilot programs in public schools [New].

Art. 2922—14. Salaries

Salary Schedules

Section 1. Beginning with the school year of 1967-68, the board of trustees of each and every school district in the State of Texas shall pay their teachers upon a salary schedule providing a minimum beginning base salary, plus increments above the minimum for additional experience in teaching as hereinafter prescribed. The salaries fixed herein shall be regarded as minimum salaries only and each district may supplement such salaries.

All teachers and administrators shall have a valid Texas Certificate. Salary increments for college training shall be based upon training received at a college recognized by the State Commissioner of Education for the preparation of teachers.

Provided that payment of at least the minimum salary schedule provided herein shall be a condition precedent: (1) to a school's participation in the Foundation School Fund; and (2) to its name being placed or continued upon the official list of affiliated or accredited schools. The annual salaries as provided herein may be paid in twelve (12) payments at the discretion of the local school boards.

The salary of each professional position listed in Section 2 of Article II of this Act¹ shall be determined as follows:

(1) Classroom teachers. The annual salary of classroom teachers shall be the monthly base salary, plus increments, multiplied by nine (9); provided that if the length of the school term is less than nine (9) months, the annual salary shall be such base salary and increments multiplied by the number of months of the term.

a. The minimum base pay for a classroom teacher who holds a Bachelor Degree and no higher shall be Five Hundred Twenty-Six Dollars (\$526) per month. Thirteen Dollars (\$13) per month shall be added for each year of teaching experience but not to exceed One Hundred Thirty Dollars (\$130) per month.

b. The minimum base pay for a classroom teacher who has less than a Bachelor's Degree shall be Three Hundred Forty-Eight Dollars (\$348) per month. Thirteen Dollars (\$13) per month shall be added for each year of teaching experience but not to exceed One Hundred Seventeen Dollars (\$117) per month.

c. The minimum monthly base pay for a classroom teacher who holds a Master Degree shall be Five Hundred Sixty Dollars (\$560) per month. Thirteen Dollars (\$13) per month shall be added for each year of teaching experience but not to exceed Two Hundred Eight Dollars (\$208) per month.

(2) Vocational Teachers.

a. The minimum monthly base pay and increments for teaching experience for a vocational teacher conducting a nine (9), ten (10), or twelve (12) months vocational program approved by the State Commissioner of Education shall be the same as that of a classroom teacher as provided herein; provided that vocational trade and industrial teachers have qualifications approved by the State Board of Vocational Education shall be eligible for the minimum monthly base pay for a classroom teacher who holds a recognized Bachelor's Degree and a valid teacher's certificate.

For Annotations and Historical Notes, see V.A.T.S.

The annual salary of vocational teachers shall be the monthly base salary, plus increments, multiplied by nine (9), ten (10), or twelve (12) as applicable.

Provided that the minimum salaries hereinabove prescribed for vocational teachers means total salaries of such teachers to be received for public school instruction, whether they be paid out of state and/or Federal funds. Provided further, that none of the provisions of this Act shall apply to teachers in distributive adult education.

Expenses where allowable shall be paid from a separate Vocational Fund. No such expense shall be counted as part of the cost of the Minimum Foundation School Program.

(3) Special Service Teachers. The minimum monthly base salary and increments for teaching experience for special service teachers shall be the same as those provided herein for classroom teachers. The annual salary of such teachers shall be the monthly base salary, plus increments, multiplied by nine (9).

Provided that a registered nurse shall be considered, for the purpose of computing salaries, as having a Bachelor's Degree; and that a librarian having a recognized certificate or degree based upon five (5) years of recognized college training therefor shall be considered as having a Master's Degree.

(4) Teachers of Exceptional Children. The minimum monthly base salary and increments for teaching experience for teachers of exceptional children shall be the same as that prescribed in this Act for classroom teachers. The annual salary of such teachers shall be the monthly base salary, plus increments, multiplied by nine (9), except that in cases where the State Commissioner of Education approves such a unit for more than nine (9) months, the annual salary shall be the monthly base salary, plus increments, multiplied by the number of months approved by the State Commissioner of Education.

(5) Supervisors and/or Counsellors. The minimum monthly base salary and increments for teaching experience for supervisors or counsellors shall be the same as that prescribed in this Act for classroom teachers to which shall be added Thirty Dollars (\$30) per month. The annual salary for such supervisors or counsellors shall be the monthly base salary, plus increments, multiplied by ten (10).

(6) Principals.

a. The minimum monthly base salary and increments for teaching experience for full time principals shall be the same as that prescribed in this Act for classroom teachers, to which shall be added twenty (20%) per cent as an administrative increment. The annual salary for such full time principals shall be the monthly base salary, plus increments, multiplied by eleven (11).

b. The classroom teacher who serves as part-time principal on a campus to which are assigned seven (7) or more classroom teacher units shall receive an additional salary allowance equal to fifteen (15%) per cent of his salary. The annual salary of a part-time principal shall be the monthly base salary, plus increments, multiplied by nine and one-half (9½).

c. The classroom teacher who serves as a part-time principal on a campus to which are assigned three (3) to six (6) classroom teacher units shall receive an additional salary allowance equal to eight (8%) per cent of his salary. This part-time principal shall be designated 'head teacher.' In addition to the allotment of part-time principals as provided in Article III, Section 1, Subsection 6, districts containing an accredited high school and having fewer than nine (9) classroom teacher units shall be granted one (1) head teacher. The annual salary of such a part-time principal shall be the monthly base salary, plus increments, multiplied by nine (9).

(7) Superintendents.

a. The minimum monthly base salary and increments for teaching experience for superintendents shall be the same as that provided in this Act for classroom teachers, to which shall be added an administrative increment on the basis of the following formula: districts eligible for fewer than sixteen (16) classroom teacher units, twenty (20%) per cent; sixteen (16) to forty-nine (49) classroom teacher units, twenty-five (25%) per cent; fifty (50) to ninety-nine (99) classroom teacher units, thirty (30%) per cent; one hundred (100) to one hundred forty-nine (149) classroom teacher units, thirty-five (35%) per cent; and one hundred fifty (150) or more classroom teacher units, forty (40%) per cent.

b. The annual salary for superintendents shall be the monthly base salary, plus increments, multiplied by twelve (12).

Total Cost of Professional Salaries

Sec. 2. The total cost of professional salaries of positions allowable for purposes of this Act shall be determined by application of the salary schedule to the total number of approved professional units, provided that such professional units are serviced by approved professional position employments.

Amended by Acts 1965, 59th Leg., p. 880, ch. 438, § 1, eff. Aug. 30, 1965; Acts 1967, 60th Leg., p. 1849, ch. 721, § 1, emerg. eff. June 18, 1967.

¹ Article 2922—12, § 2.

Acts 1967, 60th Leg., p. 1849, ch. 721, § 2 provision and a severability provision, are amended article 2922—16; sections 3 and set out as notes under article 2922—16. 4 of the act, a supplemental appropriations

Art. 2922—15. Services and operating costs

Services, transportation

* * * * *

Sec. 2. (1) The County Boards of School Trustees of the several counties of this state, subject to the approval of the State Commissioner of Education, are hereby authorized to establish and operate an economical public school transportation system within their respective counties. In establishing and operating such transportation systems, the County Boards of School Trustees shall: (1) requisition buses and supplies from the State Board of Control as provided for in this Article; (2) prior to June 1st of each year, with said Commissioner's approval, establish school bus routes within their respective counties for the succeeding school year; (3) employ school bus drivers; and (4) be responsible for the maintenance and operation of school buses. State warrants for transportation shall be made payable to the County School Transportation Fund in each county for the total amount of transportation funds for which the county is eligible under the provisions of this Act.

Provided, however, that when requested by the Board of Trustees of an independent school district, the County Board of School Trustees shall authorize such independent district to: (1) employ its school bus drivers; (2) be responsible for the maintenance and operation of its school buses; and (3) receive transportation payments direct from the state. When the County School Superintendent reports such authorization to the State Commissioner of Education, state warrants for transportation funds for which the district is eligible shall be made to the District Transportation Fund, which is hereby created.

The County Boards of School Trustees and the State Commissioner of Education shall promulgate regulations in regard to the use of school buses for purposes other than transporting eligible pupils to and from their classes. Provided, however, that under rules and regulations of the State Board of Education, the appropriate district allocation in the County Transportation Fund, when approved by the County Board of School

For Annotations and Historical Notes, see V.A.T.S.

Trustees, or the District Transportation Fund, when approved by the Board of Trustees of the independent school district operating its own transportation system, may be used for school bus transportation of its pupils and necessary personnel on extracurricular activity and field trips sponsored by the respective school district.

School buses shall be operated upon approved school bus routes, and no variations shall be made therefrom. The penalty for varying from authorized routes and for unauthorized use of buses shall be the withholding of transportation funds from the offending county or school district. In the event the violation is committed by a district which receives no Foundation School Funds, the penalty provisions of Article XI, Section 2, of Senate Bill No. 116, Acts of the 51st Legislature,¹ shall be invoked. Sec. 2(1) amended by Acts 1967, 60th Leg., p. 2067, ch. 768, § 1, emerg. eff. June 18, 1967.

¹ Article 2922—21.

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Art. 2922—16. Finances

* * * * *

Total local school funds to be charged to all school districts in the state

Sec. 2. The sum of the amounts to be charged for the 1967-68 school year against the local school districts of the state toward such Foundation School Program shall be One Hundred Fifty-Four Million Eight Hundred Thousand Dollars (\$154,800,000). For the 1968-69 school year, and for each school year thereafter, the sum of the amounts to be charged against the local school districts of the state toward such Foundation School Program shall be twenty (20%) per cent of the estimated total cost of the Foundation School Program for the immediately preceding school year, plus an amount equal to the difference between the gross Local Fund Assignment and the net Local Fund Assignment for the immediately preceding school year. At its regular meeting in March 1966, and at each regular meeting in March thereafter, the State Board of Education after receiving the recommendation of the State Commissioner of Education, shall estimate the total cost of the Foundation School Program for the then current school year, based upon laws and approved school budgets in effect on the date when such estimate is made. Within thirty (30) days after such estimate has been made, the State Commissioner of Education, subject to the approval of the State Board of Education, shall assign each school district according to its taxpaying ability as determined in this Act, its proportionate part of such total to be raised locally for the next school year and applied towards the financing of its Minimum Foundation School Program.

Sec. 2 amended by Acts 1965, 59th Leg., p. 880, ch. 438, § 2, eff. Aug. 30, 1965; Acts 1967, 60th Leg., p. 1852, ch. 721, § 2, eff. June 18, 1967.

* * * * *

Local funds available in each county

Sec. 4. For the school year beginning 1968-69 and each school year thereafter, the State Commissioner of Education shall calculate and determine the total sum of local funds that the school districts of a county shall be assigned to contribute toward the total cost of the Foundation School Program by multiplying twenty (20%) per cent of the estimated Foundation Program cost for the immediately preceding school year, plus an amount equal to the difference between the gross Local Fund Assignment and the net Local Fund Assignment for the immediately preceding school year as determined under the provisions of this Act, by the economic index determined for each county. The product shall be regarded

as the local funds available in each respective county toward the support of the Foundation School Program and shall be used in calculating the portion of said amount which shall be assigned to each school district in the county.

Sec. 4 amended by Acts 1965, 59th Leg., p. 880, ch. 438, § 2, eff. Aug. 30, 1965; Acts 1967, 60th Leg., p. 1852, ch. 721, § 2, eff. June 18, 1967.

* * * * *

Acts 1967, 60th Leg., p. 1849, ch. 721, § 1 amended article 2922—14; sections 3 and 4 thereof provided:

"Sec. 3. In addition to the appropriation made from the Foundation School Fund by Article IV of Senate Bill No. 15, Acts of 60th Legislature, Regular Session, 1967, and supplemental thereto, there is hereby appropriated for the fiscal year ending August 31, 1968, all moneys allocated to the Foundation Program Fund by Senate Bill No. 117, Chapter 335, Acts 51st Legislature, 1949 (Article 7083a, Section 2(4-a), V.T.C.S.), as amended, and any balances remaining in the Foundation School Fund at the end of each fiscal year, to pay the state's part of the Foundation School Program as provided for in Senate Bill No. 116, Chapter 334, Acts 51st Legislature, Regular Session, 1949, as amended.

"There is hereby specifically appropriated out of any moneys in the General Revenue Fund not otherwise appropriated the amount necessary for each month if on a

monthly basis, or each year if on a yearly basis, of the fiscal year ending August 31, 1968, to pay the full amounts contemplated and provided by Senate Bill No. 117, Chapter 335, Acts 51st Legislature, Regular Session, as amended, should there be insufficient money in the Fund created by said Senate Bill No. 117 to carry out in full the purposes and provisions of said Senate Bill No. 117 and Senate Bill No. 116, supra, as amended. The above appropriation shall be expended under the terms and provisions of said Senate Bill No. 116 and Senate Bill No. 117, as amended, and by the same officers named therein respectively.

"Sec. 4. If any provision of this Act, or the application to any person or circumstance is held invalid, this invalidity shall not affect other provisions or applications of this Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared severable."

Art. 2922—16e. Adjustment in local fund assignments in certain school districts

Section 1. In addition to the exceptions and exemptions provided in the Minimum Foundation Program's local fund assignments in Section 5 of Chapter 334, Article VI, Acts of the 51st Legislature, Regular Session, 1949, as amended, codified as Article 2922—16, Vernon's Texas Civil Statutes, there shall be provided an additional adjustment applicable to any school district having three percent (3%) or more of its total scholastic population for the preceding school year composed of scholastic residents and transfers of tax-exempt institutions in the district for orphan, dependent, and/or neglected children.

Sec. 1 amended by Acts 1967, 60th Leg., p. 180, ch. 95, § 1; Acts 1967, 60th Leg., p. 1225, ch. 554, § 1, eff. Aug. 28, 1967.

Sec. 2. The local fund assignment charge to such a district having three percent (3%) or more of its average daily attendance for the preceding school year composed of scholastic residents and transfers of tax-exempt institutions of the district shall be reduced for each respective current school year by an amount equal to the product of the total average daily attendance of students who were residents and transfers of the tax-exempt institutions for orphan, dependent, and/or neglected children during the preceding school year multiplied by One Hundred Fifty-One Dollars and Fifty Cents (\$151.50).

Sec. 2 amended by Acts 1967, 60th Leg., p. 181, ch. 95, § 1; Acts 1967, 60th Leg., p. 1226, ch. 554, § 2, eff. Aug. 28, 1967.

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Art. 2922—25. Governor's Committee on Public School Education

* * * * *

Establishment of committee; membership; chairman; compensation

Sec. 5. (a) There is hereby established the Governor's Committee on Public School Education to be comprised of fifteen (15) members appointed by the Governor. The Governor shall designate the Chairman of the Committee, and Committee members shall serve from the date of their respective appointments until June 1, 1969. Members of the Committee shall serve without compensation, but each shall receive reimbursement for actual travel expense when on official business of the Committee.

Sec. 5, subsec. (a) amended by Acts 1967, 60th Leg., p. 1129, ch. 499, § 1, eff. Aug. 28, 1967.

Art. 2922—26. Quarterly semester pilot programs in public schools

Section 1. For purpose of exploring the feasibility of operating quarterly semester pilot programs, public school districts of this state are hereby authorized to operate (in lieu of the usual nine-month program) a twelve-month school year program and to receive allocation of state aid toward financing the extended three-month operation from the Foundation Program Fund, determined in the manner prescribed in this Act. Provided, however, that the district shall operate such twelve-month program under its proposed plan submitted to the Central Education Agency and subject to approval of the Agency as meeting policy and regulations established and adopted by the State Board of Education applicable thereto.

Sec. 2. Quarterly semester pilot programs, annually approvable under this Act, shall be restricted in number to involve a maximum of 10 programs not to exceed 100,000 pupils, based on average daily attendance in the preceding school year, and the attendance of eligible pupils shall be restricted to three quarterly semesters.

Sec. 3. The cost of operating such approved quarterly semester pilot programs shall be borne by the state and each participating district on the same percentage basis that applies to financing the Foundation School Program Act within the respective district.

Sec. 4. For purpose of computing authorized state aid and allocations under this Act, the cost of the program shall be ascertained as follows:

(a) The district's average daily attendance for classroom teacher unit eligibility and allocations shall be determined on a quarter semester basis, limiting eligible pupil attendance to three quarters within each scholastic year. Eligibility for special service teachers, supervisors and/or counselors, head teachers, part-time principals, and full-time principals shall be determined by dividing the total aggregate days of attendance in the pilot program by the number of days that instruction is offered during three semesters, determined to the best advantage of the district.

(b) An additional three-month salary adjustment, based on the state minimum salary schedule, shall be added for classroom teacher units occasioned by a twelve-month operation. Provided further that the number of months and salary, based on the state minimum salary schedule, for eligible special service teachers, supervisors and/or counselors, head teachers, part-time principals and full-time principals shall be allowed for 12 months.

(c) The total current operating costs of each pilot program as herein described, other than professional salaries and transportation, shall be determined by multiplying the number of classroom teacher units and exceptional teacher units times the number of months employed times \$67.

(d) An additional transportation allotment shall be added not to exceed the amount of one-third of the transportation allotment as normally computed for a nine-month operation.

Sec. 5. The state's share of the cost shall be paid from the Minimum Foundation Program Fund, and this cost shall be considered by the Foundation Program Committee in estimating the funds needed for Foundation School Program purposes.

Sec. 6. This Act is effective for the 1967-68 school year and subsequent school years.

Acts 1967, 60th Leg., p. 1827, ch. 706, eff. Aug. 28, 1967.

Title of Act:

An Act relating to quarterly semester pilot programs in the public schools; and declaring an emergency. Acts 1967, 60th Leg., p. 1827, ch. 706.

ELECTION CODE

CHAPTER ONE—MISCELLANEOUS PROVISIONS

Art. 1.01a. Definitions

(a) As used in this code, the term "qualified voter" or "qualified elector" means a person who meets all qualifications and requirements for voting as prescribed in Section 34 of this code.¹

Sec. (a) amended by Acts 1967, 60th Leg., p. 1860, ch. 723, § 2, eff. Aug. 28, 1967.

¹ Article 5.02.

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Synopsis of Changes—1967

Eliminates reference to payment of the poll tax in the definition of qualified voter.

Acts 1967, 60th Leg., p. 1858, ch. 723, clarified, revised and amplified the civil and criminal laws relating to general, special and primary elections; sections 1, 77 and 78 thereof provided:

"Section 1. In the citation of statutes to be amended or repealed in succeeding sections of this Act, 'Texas Election Code' means the Election Code of the State of Texas, enacted by Chapter 492, Acts of the 52nd Legislature, 1951; citations of section numbers of the Election Code refer to the official numbering of the Election Code, and parenthetical citations of article numbers refer to the corresponding sections of the Election Code as compiled in Vernon's Annotated Texas Statutes.

"Sec. 77. The following laws are repealed:

"(1) Sections 63a (Article 6.08), 182A (Article 13.04A), 182b (Article 13.04b), 186c

(Article 13.08c), and 217a (Article 13.40) Texas Election Code, as amended;

"(2) Chapters 9 and 10, Title 6 (Articles 270-280), Penal Code of Texas, 1925;

"(3) Section 36½, Article I, Texas Liquor Control Act, as added by Section 12, Chapter 543, Acts of the 51st Legislature, Regular Session, 1949 (Article 666-36½, Vernon's Texas Penal Code);

"(4) Chapter 44, Acts of the 52nd Legislature, 1951 (Article 3158a, Vernon's Texas Civil Statutes), and Article 3154(a), Revised Civil Statutes of Texas, 1925, as added by Section 4 of the aforesaid Chapter 44 [Sec. art. 13.34 and notes thereunder].

"Sec. 78. This Act does not apply to any election which is ordered before the date on which the Act takes effect, and all such elections shall be conducted in accordance with the laws in force immediately prior to the effective date of the Act.

Art. 1.03. Secretary of State as chief election officer

Subdivision 1. The Secretary of State shall be the chief election officer of this state, and it shall be his responsibility to obtain and maintain uniformity in the application, operation and interpretation of the election laws. In carrying out this responsibility, he shall cause to be prepared and distributed to each county judge, county tax assessor-collector, and county clerk, and to each county chairman of a political party which is required to hold primary elections, detailed and comprehensive written directives and instructions relating to and based upon the election laws as they apply to elections, registration of electors and voting procedures which by law are under the direction and control of each such respective officer. Such directives and instructions shall include sample forms of ballots, papers, documents, records and other materials and supplies required by such election laws. He shall assist and advise all election officers of the state with regard to the application, operation and interpretation of the election laws.

Subd. 2. At least thirty days before each general election, the Secretary of State shall prescribe forms of all blanks necessary under this code and shall furnish same to each county clerk. The Secretary of State

shall at the same time certify to each county clerk a list of all the candidates who have been nominated for state and district offices and all other candidates whose names have been certified to the Secretary of State to be placed on the general election ballot.

Amended by Acts 1967, 60th Leg., p. 1860, ch. 723, § 3, eff. Aug. 28, 1967.

Synopsis of Changes—1967

Designates the Secretary of State as the chief election officer of the State, charged with the responsibility of preparing and distributing directives and instructions to election officers and of advising them for

the purpose of obtaining uniformity in the operation and interpretation of the election laws. (Subdivision 1 is new. Subdivision 2 repeats existing law without change.)

Art. 1.05. Ineligibility

No person shall be eligible to be a candidate for, or to be elected or appointed to, any public office in this state unless he is a citizen of the United States eligible to hold such office under the Constitution and laws of this state and is under none of the disabilities for voting which are stated in Article VI, Section 1 of the Constitution of Texas on the date of his appointment or of the election at which he is elected, and unless he will have resided in this state for a period of twelve months next preceding the applicable date specified below, and for any public office which is less than statewide, shall have resided for six months next preceding such date in the district, county, precinct, municipality or other political subdivision for which the office is to be filled:

(1) For a candidate whose name is printed on the ballot for a general (first) primary election, the applicable date is the last day on which any candidate for the office involved could file his application to have his name printed on the ballot for that primary election.

(2) For an independent or nonpartisan candidate in a general or special election, the applicable date is the last day on which the candidate's application for a place on the ballot could be delivered to the appropriate officer for receiving the application.

(3) For a write-in candidate, the applicable date is the day of the election at which the candidate's name is written in.

(4) For a party nominee who is nominated by any method other than by primary election, the applicable date is the day on which the nomination is made.

(5) For an appointee to an office, the applicable date is the day on which the appointment is made.

The foregoing requirements shall not apply to any office for which the Constitution or statutes of the United States or of this state prescribe qualifications in conflict herewith, and in case of conflict the provisions of such other laws shall control.

Except as provided in Section 104 of this code,¹ no ineligible candidate shall ever have his name placed upon the ballot at any primary, general or special election. No ineligible candidate shall ever be voted upon nor have votes counted for him at any such primary, general or special election for the purpose of nominating or electing him, but votes cast for an ineligible candidate shall be taken into account in determining whether any other candidate received the necessary vote for nomination or election. No person who advocates the overthrow by force or violence or change by unconstitutional means of the present constitutional form of government of the United States or of this state, shall be eligible to have his name printed on any official ballot in any general, special or primary election in this state.

Amended by Acts 1967, 60th Leg., p. 1861, ch. 723, § 4, eff. Aug. 28, 1967.

¹ Article 3.22.

Synopsis of Changes—1967

Changes the dates for determining length-of-residence requirements for candidates. (Candidate in a primary election must have fulfilled the requirements by the deadline for filing, instead of by the date of the primary election. Other deadlines are specified for convention nominees, independent candidates, etc.)

Adds a provision that every candidate or officeholder must be a citizen of the United States and under none of the constitutional disabilities for voting (minor, idiot, lunatic, pauper, unpardoned felon).

Adds a provision for placing name of an ineligible party nominee on the ballot where

a substitute nomination is not made, in line with existing law with respect to a nominee who has died or declined the nomination. If the ineligible candidate receives a plurality of votes, there is a vacancy in office to be filled as other vacancies occurring after the election. (See Art. 8.22, Election Code, as amended by this chapter.) A new provision that votes cast for an ineligible candidate are taken into account for determining whether any other candidate is nominated or elected merely states existing law as announced by the courts.

Art. 1.06. Ineligibility bars

Neither the Secretary of State nor any county judge of this state, nor any other authority authorized to issue certificates, shall issue any certificate of election or appointment to any person elected or appointed to any office in this state, who is ineligible to hold such office under the Constitution of this state or under Section 5 of this code¹ or any other applicable statute.

Amended by Acts 1967, 60th Leg., p. 1862, ch. 723, § 4a, eff. Aug. 28, 1967.

¹ Article 1.05.

Synopsis of Changes—1967

Amended to conform to change in Art. 1.05, above. Deletes provisions against placing name of an ineligible candidate on

a ballot, which were merely repetitious of provisions in Art. 1.05.

Art. 1.07. Injunction may issue

The district court shall have authority to issue writs of injunction and all other necessary process at the suit of any interested party, or of any voter, to enforce the provisions of the above two sections and to protect thereunder the rights of all parties and the public; for such purpose, jurisdiction and authority is conferred upon all district courts of this state and all cases filed hereunder shall have first right of precedence upon trial and appeal.

Amended by Acts 1967, 60th Leg., p. 1862, ch. 723, § 5, eff. Aug. 28, 1967.

Synopsis of Changes—1967

Deletes a definition of the term "executive or administrative public office," which has become obsolete.

CHAPTER TWO—TIME AND PLACE**Art. 2.02 Formation of election precincts; consolidation for certain elections**

Unless a specific statute provides otherwise, the following rules shall govern the establishment of election precincts and the designation of polling places for the conduct of the various kinds of elections held within this state.

* * * * *

(g) In any election for which the election precincts are required to be those formed under the provisions of Section 12 of this code, if in any county there is no local office or proposition to be voted on by the voters of only that county or a part of that county, the authority holding the elec-

tion may combine any two or more regular election precincts into consolidated precincts for such election in that part of the county having no such local office or proposition to be voted on if it appears that the voters included within each consolidated precinct can be adequately and conveniently served at one polling place; provided, however, that there shall always be at least one consolidated precinct wholly within each commissioners precinct of the county.'

Subsec. (g) amended by Acts 1967, 60th Leg., p. 1862, ch. 723, § 6, eff. Aug. 28, 1967.

* * * * *

Synopsis of Changes—1967

Amends [Subsec. (g)] to allow consolidation in elections on propositions as well as elections for nominating or electing officers; adds requirement that there shall be at least one consolidated precinct wholly within each commissioners precinct.

Art. 2.03. Held in public buildings

(a) In all cases where it is practicable to do so, all elections—general, special, or primary—shall be held in some schoolhouse, fire station, or other public building within the limits of the election precinct in which such election is being held. No charge shall be made for the use of such building, except that any additional expense actually incurred by the authorities in charge of the building on account of the holding of the election therein shall be repaid to them by the authority liable for the expenses of holding the election under the existing law. The authority liable for the expenses of the election may demand an itemized statement of the additional expense incurred for use of the building before making its remittance for such expense. If no public building is available, the election may be held in some other building, and any charge for its use shall be paid as an expense of the election.

(b) The commissioners court of any county in this state is authorized to make the necessary expenditure from the permanent improvement fund of the county to construct or purchase a suitable building for holding elections in each precinct formed by the commissioners court for which no other public building is available. The building shall be made available without cost for the holding of any general, special, or primary election held within territory embracing the location of the building upon the request of the authority conducting the election, except that the county shall be reimbursed for any additional expense actually incurred on account of holding the election therein. If more than one authority requests the use of the building for the same day, the commissioners court shall determine within its discretion which authority shall be permitted to use it if all elections for which its use is requested for the same day cannot be held in the building simultaneously. The commissioners court may permit the building to be used for purposes other than the holding of elections, either with or without charge, when it is not being used for that purpose.

Amended by Acts 1967, 60th Leg., p. 1862, ch. 723, § 6a, eff. Aug. 28, 1967.

Synopsis of Changes—1967

Adds a provision permitting the authority holding the election to demand an itemized statement of the expense incurred for use of a public building, for which it is required to make reimbursement. Also amended to extend to all counties the provision, formerly applicable only to certain counties, which authorizes the county to construct or purchase a building for holding elections in any election precinct where no other public building is available.

Art. 2.04 County election precincts formed by commissioners court

* * * * *

(b) No election precinct shall be formed out of two or more justice precincts or commissioners precincts, nor out of the parts of two or more

For Annotations and Historical Notes, see V.A.T.S.

justice precincts or commissioners precincts; and no election precinct shall be formed out of two or more congressional districts or state senatorial districts or state representative districts, nor out of the parts of two or more such districts. If in September of any year there exists any election precinct in the county which does not comply with the foregoing requirements, the commissioners court shall make the necessary changes before the first day of October, either at a regular meeting or at a special meeting called for that purpose; and the order shall be published as provided in Paragraph (a) of this section. Subject to the provisions of the first sentence of this paragraph, no election precinct shall have resident therein less than fifty nor more than two thousand voters as ascertained by the number of registered voters for the last preceding presidential general election year; provided, however, that in precincts in which voting machines have been adopted for use in accordance with Section 79 of this code,¹ the maximum number of voters shall be three thousand.

Par. (b) amended by Acts 1967, 60th Leg., p. 1863, ch. 723, § 7, eff. Aug. 28, 1967.

* * * * *

¹ Article 7.14.

Synopsis of Changes—1967

Fixes a minimum of 50 voters for each precinct, ascertained by the number of registered voters in the last preceding presidential election year.

CHAPTER THREE—OFFICERS OF ELECTION

Art.

3.09a School of Instruction for election officers [New].

Art. 3.01 Appointment of election officers

(a) For county elections. The commissioners court at its July term shall appoint from among the citizens of each election precinct one qualified voter as presiding judge of elections held at the expense of the county in that precinct and one qualified voter as alternate presiding judge, each of whom shall continue to act until his successor is appointed. Whenever a vacancy arises in either of such offices, the commissioners court may fill the vacancy at any regular or special term of court. All orders appointing judges and alternates shall be entered of record. Each presiding judge shall appoint two qualified voters, who are residents of the precinct, to serve as election clerks, and shall appoint for each election as many additional clerks as he deems necessary for the proper conduct of the election, not to exceed the maximum number authorized by the commissioners court. The commissioners court shall fix the maximum number of clerks which may be appointed for each precinct, and may fix different maximums depending on the type of election. The clerks shall be selected from different political parties, when practicable. The chairman of the county executive committee of each of the two parties whose candidate for Governor received the most votes for Governor in the last prior general election may submit a list of not less than two qualified nominees to each election judge at least thirty days prior to the date of the election. If any such list is submitted to him, the election judge shall appoint at least one clerk from each list submitted.

Par. (a) amended by Acts 1967, 60th Leg., p. 1863, ch. 723, § 8, eff. Aug. 28, 1967.

(b) For municipal elections. If a city charter provides the method for appointing election officers for elections held by the city, its provisions shall control, but there shall be at least three election officers at each polling place. Unless a different method is prescribed by the city

charter, the mayor, or if he fails to do so, then the governing body of the municipality, shall appoint for each municipal election precinct a presiding judge and an alternate presiding judge for elections held by such municipality and shall fix the maximum number of clerks which may be appointed to serve in each precinct, which shall be not less than two, and the presiding judge for each precinct shall appoint two clerks, and as many additional clerks within the authorized limit as he deems necessary for the proper conduct of the election. In any city in which political parties nominate candidates for municipal offices, the election officers shall be selected from different political parties when practicable.

Pars. (b) amended by Acts 1967, 60th Leg., p. 1863, ch. 723, § 8, eff. Aug. 28, 1967.

Synopsis of Changes—1967

Amends Paragraph (a) to change date for appointment of judges by commissioners court from February term to July term. Adds provision permitting the county chairman of each major political party to submit a list of nominees for clerks in each

precinct, from which list the precinct judge must appoint at least one clerk.

Amends Paragraph (b) to clarify that a city by charter provision may regulate the method for appointment of election clerks as well as election judges for city elections.

Art. 3.03. Qualifications of judges, clerks and watchers

(a) All judges and clerks of any general, special, or primary election shall be qualified voters of the election precinct in which they are named to serve. Unless otherwise provided in a statute pertaining to the specific type of election being held, in any general, special, or primary election all watchers shall be qualified voters of the county if the election is countywide, and shall be qualified voters of the city or other political subdivision in which the election is held if less than countywide, but it shall not be necessary that they reside within the election precinct in which they are named to serve.

(b) No person shall serve as a judge or a clerk in any general, special, or primary election who is employed by any candidate whose name appears on the ballot in that election either for a public office or for the party office of county chairman, or who is related to such candidate within the third degree either by affinity or consanguinity. Within the meaning of this section, a governmental employee is employed by the officer or officers who head the department or agency in which he is employed.

“(c) No watcher shall be an employee or employer of any election judge or clerk in the election precinct in which he is named to serve or related to any such election officer within the third degree either by affinity or consanguinity.

Amended by Acts 1967, 60th Leg., p. 1864, ch. 723, § 9, eff. Aug. 28, 1967.

Synopsis of Changes—1967

Expands disqualification based on employment by or kinship to a candidate to include candidates for all public offices and the party office of county chairman (formerly applied only to candidates for a lucrative office). Also clarifies status of governmental workers as being employees of the head of the department or agency in which the individual is employed.

Adds a provision making residence requirement for watchers in this article not applicable if some other statute prescribes a different requirement for a specific type of election (e. g., a provision in the Texas Liquor Control Act requires that watchers in a local option liquor election be residents of the precinct in which they serve).

Art. 3.07. Service, duties, and privileges of watchers

(a) Each watcher shall be present at the polling place on election day when the polls are opened, and shall remain on duty without leaving the polling place until the polls are closed, except for such periods of absence for meals or other necessary reasons as may be permitted by the presiding judge. If the presiding judge permits the clerks to leave the polling

For Annotations and Historical Notes, see V.A.T.S.

place for meals or other necessary reasons during the time the polls are open, he must accord the same privilege to watchers. If the presiding judge adopts a general rule for the clerks and watchers which would prevent a watcher who is a resident of some other election precinct from leaving the polling place in order to vote in the precinct of which he is a resident, the presiding judge nevertheless must permit such watcher to leave the polling place, at some time within the first two hours after the polls open, for a sufficient length of time to enable him to vote in the precinct in which he resides. A watcher who leaves the polling place without proper authorization while the polls are open shall not be permitted to resume service. A watcher who leaves the polling place after the polls are closed shall be permitted to resume his service at any time thereafter until the election officers have completed their duties.

(b) On election day, the watcher shall present his certificate of appointment to the presiding judge of the precinct where he is to serve, and the presiding judge shall require the watcher to countersign the certificate to make certain he is the identical person referred to in the certificate. The presiding judge shall preserve the certificate and deliver it with other records of the election to the officer who has custody of the voted ballots, to be preserved by him for the length of time provided by law for preservation of the voted ballots.

(c) Before commencing his services, each watcher shall take an oath to be administered by the presiding judge, that he will mention and note any errors he may see in testing the voters, or counting the votes, or making out the returns, that he will well and truly discharge his duties as watcher impartially, and will report in writing all violations of the law and unrectified irregularities that he may observe to the authority which canvasses the returns of the election, and, if he deems it desirable, to the next grand jury.

(d) Each watcher appointed in accordance with this code shall be permitted to sit conveniently near the judges or clerks so that he can observe the conduct of the election, including but not limited to the reading of the ballots, the tallying and counting of the votes, the making out of the returns, the locking of the ballot boxes, their custody and safe return. He shall also be permitted to be present when assistance is given by any election judge in the marking of the ballot of any voter not able to mark his own ballot, to see that the ballot is marked in accordance with the wishes of the voter, but he must remain silent except in cases of irregularity or violation of the law. He shall not be permitted to enter into any conversation with the judges or clerks regarding the election while it is progressing, except to call the attention of the judges or clerks to any irregularity or violation of the law that he may observe. The watcher shall call the attention of officers holding the election to any fraud, irregularity or mistake, illegal voting attempted, or other failure to comply with the laws governing such election at the time it occurs, if practicable and if he has knowledge thereof at the time, and such complaint shall be reduced to writing and a copy delivered to the election judge.

(e) No watcher shall give any advice of any kind to any voter, or hold any conversation or discussion with any voter, or communicate with or signal to any voter in any manner, or interfere with any voter in any manner whatsoever.

(f) In addition to the foregoing duties and privileges, each watcher serving at an election where voting machines are used shall also have the duties and privileges of watchers as set forth in Section 79 of this code.¹

(g) Watchers appointed to observe absentee voting may be appointed in the same manner as watchers appointed to serve at regular polling places, and may serve at such hours as they desire.

(h) The authority holding the election shall not pay for the services of watchers, but they may be paid by the interest they represent."

Amended by Acts 1967, 60th Leg., p. 1865, ch. 723, § 10, eff. Aug. 28, 1967.

¹ Article 7.14.

Synopsis of Changes—1967

Adds a provision making it mandatory that the presiding judge permit a poll watcher who resides in some other election precinct to leave the polling place in

order to vote, but the presiding judge may require him to do so within the first two hours after the polls open.

Art. 3.08. Pay of judges and clerks

(a) In all elections, general, special, or primary, by whatever authority conducted, the rate of pay for judges and clerks of the election shall be determined by the appropriate authority, but shall not exceed one dollar and twenty-five cents per hour for each judge or clerk. In precincts where voting machines are used, no judge or clerk shall be paid for any period of time subsequent to two hours after the official time for closing the polls or subsequent to two hours after voting is concluded by all voters offering themselves for voting during regular voting hours, whichever is the later. The judge who delivers the returns of election may be paid an amount not to exceed five dollars for that service; provided, also, he shall make returns of ballots, ballot boxes, and election supplies not used when he makes returns of the election.

(b) In elections held at the expense of a county, the rate of pay shall be determined by the commissioners court of the county where such services are rendered. In elections held at the expense of a city, school district, or other political subdivision, the governing body of the city, district or political subdivision shall determine the rate. In primary elections, the rate shall be determined by the county executive committee of the party conducting the primary election.

(c) The compensation of judges and clerks of general and special elections shall be paid by the authority responsible for the expenses of the election, upon presentation of claims for such services approved in the manner required for other claims against its funds.

(d) The provisions of this section shall control over all other statutes relating to pay of election judges and clerks in any type of election whatsoever, and all other statutes are hereby repealed to the extent of any conflict with this section.

Amended by Acts 1967, 60th Leg., p. 1866, ch. 723, § 11, eff. Aug. 28, 1967.

Synopsis of Changes—1967

Raises the maximum pay rate for election judges and clerks from \$1.00 to \$1.25 per hour. Reinstates a provision, omitted when this statute was amended in 1965, which limits the length of time for which election officers can be paid after the polls close in precincts using voting machines,

and also reinstates other provisions omitted in 1965. (See Art. 8.02 of the Election Code, as amended in this chapter, for a limitation on the length of time for which election officers can be paid before the polls open.)

Art. 3.09a. School of instruction for election officers

(a) Prior to each general election, or at such other time or times as may be deemed desirable, the county clerk of each county of the state is authorized to conduct, with the approval of the county judge, a school or schools of instruction for the election judges and clerks appointed to serve in elections held by the county; and upon direction by the commissioners court, the county clerk shall be required to conduct such school. Persons appointed to serve as watchers at the election and any other interested members of the public shall also be permitted to attend the school. When such a school is held, the county clerk shall notify each presiding judge

For Annotations and Historical Notes, see V.A.T.S.

of the time and place at which it will be held, and it shall be the duty of the presiding judge to give like notice to those persons who will serve as clerks at the election in his precinct. The county clerk shall also notify the county chairman of each political party in the county, so that the county chairman may have an opportunity to notify persons who will serve as watchers for the party.

(b) Upon request, the Secretary of State and the Attorney General are authorized to cooperate with the county clerk in furnishing the clerk with any informational or instructional material which they are able to supply, for use in conducting the school.

(c) The provisions of this section are cumulative of the provision in Section 79 of this code¹ which requires a school of instruction to be held for election officers before each election at which voting machines are to be used, and nothing in this section shall be construed to alter or amend Section 79 of this code.¹

Added by Acts 1967, 60th Leg., p. 1866, ch. 723, § 12, eff. Aug. 28, 1967.

¹ Article 7.14.

Synopsis of Changes—1967

<p>Authorizes the county clerk, with the approval of the county judge, to conduct a school of instruction for election judges and clerks, and requires him to conduct the</p>	<p>school upon direction of the commissioners court. Authorizes the Secretary of State and Attorney General to cooperate with the county clerks in conducting the schools.</p>
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CHAPTER FOUR—ORDERING ELECTIONS

Art. 4.08 In case of a tie

(a) At any election, general or special, if there be an equal number of votes given to two or more persons for the same office, except executive offices as provided in the Constitution, and no one elected thereto, the officer to whom the returns are made shall declare such election void as to such office only, and shall immediately order another election to fill such office, which shall be held not less than twenty nor more than thirty days after the canvass of the election which is declared void. Except as otherwise provided in this section, notice of such other election shall be given and the election shall be held in the same manner as the general or special election in which the tie vote occurred. At such election, only the names of the tying candidates shall be printed on the ballot, and any write-in votes cast for any other person shall be void and shall not be counted for any purpose.

(b) If the tying candidates agree in writing, filed with the returning officer, upon a different method of deciding which of them shall be declared elected, the decision shall be made in that manner and the new election not ordered.

(c) The provisions of this section shall not apply: (1) to any general or special election at which a majority vote is required for election, and for which a runoff election is required when no candidate receives a majority of the votes at the first election, or (2) to any general or special election for which resolution of a tie vote is governed by some other law. Amended by Acts 1967, 60th Leg., p. 1867, ch. 723, § 13, eff. Aug. 28, 1967.

Synopsis of Changes—1967

<p>Provides that only the tied candidates are eligible to run in an election called to resolve a tie vote. Also adds a provision</p>	<p>requiring that the election be held not less than 20 nor more than 30 days after canvass of the election at which the tie occurred.</p>
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Art. 4.11 Special elections for United States representative

Subdivision 1. In any special election called to fill a vacancy in the office of United States representative in any congressional district of the

state, a majority vote of the electors participating in the election shall be necessary for election. In the event no candidate receives a majority of the votes cast at the first election, the Governor shall, within five days after the results of the election are officially declared, call a second election to be held on a specified day which shall be not less than thirty nor more than forty days after the date of the proclamation or order calling the election. In the second special election the candidates shall be limited to the participants in the first election who received the largest and next largest number of votes at the first election.

Subd. 2. In any special election called to fill a vacancy in the office of United States representative in any congressional district of the state, the filing fee shall be five hundred dollars.

Subd. 3. Whenever there shall be held a special election in any congressional district in this state for the election of United States representative, the commissioners court of each county in such district shall meet within three days after such election is held and canvass the returns thereof.

Subd. 4. When a special election shall have been held for United States representative in any district, the county judge of each county in which such election was held shall, within twenty-four hours after the commissioners court opens the returns and canvasses the result, as provided in Subdivision 3 of this section, make out duplicate returns of the election, one of which he shall immediately transmit to the seat of government of the state, sealed in an envelope, directed to the Secretary of State, and endorsed "Election Returns for _____ County, for United States Representative, District _____" (filling the first blank with the name of the county and the other blank with the number of the district for which the election was held); and the other of such returns shall be deposited in the office of the county clerk of the county where such election was held. Not later than the seventh day after the election, the day of the election excluded, the Secretary of State, in the presence of the Governor and the citizen appointed under Section 120 of this code,¹ shall open and canvass the returns of the election and declare the results thereof. If any person received a majority of the votes cast at the election, the Governor shall immediately make out, sign and deliver a certificate of election to such person for the unexpired term of the office for which he was a candidate. In the event no candidate received a majority of the votes cast at the election, the Governor shall call a second election as provided in Subdivision 1 of this section; and the Secretary of State shall within five days after the results of the first election are officially declared, certify to the county clerk of each county in the district the names of the two candidates who are eligible to participate in the second election and the clerks shall make up the ballot for election according to the certificate. The results of the second election shall be canvassed and the results declared in the same manner as herein provided for the first election, and the Governor shall issue to the candidate who receives the largest number of votes in the second election a certificate of election to the unexpired term of the office for which he was a candidate.

Subd. 5. The provisions of this section shall not apply to special elections for the office of congressman-at-large called and held in accordance with Section 177 of this code.²

Subd. 6. All special elections called for the purpose of filling vacancies in the offices to which this section applies shall be conducted according to existing law as supplemented by this section, but if there is a conflict between this section and the existing law, the provisions of this section shall prevail.

Amended by Acts 1967, 60th Leg., p. 1867, ch. 723, § 14, eff. Aug. 28, 1967.

¹ Article 8.38.

² Article 12.02.

Synopsis of Changes—1967

Removes the Attorney General from the canvassing board and makes the composition of the board conform to the change made in the state canvassing board in 1963 (in lieu of the Attorney General, the Governor appoints a citizen to serve for 2 years).

Eliminates provision relating to time for canvassing returns where special election is held in conjunction with a general election—this is a situation theoretically possible but not likely to occur. Changes the time for canvass by the Secretary of State from "seventh day after the election, or as soon thereafter as possible" to "not later than the seventh day after the election".

Art. 4.12 Special elections for members of the Legislature

"Subdivision 1. Whenever there is a special election in any representative or senatorial district in this state for the election of any member of the Legislature, a majority vote of the electors participating in the election shall be necessary for election. If no candidate receives a majority of the votes cast at the first election, the Governor shall, within five days after the results of the election are officially declared, call a second election to be held not less than fifteen nor more than twenty-five days after the date of the proclamation or order calling the election. In the second special election the candidates shall be limited to the participants in the first election who received the largest and next largest number of votes at the first election.

Subd. 2. Whenever there is a special election in any representative or senatorial district in this state for the election of any member of the Legislature, the commissioners court of each county in the district shall meet within three days after the election is held and canvass the returns. The county judge of each county in which the election was held shall, within twenty-four hours after the commissioners court canvasses the result, make out duplicate returns of the election, one of which he shall immediately transmit to the seat of government of the state, sealed in an envelope, directed to the Secretary of State, and endorsed 'Election Returns for _____ County, for _____' (filling the first blank with the name of the county and the other blank with the name of the office for which the election was held); and the other of the returns shall be deposited in the office of the county clerk where the election was held.

Subd. 3. Not later than the seventh day after the election, the day of the election excluded, the Secretary of State in the presence of the Governor and the citizen appointed under Section 120 of this code¹ shall canvass the returns of the election and declare the results. If one person has received a majority of the votes cast at the election, the Secretary of State shall immediately make out, sign, and deliver a certificate of election to him for the unexpired term of the office for which he was a candidate. If no candidate has received a majority of the votes cast at the election, the Governor shall call a second election as provided in Subdivision 1 of this section; and the Secretary of State shall within five days after the results of the first election are officially declared, certify to the county clerk of each county in the district the names of the two candidates who are eligible to participate in the second election, and the clerks shall make up the ballot for election according to the certificate. Notice of the second election shall be given in the manner provided by law but ten days notice shall be sufficient, and the county judge shall, not later than ten days prior to the election, notify each presiding judge of his duty to hold the election. The returns of the second election shall be canvassed and the results declared in the same manner as provided for the first election, and the Secretary of State shall issue to the candidate who receives the largest number of votes in the second election a certificate of election to the unexpired term of the office for which he was a candidate.

Subd. 4. Notwithstanding any other provision of this code, whenever a vacancy occurs in the office of state representative or state senator in any representative or senatorial district in this state during a regular session of the Legislature and more than twenty-five days before the final date permitted by law for the continuation of the session, or within a period of sixty days prior to the convening of any session of the Legislature, the time intervals specified in this subdivision shall control the election. The proclamation of the Governor ordering the election shall be issued and mailed to the appropriate county judge or judges not less than twenty-one days before the election. If the election is called for a date less than thirty-five days after the date of the order, the application of any person desiring his name to appear on the official ballot at the election must be filed not later than five days after the date of the order, which shall state the deadline for filing applications. If a second election is necessary, it shall be called for a date not less than seven nor more than twenty-five days after the date of the order calling the election. If the first election is called for a date less than thirty days after the date of the election order, fifteen days notice of the election and fifteen days notification to the presiding judges shall be sufficient for that election. In a runoff election, six days notice and notification shall be sufficient. If ballots for absentee voting in either election cannot be made available by the twentieth day preceding the date of the election, absentee voting shall begin as soon after the twentieth day as the ballots are available, and in all events must begin not later than the third day after the date of the Secretary of State's certification of the names of the candidates to be placed on the ballot or after the date of the order calling the election, whichever is the later, if such third day is less than twenty days prior to the election. Except as modified herein, the election shall be held in accordance with provisions regulating other special elections for the Legislature.

Subd. 5. All special elections called for the purpose of filling vacancies in the offices to which this section applies shall be conducted according to existing law as supplemented by this section, but if there is a conflict between this section and the existing law, the provisions of this section shall prevail.

Amended by Acts 1967, 60th Leg., p. 1868, ch. 723, § 14a, eff. Aug. 28, 1967.

¹ Article 8.38.

Synopsis of Changes—1967

Changes the date for a runoff election from "21 days after the date of the proclamation or order calling the election" to "not less than 15 nor more than 25 days" after the order. Changes the time for canvass of both the first election and a runoff election by the Secretary of State from "the seventh day after the election"

to "not later than the seventh day after the election".

Adds provisions accelerating the holding of the election where the vacancy occurs during a session of the Legislature or within 60 days before the convening of a session.

CHAPTER FIVE—SUFFRAGE

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| <p>Art.
5.05a. Voting by new residents of state in presidential elections [New].</p> <p>5.05b. Voting by former residents of state in presidential elections [New].</p> <p>5.05c. Voting by persons having less than six months' residence in county [New].</p> <p>5.05d. General provisions on voting by persons not meeting full residence requirements [New].</p> <p>5.11a—1. Registration for run-off elections held during February, 1967 [New].</p> | <p>Art.
5.11b—1. Supplemental registration for 1967 voting year by persons over 60 years old [New].</p> <p>5.13b. Registrar may require written application when applicant applies in person [New].</p> <p>5.18b Registration by persons in military service, etc. [New].</p> <p>5.22b Penalty for forged or fictitious application [New].</p> |
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Art. 5.02 Qualification and requirements for voting

Text of article effective February 1, 1968.

Every person subject to none of the foregoing disqualifications who shall have attained the age of twenty-one years and who shall be a citizen of the United States and who shall have resided in this state one year next preceding an election and the last six months within the district or county in which such person offers to vote, and who shall have registered as a voter, shall be deemed a qualified elector. No person shall be permitted to vote unless he has registered in accordance with the provisions of this code. The provisions of this section, as modified by Sections 35 and 39 of this code,¹ shall apply to all elections, including general, special, and primary elections, whether held by the state, by a county, municipality, or other political subdivision of the state, or by a political party. Amended by Acts 1966, 59th Leg., 1st C.S., p. 1, ch. 1, § 1; Acts 1967, 60th Leg., p. 936, ch. 414, § 1, eff. Feb. 1, 1968.

¹ Articles 5.03 and 5.07.

Synopsis of Changes—1967

Amended to require that all voters must be registered in order to vote at elections held on or after February 1, 1968. This change is in keeping with the constitutional amendment voted on at the general election in 1966. Persons over 60 years old living outside cities of 10,000 or more, who heretofore have not been required to register, may still vote without registration until February 1, 1968, in all counties except Bexar County. Under authority of this statute as it read before the amendment, the Commissioners Court of Bexar

County entered an order prior to the registration period for 1967 requiring all persons to register in that county.

Acts 1967, 60th Leg., p. 936, ch. 414, §§ 2-8 amended and added the following articles to the Election Code: 5.05, subd. 2a; 5.11b-1, 5.12a, 5.13b, 5.18b, 5.22b and 5.23a, respectively. Section 9 of the act provided: "Section 1 of this Act shall take effect on February 1, 1968, and Sections 2 through 8 shall take effect immediately upon passage."

Art. 5.04 Affidavit of voter in bond election, etc.

(a) Before any person desiring to vote in an election for the purpose of issuing bonds or otherwise lending credit, or expending money or assuming any debt, is allowed to vote, he shall sign an affidavit, which shall be furnished to him by the election judge or clerk who examines him, stating that he owns property, giving a description of one item, which was rendered for taxation for a stated year (which shall be the last year in which such rendition was made) to the political subdivision holding the election within the period of time fixed by law for such rendition, or was placed on the tax rolls of such political subdivision for a stated year by the tax assessor prior to the date on which the election was ordered. The voter's registration certificate number shall be shown on the affidavit.

(b) The Secretary of State shall prescribe the form of the affidavit. In addition to any other instructions or information which the Secretary of State deems desirable, the affidavit shall contain a statement that the affiant understands that the giving of false information in the affidavit is a felony punishable by a fine not to exceed five thousand dollars or by imprisonment in the penitentiary not to exceed five years, or by both such fine and imprisonment. The voter shall swear to the affidavit before an officer of the election, and all judges and clerks of the election shall have authority to administer the oath required herein.

(c) The description of a specific item of property which is required on the affidavit shall be sufficient as to personal property if it identifies the property by a general statement of its nature, as, for example, household furniture, automobile, livestock, jewelry, stock of merchandise, corporate securities, etc. For real property, a description of the property by abstract, survey, patent, subdivision, block, lot, or other legal description shall not be necessary. If the real property is located in an incorporated city, town, or village, a statement of the location of the property by street and number shall be sufficient; and if it is located in an unincorporated town or village, it shall be sufficient to identify the property by general description as so located, as, for example, "house and lot in the town of _____." It shall be sufficient to describe a farm, ranch, or other rural property by a statement of its location with reference to a town, community, or other well-known landmark, as, for example, "farm near _____." Upon request of the voter, the election officer attending him shall inform him as to what will be a sufficient description on the affidavit for the specific item of property which he wishes to list.

(d) The ballot of a voter who has been accepted by the election officer as eligible to vote at the election shall never be declared void for any defect or insufficiency in the affidavit or for any misstatement as to property asserted to have been rendered, if the voter in fact is the owner of any property which has been duly rendered for taxation to the subdivision holding the election.

(e) After voting is concluded, an officer of the election shall place all the affidavits in an envelope or other container which shall be securely fastened and marked to identify its contents, and the presiding judge shall deliver the affidavits to the officer having custody of the ballots voted at the election at the same time that he delivers the returns, and the affidavits shall be preserved by such officer under the same regulations applicable to preservation of ballots. The affidavits shall be open to public inspection, but the inspection must be in the presence of the custodial officer or a duly authorized deputy.

(f) A person who knowingly gives false information or makes any false statement in the affidavit required by this section is guilty of a felony punishable by a fine not to exceed five thousand dollars or by imprisonment in the penitentiary not to exceed five years, or by both such fine and imprisonment.

Amended by Acts 1967, 60th Leg., p. 1870, ch. 723, § 15, eff. Aug. 28, 1967.

Synopsis of Changes—1967

Replaces provisions requiring the tax collector to furnish a certified list of owners of property duly rendered for taxation, for use at the polling place in a bond election, by providing that each voter must sign an

affidavit that he is the owner of duly rendered property, listing by specific description at least one item of property which has been rendered.

Art. 5.05 Absentee voting

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Subdivision 2a. Absentee voting by members of the armed forces, etc. Notwithstanding any provision of Subdivision 1 or Subdivision 2 of this section, any qualified voter within any of the following categories

For Annotations and Historical Notes, see V.A.T.S.

shall be entitled to vote absentee by mail upon making a sworn application by mail for an absentee ballot on an official federal post card application for absentee ballot, and no further statement of his eligibility to vote absentee by mail shall be required of him, provided the application is mailed from outside the county and the ballot is to be mailed to an official address outside the county:

(1) a member of the armed forces of the United States while in the active service, his spouse and dependents residing with or accompanying him;

(2) a member of the merchant marine of the United States, his spouse and dependents residing with or accompanying him;

(3) a civilian employee of the United States serving outside the territorial limits of the several states and the District of Columbia, his spouse and dependents residing with or accompanying him; and

(4) a member of a religious group or welfare agency assisting members of the armed forces, who are officially attached to and serving with the armed forces, and his spouse and dependents residing with or accompanying him.

Application made on a federal post card application by a voter coming within either of the foregoing categories shall not be subject to the provisions of Paragraph (ii) of Subdivision 1 of this section which requires that the application be made not more than sixty days before the day of the election; and an application received earlier than that date, but within the voting year during which the election is held, shall be accepted. The application need not be accompanied by the voter's registration certificate or affidavit in lieu thereof, but before mailing a ballot in response to an application which is not accompanied by the certificate or affidavit:

(1) if the applicant's official address is outside the county but within the state, the clerk shall ascertain that the voter's name appears on the list of registered voters for the precinct of his residence and shall not mail a ballot to him unless his name is so listed; and

(2) if the applicant's official address is outside the state, the clerk shall follow the procedures outlined in Section 50b of this code¹ and shall mail him a ballot if he is entitled to register and vote under that section.

The foregoing provisions shall not be construed as preventing the clerk from accepting either a sworn or an unsworn federal post card application for absentee ballot from any other person who is permitted by federal law to use such application form, but unless the applicant comes within one of the categories listed above, he shall furnish the information required by Subdivision 2 of this section in addition to the information regularly supplied on the federal post card application, shall accompany the application with his registration certificate or affidavit in lieu thereof, and shall be subject to all of the provisions of Subdivision 1 of this section pertaining to absentee voting by mail.

Where a registration certificate accompanies a federal post card application, it shall be mailed back to the voter at the official address to which the ballot is mailed, unless the voter requests the clerk to mail it to some other address.

Subd. 2a amended by Acts 1967, 60th Leg., p. 937, ch. 414, § 2, eff. June 12, 1967.

¹ Article 5.18b.

Subdivision 2b. Ballots for absentee voting. Before the beginning of the period for absentee voting, the authority charged with the duty of furnishing the supplies for the election shall furnish to the clerk a supply of official ballots for use in absentee voting. Before mailing or delivering a ballot to a voter, the clerk shall cause his signature to be placed on the back of the ballot. The absentee ballots may be signed by the clerk in his own handwriting, or they may be stamped with a facsimile of his

signature by the clerk or by a deputy under his direction. Where a stamp is used, the clerk shall take the necessary precaution to see that the stamp is properly safeguarded at all times so that no unauthorized use may be made of it.

Subd. 2b added by Acts 1967, 60th Leg., p. 1871, ch. 723, § 16, eff. Aug. 28, 1967.

Subdivision 3. Period for voting by personal appearance. (a) The period for absentee voting by personal appearance shall begin on the twentieth day and shall continue through the fourth day preceding the date of the election; provided, however, that when the twentieth day falls on a day which is not a regular working day for the clerk's office, the absentee voting by personal appearance shall begin on the next succeeding regular working day. Except as authorized in Subdivision 3d of this section, the clerk shall not permit anyone to vote absentee by personal appearance on any day which is not a regular working day for the clerk's office, and under no circumstances shall he permit anyone to vote absentee by personal appearance at any time when his office is not open to the public.

(b) At any time within the period for absentee voting, a voter who is eligible to vote absentee may do so by making his personal appearance before the county clerk of the county of his residence at the office of the clerk and delivering to such clerk his application aforesaid.

(c) Watchers, as provided for in Sections 19, 20, and 21 of this Code,¹ may be appointed to observe the conduct of absentee voting in the clerk's office. An appointing authority may appoint different watchers to serve on different days of the absentee voting period. The certificate of appointment need not designate the specific dates on which each watcher will serve, and all of them may be appointed for the entire period, but the total number of watchers appointed by the same authority under Section 19,² or appointed upon the same petition under Section 20,³ shall not exceed seven, of which number not more than two shall be on duty at the same time.

Subd. 3 amended by Acts 1967, 60th Leg., p. 1871, ch. 723, § 17, eff. Aug. 28, 1967.

¹ Articles 3.05, 3.06 and 3.07.

² Article 3.05.

³ Article 3.06.

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Subdivision 4c. Period for absentee voting in certain other elections.

Whenever any election is lawfully called for a date which does not permit the full period for absentee voting, the voting shall begin as soon as possible after the ballots become available, provided, however, that the voting shall begin not later than the tenth day before the election.

Subd. 4c added by Acts 1967, 60th Leg., p. 1871, ch. 723, § 16, eff. Aug. 28, 1967.

* * * * *

Subdivision 6. Counting of ballots in countywide elections.

(a) In all countywide elections, and in elections less than countywide where the authority holding the election has provided that absentee paper ballots shall be counted by a special canvassing board, on the day of the election the ballot box and stub box used for absentee voting by personal appearance, the keys to the ballot box, the jacket envelopes containing the ballots voted by mail and accompanying papers, the poll list for absentee voting on which the clerk has entered the names of persons voting by personal appearance, and the list of registered voters used by the county clerk, shall be delivered to a special canvassing board consisting of a presiding judge and two or more election clerks appointed in the same manner as provided for appointment of the election officers for regular

For Annotations and Historical Notes, see V.A.T.S.

polling places at that election. The county clerk shall deliver the ballots to the canvassing board at such hour as the presiding judge shall direct, but not earlier than the hour at which the polls are opened and not later than one o'clock p. m. If delivered before one o'clock p. m., the clerk shall deliver in like manner to the board, at one o'clock p. m., all ballots received by mail before one o'clock p. m. of the day of the election which have not previously been delivered to the board.

(b) This special canvassing board shall open the jacket envelopes, announce the voter's name and ascertain in each case if he is qualified to vote at that election and if he has complied with all applicable provisions of this section to entitle his ballot to be cast. The board shall compare the signatures on the application and upon the affidavit on the carrier envelope, and in case the board finds that the signatures correspond, that the application and the affidavit are duly executed, that the voter is a qualified elector, and that he has voted in a manner authorized in this section, they shall enter his name on the official poll list (on which voters voting by mail shall be listed separately from those who have voted by personal appearance) and shall open the carrier envelope so as not to deface the affidavit thereon, and shall place the sealed ballot envelope in the ballot box and the stub in the stub box. The carrier envelope, application and accompanying papers shall be replaced in the jacket envelope and returned to the county clerk at the same time the voted ballots are returned, and shall be preserved for the length of time provided by law for the preservation of the voted ballots.

(c) If the ballot be challenged by an election officer, watcher, or other person, the grounds of challenge shall be heard and decided according to law, including the consideration of any affidavits submitted in support of or against such challenge. If the ballot be not admitted, there shall be endorsed on the face of the carrier envelope and the jacket envelope the word "rejected." The carrier envelopes containing rejected ballots shall be enclosed, securely sealed, in an envelope on which the words 'rejected absentee ballots' have been written, together with a statement of the nature and date of the election, signed by the presiding judge, and shall be returned and preserved in the same manner as provided for return and preservation of official ballots voted at the election. The corresponding jacket envelopes containing the applications and accompanying papers shall also be returned to the clerk, and preserved for the length of time provided by law for preservation of the voted ballots.

(d) At such time as the presiding judge shall direct, the election officers whose duty it is to count the ballots shall open the absentee ballot box, remove the ballots from the sealed ballot envelopes, and proceed to count and make out returns of all ballots cast absentee, including the ballots voted by personal appearance, in the same way as is done at a regular polling place. The ballot envelopes for the ballots voted by mail may be discarded or destroyed.

(e) The special canvassing board, watchers, and all others connected with the conduct of absentee voting shall be subject to the provisions of Section 105 of this code¹ with respect to revealing information as to the results of the election.

(f) The special canvassing board shall possess the same qualifications, be subject to the same laws and penalties, and be paid the same wage as regular election judges; provided, however, that each member may be paid an amount not to exceed the compensation payable for ten hours of work if the time spent by the board in performing its duties is less than ten hours. Watchers may be appointed as for regular polling places.

Subd. 6 amended by Acts 1967, 60th Leg., p. 1872, ch. 723, § 17, eff. Aug. 28, 1967.

¹ Article 8.23.

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Subdivision 11. Posting list of absentee voters; inspection of applications, etc. The county clerk shall post at a conspicuous place in his main office, and each other clerk for absentee voting designated in accordance with Subdivision 1a of this Section shall post at a conspicuous place in his office, for public inspection, a complete list of those to whom ballots have been delivered or sent out under this section, stating thereon the elector's name, address, precinct of residence and voter registration certificate number, and the date on which the ballot was delivered or mailed, which list shall be kept up from day to day. The applications and accompanying papers shall also be open to public inspection at regular office hours, but under such reasonable rules and regulations as the county clerk may adopt to safeguard the same and to reasonably economize his own time while they are in his keeping. It shall be the duty of the county clerk to deliver before the opening of the polls to each presiding judge, in person or by mail, the names of those who have voted absentee or made application to vote absentee for that election for that precinct.

Subd. 11 amended by Acts 1967, 60th Leg., p. 1873, ch. 723, § 18, eff. Aug. 28, 1967.

* * * * *

Subdivision 14. Branch offices for absentee voting by personal appearance. (a) Absentee voting by personal appearance shall be conducted at each branch office of the county clerk which is regularly maintained for the performance of general clerical duties, during the full period of time for which absentee voting by personal appearance is conducted at the main office.

(b) In any town, other than the county seat, which has a population of four thousand or more inhabitants and does not have situated therein a regularly maintained general branch office of the county clerk, upon authorization of the commissioners court the county clerk may appoint a deputy clerk in such town for conducting absentee voting by personal appearance at a temporary branch office.

(c) Any voter eligible to vote absentee by personal appearance in the main office of the clerk may vote in any branch office. The deputy clerk in charge of absentee voting at each branch office shall transmit to the clerk at the close of each day of absentee voting the names of all persons who have voted absentee in the branch office on that day, together with other necessary information as provided in Subdivision 11, for inclusion on the list of absentee voters posted in the main office. During the period for absentee voting by personal appearance, the applications and ballots of persons who have voted absentee may be retained in the branch office or may be delivered to the main office from time to time, but all applications and ballots shall be delivered to the main office not later than one o'clock p. m. on the third day prior to election day. Except as otherwise provided in this subdivision, the voting in a branch office shall be subject to the same regulations as the voting in the main office.

Subd. 14 amended by Acts 1967, 60th Leg., p. 1873, ch. 723, § 18a, eff. Aug. 28, 1967.

* * * * *

Subdivision 17. Allocation of absentee votes for determining precinct representation in county conventions. The county clerk shall preserve on file in his office for a period of two years a copy of the precinct lists of absentee voters and persons voting a limited ballot under Section 37c of this code¹ prepared in accordance with Subdivision 11 of this section and Section 37d of this code,² for each biennial general election for state and county officers. For the purpose of computing the number of delegates to which each election precinct is entitled in the county convention of a political party whose conventions are governed by Section 212 of this code,³ there shall be added to the number of votes cast for the party's

For Annotations and Historical Notes, see V.A.T.S.

candidate for Governor, as shown on the election return for that precinct, a percentage of the votes cast by residents of that precinct by absentee ballot and limited ballot, using the number of voters shown on the aforesaid precinct lists as the basis of allocation, which percentage shall be the same as the percentage which the party's candidate for Governor received of the total votes for Governor cast at the precinct polling place, as shown on the return for that precinct. If the total number of votes actually counted by the absentee canvassing board differs from the number of votes shown on the precinct lists, the number on the precinct lists nevertheless shall be used as the basis of allocation under this subdivision.

Subd. 17 amended by Acts 1967, 60th Leg., p. 1874, ch. 723, § 19, eff. Aug. 28, 1967.

¹ Article 5.05c.

² Article 5.05d.

³ Article 13.34.

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Synopsis of Changes—1967

Under the changes made by this section and Sec. 6 of this chapter [Acts 1967, 60th Leg., p. 936, ch. 414, §§ 2, 6], persons in military service and related services who are stationed outside Texas may vote without having registered through the regular registration procedures administered by the tax assessor-collector. The official Post Card Application for Absentee Ballot for each election is treated as an application for registration for that election, and the county clerk (or other officer handling the absentee voting for the election) attends to the details of the registration, which is effective for that election only. The tax assessor-collector does not have any responsibility in connection with this type of registration, which is administered exclusively by the clerk for absentee voting. However, persons within the categories covered by these sections may still register by ordinary procedures through the assessor-collector, under the same rules as other voters, if they wish to do so.

Adds new Subdivision 2b requiring the clerk conducting absentee voting to authenticate the ballots by placing his signature on the back of each ballot.

Adds new Subdivision 4c on period for absentee voting in elections which may lawfully be called for a date which does not permit the full period for absentee voting (e. g., certain bond elections and local option elections).

Amends Subdivision 3 to allow appointment of different watchers for different days of the absentee voting period. Amends Subdivision 6 to make the pay provisions for members of the special canvassing board conform to changes made by the bill in the rate of pay for elections generally.

Amended [Subdiv. 11] to delete the criminal penalty, leaving this situation to be covered by the general Penal Code provision [Vernon's Ann.P.C. art. 241] on voting more than once at the same election.

Amended [Subdiv. 14] to provide that voting shall be conducted at each regular branch office of the county clerk, as well as at the main office.

Provides [in Subdiv. 17] that absentee votes shall be considered (formerly they were not taken into account) and states the formula for allocation.

Acts 1967, 60th Leg., p. 936, ch. 414, § 1 amended article 5.02; section 3 of the Act of 1967 added article 5.11b-1; section 4 of the act amended article 5.12a; sections 5-7 this act added articles 5.13b, 5.13b and

5.22b; section 8 of the act amended article 5.23a and section 9 thereof and provided an effective date and is set out as a note under article 5.02.

Art. 5.05a Voting by new residents of state in presidential elections

Subdivision 1. New residents eligible to vote. A person who has been a resident of this state for more than sixty days but less than one year prior to the date of a presidential election shall be entitled to vote for presidential and vice presidential electors in such election, but for no other offices, if

(1) he was either a qualified elector in another state immediately prior to his removal to this state or would have been eligible to vote in such other state had he remained there until such election, and

(2) he otherwise possesses the substantive qualifications of an elector in this state, as defined in Section 34 of this code,¹ except the requirements of residence and registration, and

(3) he complies with the provisions of this section.

¹ Article 5.02.

Subdivision 2. Application for presidential ballot. A person desiring to qualify to vote for presidential and vice presidential electors under this section is not required to register under the general voter registration laws of this state, but between the 60th day and the 45th day preceding the election, both dates included, he shall register by making an application to the county clerk of the county of his residence at the main office of the clerk or at any regularly maintained general branch office, in the form of an affidavit executed in duplicate in the presence of the county clerk or a duly authorized deputy, in substantially the following form:

State of Texas

County of _____

I, _____, do solemnly swear that:

1. I am a citizen of the United States.

2. Before becoming a resident of this state, my legal residence was in the _____ precinct of the city of _____, county of _____, state of _____, and my local residence address was _____ street (post office address if no street address). I was a qualified elector in that state immediately prior to my removal to this state, or would have been eligible to vote in that state had I remained there until the next presidential election.

3. On the day of the next presidential election, I shall be at least 21 years of age. I have been a resident of Texas since _____, 19____, now residing at _____, street (post office address if no street address), in the city of _____, _____ County.

4. Pursuant to Section 37a (Article 5.05a) of the Texas Election Code, I am qualified to vote for President and Vice President at the election to be held November _____, 19____, and I hereby make application for a presidential and vice presidential ballot. I have not voted and will not vote otherwise than by this ballot at that election.

Signed _____
(Applicant)

Subscribed and sworn to before me this _____ day of _____, 19____.

Signed _____,
County Clerk of _____ County
By _____, Deputy

Subdivision 3. Proof of qualification in state of former residence. Subject to the provisions of Subdivision 4 of this section, upon receipt of an application, the county clerk shall immediately forward the duplicate of the application to the registrar of voters, or equivalent official, of the county and state of the applicant's former residence, together with a request for proof that the applicant was a qualified voter in the state of his former residence immediately prior to his removal to Texas, or that he would have been eligible to vote in that state at the forthcoming presidential election had he remained there until such election and complied with the state's legal requirements for voting. The request shall include a form of certificate of proof. The forms of request for proof and certificate of proof to be sent to the official of the applicant's former residence shall be prescribed by the Secretary of State. The Secretary of State shall also furnish to each county clerk in this state the necessary information as to

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the appropriate official in each of the other states to whom the request for proof should be sent.

Subdivision 4. Alternate method of proof. If the applicant delivers to the county clerk an official voter registration certificate, voter identification card, or other similar document from the state of his former residence showing that he was registered as a voter in that state at the time of his removal therefrom, the county clerk shall not be required to obtain the certificate of proof required by Subdivision 3 of this section. The document evidencing the applicant's qualification in the state of his former residence shall be retained by the county clerk and attached to the application.

Subdivision 5. Notification of acceptance of application. If from the certificate of proof required in Subdivision 3 or a document meeting the requirements of Subdivision 4, and from the information on the application it appears that the applicant satisfies the conditions of Subdivision 1 of this section, the county clerk shall notify the applicant, in writing, that satisfactory proof of eligibility has been received and that he is entitled to vote in person for the offices of President and Vice President not sooner than the fifteenth day nor later than the fourth day prior to the forthcoming presidential election.

Subdivision 6. Procedure for voting. Within the period specified in Subdivision 5, the applicant shall appear personally at the office of the county clerk or at a branch office for absentee voting and shall present his notification of eligibility, whereupon he shall be permitted to vote. The clerk may furnish the applicant with either a specially printed ballot on which no offices other than President and Vice President are printed, or he may use the regular official ballot from which all other offices and all propositions are stricken, or on which it is otherwise shown that the voter was not entitled to vote on such other offices and propositions, before the voter receives the ballot. If absentee voting is being conducted on a voting machine, the voter may be allowed to cast his vote for President and Vice President on a voting machine, on which all other races are locked out before the voter enters the machine. The procedure for absentee voting by personal appearance in a countywide election shall be followed insofar as it can be made applicable and is not inconsistent with this section. The ballots and ballot stubs shall be deposited in the same boxes as the ballots and stubs of persons voting absentee by personal appearance, and the ballots shall be counted and return made thereof along with and on the same forms as the absentee ballots.

Subdivision 7. Notation on list of applicants. When an applicant has been permitted to vote, the clerk shall note the fact on the applicant's notification of eligibility and shall file it with his application. He shall also enter on the posted list of applicants, required by Section 37d of this code,¹ a notation of the fact that the applicant has voted, with the date on which he voted.

¹ Article 5.05d.

Subdivision 8. Definition of word "state." As used in this section and Section 37b of this code,¹ the word "state" includes the District of Columbia.

Added by Acts 1967, 60th Leg., p. 1874, ch. 723, § 20, eff. Aug. 28, 1967.

¹ Article 5.05b.

Synopsis of Changes—1967

Sections 37a through 37d [Arts. 5.05a through 5.05d] implement the constitutional amendment adopted in November, 1966, authorizing the Legislature to permit new residents of the State having less than a year's residence to vote in presidential elections; to permit former residents to vote in presidential elections by absentee ballot until they acquire a voting residence

in another State; and to permit qualified voters of the State who have moved from one county to another within 6 months before an election to vote on all statewide offices and propositions. Under these new sections voting in all three categories is handled by the county clerk in manner similar to regular absentee voting.

Art. 5.05b Voting by former residents of state in presidential elections

Subdivision 1. Former residents eligible to vote. A former resident of this state who has become a legal resident of another state of the United States may vote for presidential and vice presidential electors by absentee ballot in the county of his former residence if:

(1) on the day of the election he will not have resided in the state of his present residence a sufficient length of time to meet the residence requirements of that state for voting for presidential and vice presidential electors, and

(2) the period of time since he ceased to be a resident of this state is less than 24 months, and

(3) he otherwise possesses the substantive qualifications of an elector in this state, as defined in Section 34 of this code,¹ except the requirements of residence and registration, and

(4) at the time of his removal he was registered as a voter in this state, if he was then eligible to register, and

(5) he complies with the provisions of this section.

¹ Article 5.02.

Subdivision 2. Application for presidential ballot. A person desiring to vote under the provisions of this section shall register by making a written, sworn application to the county clerk of the county of his former residence for an absentee ballot for President and Vice President only, on a form to be prescribed by the Secretary of State and furnished by the county clerk. The application shall be made under the same rules as apply to regular absentee ballots, insofar as they can be made applicable and are not inconsistent with this section, except that it shall not be necessary that the application be accompanied by the applicant's voter registration certificate. However, if the application is not accompanied by a voter registration certificate which was current at the time of the applicant's removal from this state and the applicant was eligible to register at the time of his removal, the county clerk shall ascertain that the applicant's name was on the list of registered voters for the voting year in which he changed his residence before furnishing him with a ballot. If from the information contained on the application it appears that the applicant was not eligible to register as a voter at the time of his removal from this state but would have been eligible to register for the current voting year and to vote in the forthcoming presidential election if he had continued to reside in this state, no former registration shall be required of the applicant.

Subdivision 3. Secretary of state to furnish information. The Secretary of State shall furnish to each county clerk in the state the necessary information to enable the county clerk to determine from such information and the information supplied by the applicant on his application form whether the applicant has resided in the state of his present residence a sufficient length of time to qualify to vote for presidential and vice presidential electors in that state.

Subdivision 4. Procedure for voting. Upon ascertaining that an applicant is entitled to vote under this section, the county clerk shall mail to him a ballot prepared in either of the manners specified in Subdivision 6 of Section 37a of this code,¹ together with a ballot envelope containing such markings and instructions as the Secretary of State prescribes, and a carrier envelope containing an appropriate affidavit, the form of which shall be prescribed by the Secretary of State, of the voter's eligibility to cast the ballot under this section. The procedure for absentee voting by mail shall be followed insofar as it can be made applicable and is not inconsistent with this section. The ballots shall be counted and return made thereof along with and on the same form as the other absentee ballots.

¹ Article 5.05a.

For Annotations and Historical Notes, see V.A.T.S.

Subdivision 5. Notices of applications received from other states. All notices of applications of former residents of this state to vote for presidential electors as new residents of the state of their present residence, which are received by any other state or county officer of Texas, shall be forwarded by such officer to the county clerk of the county of the applicant's former residence in Texas. The county clerk shall file each notice received by him from another state indicating that a former resident of this state has made application to vote at a presidential election in another state and shall maintain an alphabetical index thereof, for a period of six months after the election.

Added by Acts 1967, 60th Leg., p. 1874, ch. 723, § 20, eff. Aug. 28, 1967.

Synopsis of Changes—1967

See note under Sec. 37a.

Art. 5.05c Voting by persons having less than six months' residence in county

Subdivision 1. Persons eligible to vote. A person who is a qualified elector as defined in Section 34 of this code¹ except for the requirement of six months' residence in the county immediately preceding the election shall nevertheless be entitled to vote on all offices, questions or propositions to be voted on by electors throughout the state, including electors for President and Vice President of the United States, for which the person would be eligible to vote if he fulfilled the county residence requirement. A person having less than six months' residence in the county, if otherwise eligible, shall be entitled to vote for any district office or at any other election of a district composed of territory situated in more than one county if he has resided in the district for the last six months preceding the election. Where a district consists of only a part of one county or where a part of a county is joined with territory situated in another county or counties to form a district, a person who has resided in the county for the last six months and is a resident of the district on the date of the election fulfills the local residence requirement for voting in a district election.

¹ Article 5.02.

Subdivision 2. Registration; transfer of registration. No person shall be eligible to vote under this section unless he is registered as a voter under the general voter registration laws of this state for the year in which the election is held. If he has changed the county of his residence since receiving his registration certificate, he must comply with the provisions of this code on transfer of registration before being permitted to vote.

Subdivision 3. Application for limited ballot; procedure for voting. A person having less than six months' residence in the county who is entitled to vote a limited ballot as stated in Subdivision 1 of this section shall be permitted to vote upon making a written, signed application for a limited ballot to the county clerk of the county of his residence at the time of the election, upon an official application form to be prescribed by the Secretary of State and furnished by the county clerk. The procedure for voting a limited ballot shall be similar to the procedure for absentee voting. If the voter meets the requirements of Section 37 of this code¹ for voting an absentee ballot by mail, he shall be permitted to vote the limited ballot by mail under the procedure for absentee voting by mail upon submitting both an application for a limited ballot and an application for an absentee ballot. Otherwise, he shall vote by personal appearance during the period for absentee voting by personal appearance and under the procedure for voting by personal appearance in countywide elections insofar as it can be made applicable and is not inconsistent with this section.

Ballots cast under this section shall be counted and return made thereof along with and on the same forms as the absentee ballots.

¹ Article 5.05.

Subdivision 4. Ballot form. When paper ballots are used, the voter shall be furnished a regular official ballot for the election, from which all offices and propositions on which the voter is not entitled to vote have been stricken; and when a voting machine is used, all offices and propositions on which the voter is not entitled to vote shall be locked out before the voter is permitted to cast his ballot. When absentee voting by personal appearance is being conducted on a voting machine, the clerk may permit persons voting under this section by personal appearance to cast their ballots on the voting machine or he may furnish them with paper ballots, at his option.

Subdivision 5. Record of district offices voted on. The Secretary of State shall furnish to each county clerk the necessary information on the composition of the various districts to enable the clerk to determine whether a person entitled to vote a limited ballot for statewide offices is also entitled to vote for any district offices. The clerk shall note on each voter's application a list of all district offices for which he is permitted to vote.

Added by Acts 1967, 60th Leg., p. 1878, ch. 723, § 20, eff. Aug. 28, 1967.

Synopsis of Changes—1967

See note under Sec. 37a.

Art. 5.05d General provisions on voting by persons not meeting full residence requirements

Subdivision 1. Lists of applicants to be posted. The county clerk shall post at a conspicuous place in his office, for public inspection, a complete list of persons who have applied for a ballot under Section 37a, 37b, or 37c of this code,¹ stating thereon the applicant's name, address, precinct of residence, the section of this code under which the application was made, and the date on which the ballot was delivered or mailed, which list shall be kept up from day to day. The names of persons applying for ballots under Section 37c² shall be included on the precinct lists of absentee voters which the clerk furnishes to the presiding judges of the election, as provided in Subdivision 11 of Section 37 of this code.³

¹ Articles 5.05a, 5.05b and 5.05c.

² Article 5.05c.

³ Article 5.05.

Subdivision 2. Preservation of applications; inspection. Applications and accompanying papers received pursuant to Sections 37a, 37b, and 37c of this code shall be preserved in the clerk's office for the length of time provided by law for preservation of voted ballots and shall be open to public inspection under the same rules as apply to applications for absentee ballots.

Added by Acts 1967, 60th Leg., p. 1879, ch. 723, § 20, eff. Aug. 28, 1967.

Synopsis of Changes—1967

See note under Sec. 37a.

Art. 5.08 Rules for determining residence

(a) As used in this code, the word "residence" means domicile; i. e., one's home and fixed place of habitation to which he intends to return after any temporary absence.

(b) For the purpose of voting, residence shall be determined in accordance with the common law rules as enunciated by the courts of this

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state and the following statutory rules; but in case of a conflict, the statutory rules shall control.

(c) A person shall not be considered to have lost his residence by leaving his home to go to another place for temporary purposes only.

(d) A person shall not be considered to have gained a residence in any place to which he has come for temporary purposes only, without the intention of making such place his home.

(e) The residence of a single person, or of a married person permanently separated from his or her spouse, is considered to be where such person usually sleeps at night, but if it be a temporary establishment, or for a transient purpose, it shall not be so considered.

(f) For a married man not permanently separated from his wife, the place where his family lives shall be considered his residence, but if it be a temporary establishment for his family, or for transient purposes, it shall not be so considered.

(g) If a married man has his family living in one place and he does business in another, the former shall be considered his residence, but when a man has taken up his abode at any place with the intention of remaining there and making it his home, and his family refuses to reside with him, then such place shall be considered his residence.

(h) The residence of a married woman not permanently separated from her husband is considered to be the place where her husband has his residence, but a married woman not living in a household with her husband may establish a separate voting residence from that of her husband.

(i) The residence of one who is an officer or employee of the government of this state or of the United States shall be construed to be where his home was before he became such officer or employee unless he has become a bona fide resident of the place where he is in government service or of some other place. For the purpose of this section, teachers and other professional personnel employed in the public free school system of this state shall be considered to be employees of the government of this state.

(j) No person in the military service of the United States shall acquire a residence in this state while he is living on a military post in quarters which he is required to occupy. A person in military service who is permitted to choose his place of abode shall not be considered to have acquired a residence merely in consequence of his presence at the place where he lives while performing his military duties; and such person shall not be considered to have acquired a residence unless he intends to remain there and to make that place his home indefinitely, both during the remainder of his military service whenever military duties do not require his presence elsewhere, and after his military service is terminated.

(k) The residence of a student in a school, college, or university shall be construed to be where his home was before he became such student unless he has become a bona fide resident of the place where he is living while attending school or of some other place. A student shall not be considered to have acquired a residence at the place where he lives while attending school unless he intends to remain there and to make that place his home indefinitely after he ceases to be a student.

(l) The residence of an inmate of a public eleemosynary institution shall be construed to be where his home was before he became such inmate unless he has become a bona fide resident of the place where the institution is located or of some other place. No person who is an inmate of a prison or who is an involuntary inmate of any hospital or other eleemosynary institution shall acquire a residence, while he is an inmate, at the place where the institution is located.

Amended by Acts 1967, 60th Leg., p. 1879, ch. 723, § 21, eff. Aug. 28, 1967.

Synopsis of Changes—1967

Revised to provide a more complete set of rules for determining residence of a voter. Except for a few alterations, the amendment merely puts into statutory form the rules which have been developed by court decisions.

Art. 5.11a—1 Registration for run-off elections held during February, 1967

Notwithstanding any other provision of this Code, when any run-off election for a public office by law must be called for a date during the month of February, 1967, persons duly registered to vote at elections held during the voting year ending on January 31, 1967, as defined in Paragraph (h) of Section 34b of this Code,¹ and no others, shall be duly registered to vote at the run-off election. The precinct lists of qualified voters prepared by the tax collector for the voting year which began on February 1, 1966, together with supplemental lists prepared in accordance with Section 34b and Section 54 of this Code,² shall be used in the conduct of the election, and these statutes shall continue in force through the month of February, 1967, for the purpose of authorizing and requiring the tax collector to prepare and furnish such lists as may be necessary under the provisions of this Section 43a-1.

Added by Acts 1967, 60th Leg., p. 1, ch. 1, § 1, emerg. eff. Jan. 25, 1967.

¹ Art. 5.02b.

² Arts. 5.02b and 5.22.

<p>Title of Act: An Act making voter registration lists for the voting year of 1966 the controlling</p>	<p>lists for run-off elections held during February, 1967; and declaring an emergency. Acts 1967, 60th Leg., p. 1, ch. 1.</p>
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Art. 5.11b—1 Supplemental registration for 1967 voting year by persons over 60 years old

Subdivision 1. Registration upon removal to city of 10,000 or more inhabitants. A person who is over 60 years of age at the time of applying for registration and who did not reside at any time during the regular registration period for voting at elections held during the 1967 voting year, as prescribed in Section 43a of this code,¹ in a city of 10,000 or more inhabitants or in a county wherein the commissioners court had directed the registration of all voters irrespective of age or place of residence, but who later removes to such city or county, may register at any time thereafter for the 1967 voting year if at the time of applying for registration he is a qualified elector or will become a qualified elector before the end of the 1967 voting year. Any person registered under the provisions of this subdivision must have registered at least four days before the day of any election at which he offers to vote.

Subdivision 2. Registration for voting during February, 1968. Any person who is over 60 years of age on the day of the election at which he offers to vote and who does not reside in a city of 10,000 or more inhabitants may vote at any election held during February, 1968, if otherwise qualified, by registering for the voting year 1968 during the regular registration period therefor and by presenting his registration certificate for that year at the time he offers to vote, and he shall be permitted to vote even though his name does not appear on any list of registered voters for use at the election. He may also vote upon presentation of a registration certificate for the voting year 1967, or affidavit in lieu thereof, if he had registered for that voting year.

Subdivision 3. Expiration date. This section shall expire on March 1, 1968.

Added by Acts 1967, 60th Leg., p. 938, ch. 414, § 3, eff. June 12, 1967.

¹ Article 5.11a.

Synopsis of Changes—1967

Subdivision 1 of this new section [art. 5.11b-1] preserves for the remainder of the 1967 voting year the pre-existing law permitting voters over 60 years old who did not live in a city of 10,000 or more during the regular registration period to register at any time during the voting year if they move to such a city. With the new requirement for registration of all voters for the 1968 voting year and thereafter, this provision will not be needed after the end of the 1967 voting year.

Subdivision 2 of Sec. 43b-1 [art. 5.11b-1, subd. 2] makes provision for registration of persons over 60 years old living outside cities of 10,000 or more to vote at elections held during February 1968. This is

made necessary by the fact that the requirement for their registration as a condition for voting becomes effective on February 1, 1968, a month before the end of the 1967 voting year. (The date of February 1, 1968, was used in the statute to coincide with the effective date of the constitutional amendment requiring all voters to register.) This statute provides that these voters may vote on their 1968 registration certificates during February 1968, although the regular voting year does not begin until March 1, 1968. The registrar is not required to prepare a registration list of these voters for use during the month of February.

Acts 1967, 60th Leg., p. 936, ch. 414, §§ 1, 2 amended articles 5.02; and 5.05, subd. 2a; section 4 of the act amended article 5.12a; sections 5-7 of the act added articles 5.13a,

5.18b and 5.22b; section 8 of the act amended article 5.23a, and section 9 thereof provided effective dates and is set out as a note under article 5.02.

Art. 5.12a Registration by former aliens, new residents, and persons reaching voting age

Subdivision 1. Former aliens. Any former alien upon becoming a naturalized citizen may register at any time thereafter for the voting year in which he becomes a naturalized citizen, and if naturalized during the month of February, for the ensuing voting year beginning on the first day of March thereafter, if at the time of applying for registration he is a qualified elector or will become a qualified elector before the end of the voting year for which he is registering. Before registering a voter under the provisions of this section, the registrar shall require the applicant for registration to present satisfactory evidence of his naturalization and of the date on which he was naturalized.

Subdivision 2. New residents. Any person who was not a resident of the state on the first day of the regular registration period but who becomes a resident before the beginning date of a voting year may register for that voting year at any time after he becomes a resident and up to thirty days before the end of the voting year, if at the time of applying for registration he is a qualified elector or will become a qualified elector before the end of the voting year.

Subdivision 3. Persons reaching voting age. Any person otherwise qualified to vote who is under twenty-one years old on the last day of the registration period but who will become twenty-one years old before the end of the voting year may register at any time beginning with the first day of the registration period and up to thirty days before the end of the voting year.

Subdivision 4. When certificate becomes effective for voting. Any person registering under the provisions of Subdivision 1 must have registered at least four days before the day of any election at which he offers to vote, and any person registering under the provisions of Subdivision 2 or 3 must have registered at least thirty days before the day of any election at which he offers to vote."

Amended by Acts 1967, 60th Leg., p. 938, ch. 414, § 4, eff. June 12, 1967.

Synopsis of Changes—1967

This amendment [Acts 1967, 60th Leg., p. 936, ch. 414, § 3] restores in modified form the provisions permitting new residents of the State and persons becoming 21 years old to register at any time during the voting year, with the requirement that they must have registered at least 30 days before any election at which they wish to vote. (Under the 1966 law, the regular registration period was the only time available to them for registration.) Under the

new law, a person who was not a resident of the State on the first day of the regular registration period, or a person who had not yet reached 21 years of age on the last day of the period, may register at any time during the voting year. As under the 1966 law, former aliens naturalized after the close of the regular registration period may register at any time during the voting year.

Acts 1967, 60th Leg., p. 936, ch. 414, §§ 1, 2 amended articles 5.02 and 5.05, subd. 2a; section 3 of the act added article 5.11b-1; sections 5-7 added articles 5.13b,

5.18b and 5.22b; section 8 of the act amended article 5.23a and section 9 of the act provided effective dates and is set out as a note under article 5.02.

Art. 5.13b Registrar may require written application when applicant applies in person

Whenever the registrar deems it desirable to do so, he may require persons who are applying for registration in person to fill out and sign an application form meeting the same requirements as the form used in applying for registration by mail, and may defer preparation of the registration certificate until a later time, to be mailed to the applicant or held for delivery to him in person if the applicant so directs. A certificate which is to be mailed to the voter must be mailed in time to be received before the date on which it becomes effective for voting. When application is made in writing, the provision of Section 47a¹ requiring signature of the registration certificate by the registrant or his agent does not apply.

Added by Acts 1967, 60th Leg., p. 939, ch. 414, § 5, eff. June 12, 1967.

¹ Article 5.15a.

Synopsis of Changes—1967

Heretofore the law provided that a voter applying in person would supply the necessary information orally, and the registrar would fill in the certificate and issue it immediately. This amendment [Acts 1967, 60th Leg., p. 936, ch. 414, § 5] allows the

registrar to require applicants for registration in person to fill out a written application form, and the registrar may complete the registration certificate and mail it to the voter at a later date.

Acts 1967, 60th Leg., p. 936, ch. 414, §§ 1, 2 amended articles 5.02 and 5.05, subd. 2a; section 3 of the act added article 5.11b-1; section 4 of the act amended article 5.12a; sections 6, 7 of the act added arti-

cles 5.18b and 5.22b; section 8 of the act amended article 5.23a and section 9 thereof provided effective dates and is set out as a note under article 5.02.

Art. 5.18b Registration by persons in military service, etc.

Any person in either of the following categories who is stationed outside the boundaries of the state at the time of applying for an absentee ballot in any general, special or primary election and who has not previously registered with the registrar of voters for that voting year shall be deemed to have applied for registration for that election by applying for an absentee ballot on an official federal post card application for absentee ballot:

- (1) a member of the armed forces of the United States while in active service, his spouse and dependents residing with or accompanying him;
- (2) a member of the merchant marine of the United States, his spouse and dependents residing with or accompanying him;

For Annotations and Historical Notes, see V.A.T.S.

(3) a civilian employee of the United States serving outside the territorial limits of the several states and the District of Columbia, his spouse and dependents residing with or accompanying him; and

(4) a member of a religious group or welfare agency assisting members of the armed forces, who are officially attached to and serving with the armed forces, and his spouse and dependents residing with or accompanying him.

Upon receipt of a federal post card application from a person in one of the above categories whose official address listed thereon shows him to be stationed outside the state, the clerk shall ascertain whether his name is on the list of registered voters for the precinct of his residence, and if his name does not appear thereon, the clerk shall examine the information on the federal post card application and if it shows the applicant to possess the qualifications for voting at that election in the precinct of his residence, the clerk shall enter his name on a list headed "Voters registering for the _____ election held on _____ by federal post card application for absentee ballot under Section 50b, Texas Election Code."¹ The list shall be made up in duplicate, and one copy shall be filed as a record of the clerk's office if the clerk conducting the absentee voting is a county clerk or a city secretary or city clerk, and as a record of the authority which appointed the clerk for absentee voting in other instances, to be preserved for a period of two years, after which it may be destroyed. The other copy shall be placed with the records of the election which are delivered into the custody of the officer designated in Paragraph (a)(2) of Section 111b of this code,² to be subject to the same regulations as those records. In entering on the posted list of absentee voters in his office the name of a person registered under the provisions of this section, the clerk shall place alongside the voter's name a notation showing that registration was effected in this manner.

Added by Acts 1967, 60th Leg., p. 939, ch. 414, § 6, eff. June 12, 1967.

¹ This article.

² Article 8.29b.

Synopsis of Changes—1967

See synopsis under Sec. 2 above [Art. 5.05 ante].

Acts 1967, 60th Leg., p. 936, ch. 414, §§ 1, 2 amended articles 5.02 and 5.05, subd. 2a;	section 7 of the act added article 5.22b,
section 3 of the act added article 5.11b—1;	section 8 of the act amended article 5.23a
section 4 of the act amended article 5.12a;	and section 9 thereof provided effective
section 5 of the act added article 5.13b;	dates and is set out as a note under article
	5.02.

Art. 5.22b Penalty for forged or fictitious application

Any person who applies for registration of any person, or who signs an application purporting to be the application for registration of any person, either real or fictitious, other than the person making the application or affixing the signature, or someone for whom he may lawfully act as agent, or someone who is unable to sign and who requests him to sign for such other person, shall be guilty of a felony and upon conviction shall be punished by confinement in the state penitentiary not less than one nor more than three years.

Added by Acts 1967, 60th Leg., p. 940, ch. 414, § 7, eff. June 12, 1967.

Synopsis of Changes—1967

This amendment [Acts 1967, 60th Leg., p. 936, ch. 414, § 7] makes it an offense for anyone to apply for registration under a	fictitious name or to make an unauthorized application in the name of another person.
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Acts 1967, 60th Leg., p. 936, ch. 414, §§ 1, 2 amended article 5.02 and article 5.05, subd. 2a; section 3 of the act added article	5.11b—1; section 4 of the act amended article 5.12a; sections 5, 6 of the act added articles 5.13b and 5.18b; section 8 of the
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act amended article 5.23a and section 9 thereof provided effective dates and is set out as a note under article 5.02. Library references Elections §117. C.J.S. Elections § 51.

Art. 5.23a Construction of other laws

Whenever, under any provision of this code or of any other statute of this state heretofore enacted, a person is required to have paid a poll tax or secured an exemption certificate as a qualification for any purpose, such statute shall be construed to require that the person be registered as a voter in accordance with the provisions of this code. All references to a poll tax receipt or an exemption certificate in both civil and criminal statutes, including those contained in the Penal Code, shall be construed to mean a voter registration certificate, unless the context clearly requires otherwise, and all references to the list of qualified voters shall be construed to mean the list of registered voters as provided for in Section 51a of this code.

Amended by Acts 1967, 60th Leg., p. 940, ch. 414, § 8, eff. June 12, 1967.

1 Article 5.19a.

Synopsis of Changes—1967

The statute has been reworded to clarify as well as civil statutes are included in the rules of construction stated therein.

Acts 1967, 60th Leg., p. 936, ch. 414, §§ 1, 2 amended articles 5.02 and 5.05, subd. 2a; section 3 of the act added article 5.11b-1; section 4 of the act amended article 5.12a; sections 5-7 added articles 5.13b, 5.18b and 5.22b and section 9 thereof provided effective dates and is set out as a note under article 5.02.

CHAPTER SIX—OFFICIAL BALLOT

Art. 6.06a Write-in votes when office title is not on ballot [New].

Art. 6.02 Loyalty affidavits

* * * * *

(f) If any officer with whom the loyalty affidavit as prescribed herein is required to be filed, fails or refuses to require the affidavit before ordering or certifying the candidate's name for a place on the ballot, he is guilty of a misdemeanor and upon conviction shall be fined not to exceed one thousand dollars.

Subsec. (f) amended by Acts 1967, 60th Leg., p. 1880, ch. 723, § 22, eff. Aug. 28, 1967.

Synopsis of Changes—1967

Amends Subsection (f) to standardize the penalty for the misdemeanor offense defined in the subsection.

Art. 6.05 Form of the ballot

Subdivision 1. All official paper ballots for any general, special, or primary election shall be printed on white paper of uniform style and of sufficient thickness to prevent the marks thereon to be seen through the paper. A suitable number of sample ballots may be printed on yellow paper for any election, but no ballot on yellow paper may be cast or counted.

Subdivision 2. Upon each official ballot in every general, special, or primary election there shall be in the top right-hand corner a detachable stub formed by a perforated line which shall start two inches below the top right-hand corner of the ballot and shall extend two inches to the

For Annotations and Historical Notes, see V.A.T.S.

left and thence to the top edge of the ballot. Upon the stub thus formed there shall be no printing or writing except the number of such ballot and the date and designation of the election, and the words, "NOTE: VOTER'S SIGNATURE TO BE AFFIXED ON THE REVERSE SIDE." All ballots prepared for an election shall be numbered consecutively beginning with No. 1 in each county if the election is to be held in a single county or part thereof, or is to be held in more than one county or part thereof and the result in each county is to be canvassed separately prior to the final canvass. In elections held by a city or other political subdivision of the State, all ballots for the election shall be numbered consecutively beginning with No. 1. The number that appears on the stub shall also appear in the top left-hand corner of the ballot. The numbers shall be printed or stamped in consecutive order on all the ballots prepared for any election, with a separate number for each ballot, at the time of printing and before they are divided up and delivered to the election judges.

Subdivision 3. In any general or special election at which the name of any candidate is to be printed on the ballot as the nominee of a political party, the tickets of the political parties which have nominated a candidate or candidates shall be arranged side by side in vertical columns of uniform width separated by a parallel rule. The first vertical column on the left-hand side of the ballot shall be used for printing the titles of the offices to be voted on, with the words "Candidates for:" being printed at the top of the column, and thereunder shall be listed the titles of the offices. In the top space in the second and succeeding vertical columns shall be printed the names of the political parties having nominees on the ballot, in the sequence specified by law. Listed under each party name and opposite each office title shall be printed the name of the party's candidate for the office. If the name of any independent or nonpartisan candidate is to be printed on the ballot, the next succeeding column shall be headed "Independent" and shall contain the names of the independent candidates opposite the appropriate office titles. The last column shall be headed "Write-In." The office titles shall be separated from each other by parallel horizontal lines extending across the ballot, through the party columns, the column for independent candidates, and the column for write-in candidates.

Subdivision 4. When presidential electors are to be voted upon, their names shall not appear on the official ballot, but the names of the candidates for president and vice-president, respectively, of the political parties shall appear at the head of their respective tickets, printed as one race, and the votes for presidential electors of the various parties shall be canvassed, counted, and returns made in accordance with Section 171 and Section 172 of this Code.¹

Subdivision 5. In any general or special election for which no party nomination has been made, the titles of the offices to be voted on shall be arranged in a vertical column, and beneath the title of each office the names of the candidates shall be arranged in the order specified by law. In any election for which write-in votes are permitted, beneath the names of the candidates under each office there shall be a blank space with either a broken or a solid line underneath, as the space for a write-in vote, and when more than one candidate is to be elected for an office, the number of write-in spaces shall correspond to the number of candidates to be elected. If the over-all size of the ballot, arranged as one column, exceeds 18 inches in length, the office titles may be arranged in parallel vertical columns, all except the last of which shall be at least 16 inches in length.

Subdivision 6. On all official ballots for an election, the type for all office titles shall be of uniform style and size; the type for all column

headings shall be of uniform style and size; and the type for the names of all candidates shall be of uniform style and size.

Subdivision 7. On each official ballot where officers are to be elected or nominated, there shall be printed on the left hand side of the name of each candidate a square, [], and there shall be printed immediately below the words "Official Ballot" the following instruction note: "Vote for the candidate of your choice in each race by placing an 'X' in the square beside the candidate's name." On each official ballot on which party columns appear, a larger square shall be printed on the left-hand side of the name of the party, at the head of each party ticket, and the following shall be added to the instruction note: "You may vote a straight ticket by placing an 'X' in the square beside the name of the party of your choice at the head of the party column." Appropriate changes in the instruction note shall be made where only one race is listed on the ballot or where more than one person is to be elected in any given race.

Subdivision 8. When constitutional amendments or other propositions are to be voted on, they shall appear once on each ballot in uniform style and type. Each proposition shall be submitted by printing the word "FOR" and beneath it the word "AGAINST" on the left-hand side of a single statement of the proposition, with a brace or parallel horizontal lines or other suitable device to show clearly to which proposition each "FOR" and "AGAINST" belongs. A square shall be printed on the left-hand side of the word "FOR" and of the word "AGAINST" in the statements submitting each proposition, and the following instruction note shall be printed immediately above the propositions: "Place an 'X' in the square beside the statement indicating the way you wish to vote." The provisions of this subdivision shall supersede all existing statutes on the form in which propositions are to be submitted in all elections where paper ballots are used except local option elections held under the provisions of the Texas Liquor Control Act, and shall also supersede any conflicting enactment passed by the 60th Legislature at its regular session unless such enactment expressly excepts it from the operation of this subdivision.

Amended by Acts 1967, 60th Leg., p. 1026, ch. 452, § 1, eff. Aug. 28, 1967.

¹ Articles 11.02 and 11.03.

Synopsis of Changes—1967

Subdivisions 1 and 2, providing for a stub ballot printed on white paper, carry forward pre-existing provisions without change.

Subdivision 3, prescribing the form where party nominees appear on the ballot (e. g., the general election for state and county officers), provides that the office titles are to be printed in the first left-hand column, and only the names of the candidates are to be printed in the party columns opposite the appropriate office titles. (Heretofore, both the office titles and the names of the candidates were printed in the party columns.)

Subdivision 4, on voting for presidential electors, carries forward pre-existing law without change.

Subdivision 5, relating to the form of the ballot in general and special elections where no party nomination has been made, is new. It applies to elections for officers of cities (if no party nomination), school districts, conservation districts, and other political subdivisions, as well as to special elections called by the Governor to fill vacancies in office. Art. 6.03 of the Election Code, which heretofore provided that the ballot

form in local elections was to be prescribed by local authorities, has been repealed by Sec. 77 of Chapter 723, 60th Leg., Reg. Sess., p. 1932.

Subdivision 6, on style and size of type used, carries forward the substance of the pre-existing law.

Subdivision 7 provides for marking the ballot by the check method instead of the scratch method where offices are voted on. See Sec. 62 of the Election Code, below, for related provisions.

Subdivision 8, relating to submission of constitutional amendments and other propositions, makes two changes in the law. One change is to provide that the statement of the proposition will be printed only once, with "FOR" and "AGAINST" preceding the statement. (Under pre-existing law, the statement of the proposition was printed after the word "For" and again after the word "Against".) The other change is to provide for the check method of voting, instead of the scratch method. This subdivision does not apply to local option elections held under the Texas Liquor Control Act.

For Annotations and Historical Notes, see V.A.T.S.

This amendment of Sec. 61 [by Acts, 1967, 60th Leg., p. 1858, ch. 723] was superseded by the amendment of the same section in Chapter 452. The difference in the two amendments is that the amendment in

Chapter 452 provides for the "check" method of marking the ballot, whereas this amendment continued the former "scratch" method.

Acts 1967, 60th Leg., p. 1026, ch. 452, §§ 2, 3 amended articles 6.06 and 6.07 respectively; section 4 of the act of 1967 provided: "This Act shall supersede any other act passed at the Regular Session of the 60th Legislature which amends any section of the Texas Election Code amended herein, regardless of the relative date of passage or approval of such other act,

and the enactment of any such other amendment shall be deemed null and void, as though it had not been enacted." Acts 1967, 60th Leg., p. 1858, ch. 723, § 23, which purported to amend this article, was deemed null and void, as though it had not been enacted, by Acts 1967, 60th Leg., p. 1026, ch. 452, § 4.

Art. 6.05c Order of offices and names of candidates

Subdivision 1. Order of state, district, county, and precinct offices.
(a) Whenever there are to appear on the ballot for any general, special, or primary election, two or more office titles of offices which are regularly filled at the general election provided for in Section 9 of this code,¹ they shall be listed on the ballot in the following relative order:

Federal offices:

President and Vice President
United States Senator
Congressman-at-Large
United States Representative (district office)

State offices:

(1) Statewide offices

Governor
Lieutenant Governor
Attorney General
Comptroller of Public Accounts
State Treasurer
Commissioner of General Land Office
Commissioner of Agriculture
Railroad Commissioner
Chief Justice, Supreme Court
Associate Justice, Supreme Court
Presiding Judge, Court of Criminal Appeals
Judge, Court of Criminal Appeals

(2) District offices

State Senator
State Representative
Member, State Board of Education
Chief Justice, Court of Civil Appeals
Associate Justice, Court of Civil Appeals
District Judge
Criminal District Judge
Judge, Domestic Relations Court
Judge, Juvenile Court

District Attorney
Criminal District Attorney

(3) County offices

County Judge
Judge, County Court-at-Law
Judge, County Criminal Court
Judge, County Probate Court
County Attorney
District Clerk
District and County Clerk.

County Clerk
 Sheriff
 Sheriff and Tax Assessor-Collector
 County Tax Assessor-Collector
 County Treasurer
 County School Superintendent
 County Surveyor
 Inspector of Hides and Animals
 (4) Precinct offices
 County Commissioner
 Justice of the Peace
 Constable
 Public Weigher.

The headings "federal offices" and "state offices" and the subheadings under "state offices" shall not be printed on the ballot.

(b) Whenever any new office within either of the above categories is created, the Secretary of State shall issue a directive designating its relative position on the ballot.

(c) Whenever the titles of party offices are to appear on the ballot for a primary election, they shall be listed following the public offices, in the order of "County Chairman" and "Precinct Chairman".

(d) Whenever any provision of this code authorizes or permits certain offices to be grouped and placed on a separate ballot or in a special column or section on the main ballot, the relative order as prescribed in Paragraph (a) of this subdivision shall be observed in listing such offices on the separate ballot or in the special column on the main ballot.

¹ Article 2.01.

Subdivision 2. Elections held by other political subdivisions. In elections held by municipalities, the office titles shall be listed on the ballot in the relative positions in which the offices are listed in the order calling the election, unless otherwise provided by charter or ordinance. In elections held by other political subdivisions, the authority calling the election shall determine the order of the offices on the ballot.

Subdivision 3. Order of names of candidates. (a) In any general or special election in which the names of more than one candidate for the same office are to be printed on the ballot in an independent or non-partisan column or are to be printed on the ballot without party designation, the order in which the names of such candidates are to be printed on the ballot shall be determined by a drawing, to be conducted by the county clerk in elections held at the expense of the county, by the city secretary in city elections, and by the officer with whom the applications for a place on the ballot are filed in elections held by other political subdivisions. The officer conducting the drawing shall post a notice in his office, at least three days prior to the date on which the drawing is to be held, of the time and place of the drawing, and shall also give personal notice to any candidate who makes written request for such notice and furnishes to the officer a self-addressed, stamped envelope; and each candidate involved in the drawing or a representative designated by him shall have a right to be present and observe the drawing.

(b) In primary elections, the order in which the names of the candidates appear on the ballot shall be determined in the manner provided in Section 195 of this code.¹

Amended by Acts 1967, 60th Leg., p. 1882, ch. 723, § 24, eff. Aug. 28, 1967.

¹ Article 13.17.

Synopsis of Changes—1967

Subdivisions 1 and 2, prescribing the order in which office titles are to be printed on the ballot, are new. Subdivision 3, relating to the order of the names of candidates on the ballot, carries forward the existing law without change.

Art. 6.06 How to mark ballot

In all elections, general, special, or primary, the voter shall place an "X" in the square beside the name of each candidate for whom he wishes to vote; provided, however, that if the voter places a plus sign (+) or a check mark (✓) or any other mark that clearly shows his intention, in such space, it shall be counted as a vote for that candidate, provided that no more names are thus marked than there are places to be filled. When party columns appear on the ballot, a voter desiring to vote a straight ticket may do so by placing an "X" or other clear mark in the square at the head of the column of the party for which he wishes to vote. If the name of the person for whom the voter wishes to vote is not printed on the ballot, the voter shall write in the name of the candidate for whom he wishes to vote, in the write-in column under the appropriate office title in elections where party columns appear on the ballot, and in an appropriate space under the title of the office in other elections; provided, however, that a voter shall not be entitled to vote for any candidate whose name is not printed on the ballot in any runoff election for nominating candidates or electing officers, and a space for write-in votes shall not be provided on the ballot for such elections. A voter shall also not be entitled to vote for any candidate whose name is not printed on the ballot in any other type of election where the law expressly prohibits votes for write-in candidates. In all elections where questions or propositions are to be voted on except local option elections held under the provisions of the Texas Liquor Control Act, the voter shall place an "X" or other clear mark in the square beside the statement indicating the way he wishes to vote on each proposition. The failure of a voter to mark his ballot in strict conformity with these directions or failure to vote a full ballot shall not invalidate the ballot, and a ballot shall be counted on all races and propositions wherein the intention of the voter is clearly ascertainable, except where the law expressly prohibits the counting of the ballot. It is specifically provided that the election officers shall not refuse to count a ballot because of the voter's having marked his ballot by scratching out the names of candidates for whom or the statement of propositions for which he does not wish to vote.

Amended by Acts 1967, 60th Leg., p. 1028, ch. 452, § 2, eff. Aug. 28, 1967.

Synopsis of Changes—1967

The change in this section is to provide for marking ballots by the method of placing an X or a check mark in a square beside the names of candidates or statements of propositions for which the voter wishes to vote, instead of the scratch method of

marking out the names of opposing candidates or contrary statements of propositions. It does not apply to local option elections held under the Texas Liquor Control Act.

Acts 1967, 60th Leg., p. 1026, ch. 452, §§ 1, 3 amended articles 6.05 and 6.07 respectively.

Art. 6.06a Write-in votes when office title is not on ballot

Whenever at any general election there is no candidate whose name is to be printed in the ballot for an office subject to being filled at that election and the officer making up the official ballot fails to list the title of the office thereon, no person shall be declared elected to the office by virtue of write-in votes cast by writing in the title of the office and the name of the candidate unless the total number of votes cast for all write-in candidates for that office exceeds fifty percent of the total number of voters participating in the election who are eligible to vote for the office.

Added by Acts 1967, 60th Leg., p. 1884, ch. 723, § 25, eff. Aug. 28, 1967.

Synopsis of Changes—1967

This new section provides that where write-in votes are cast for an office not printed on the ballot, the total number of write-in votes cast for all candidates for the office must exceed 50 percent of the total number of persons participating in the election before a write-in candidate will be declared elected. The purpose of the section is to prevent election of a candidate by a small number of write-in votes where the voters generally may not have been aware of the possibility that someone could be elected by write-in voting.

Art. 6.07 Constitutional amendments and other questions

Subdivision 1. When a proposed constitutional amendment or other question submitted by the Legislature is to be voted on, the form in which it is submitted if the Legislature has failed to prescribe the same, shall be prescribed by the Governor in his proclamation, describing the same in such terms as give a clear idea of the scope and character of the amendment in question. When more than one (1) proposed constitutional amendment or other question is submitted by the Legislature at one (1) election, the Secretary of State shall give to each such proposition and question a separate number, and shall certify the same together with its separate number to the county clerk of each county in the State. The number given to each such proposition, question or proposed amendment shall be determined by lot. The Secretary of State shall hold such drawing at a time and place designated by him and such drawing shall be open to the public. The propositions and questions so submitted shall be printed and numbered on the official ballot in the serial order in which they are numbered by the Secretary of State.

Subdivision 2. Such constitutional amendments shall be published, under the authority of the Secretary of State as required by the Constitution. The Secretary of State shall apportion the amendments to the contracting newspapers; shall furnish affidavit forms, in duplicate, to be executed by the owner, editor or publisher of the newspaper, when four (4) publications shall have been made; shall furnish one (1) approved copy of each executed affidavit to the Comptroller, who shall then authorize the Treasurer to issue warrant in the amount specified. Executed affidavits must be returned from the owner, editor or publisher of the newspaper, to the Secretary of State within thirty (30) days from the date of the last publication; unless this time limit is observed, the Secretary of State shall refrain from approving affidavits for payment. Provided, however, if the Secretary of State shall deem it more expeditious or economical he may apportion such amendments and make a written contract with any state-wide association of daily and weekly newspapers in Texas for the publication of such constitutional amendments in newspapers designated by him. Such association shall cause such amendments to be published in said newspapers in the manner required by the Constitution; shall furnish such materials as are necessary for a correct and uniform publication of such amendments in said newspapers; shall furnish affidavit forms, in duplicate, to such newspapers, to be executed by the owner, editor, or publisher thereof, when four (4) publications shall have been made; shall make an itemized report to the Secretary of State showing the names of all the newspapers in which such amendments were published, the number of column inches submitted to each publication, the cost of publication in each newspaper, together with a clipping for such newspaper, and any other information desired by the Secretary of State pertaining to such task; shall return within thirty (30) days from the date of the last publication all affidavits executed by the owner, editor, or publisher of such newspapers, together with an affidavit executed in duplicate by the general manager of such association that the amendments have been published by said newspapers as required by the Constitution, to the Secretary of State, who shall, after satisfying himself as to the proper publication of such amendments, furnish one (1) approved copy

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of the executed affidavit of the general manager of the association to the Comptroller, who shall authorize the Treasurer to issue warrant in the amount specified to the association. The Comptroller and Treasurer shall forthwith perform their duties in this connection, so that undue length of time shall not elapse between publication and payment therefor. The Legislature shall appropriate a sufficient fund for such publication, such fund to be estimated by the Secretary of State.

Subdivision 3. The form in which any proposition or question to be voted on by the people of any city, county or other subdivision of the State shall be submitted, unless prescribed by statute, city charter, or ordinance, shall be prescribed by the local or municipal authorities submitting it.

Amended by Acts 1967, 60th Leg., p. 1029, ch. 452, § 3, eff. Aug. 28, 1967.

Synopsis of Changes—1967

The change in this section is to delete a provision on method of marking ballots submitting constitutional amendments, which is now covered by Sections 61 and 62 of the Election Code [Arts. 6.05, 6.06]. Subdivision 3 has been amended to clarify that the local authorities prescribe the form in which a local proposition is to be

submitted only when the form has not been prescribed by statute, charter, or ordinance.

This amendment [Acts 1967, 60th Leg., p. 1858, ch. 723] was superseded by the amendment of the same section in Chapter 452. However, the changes made in the two amendments are identical.

Acts 1967, 60th Leg., p. 1026, ch. 452, §§ 1, 2 amended articles 6.05 and 6.06 respectively; section 4 of the act of 1967 provided: "This Act shall supersede any other act passed at the Regular Session of the 60th Legislature which amends any section of the Texas Election Code amended herein, regardless of the relative date of passage or approval of such other act, and

the enactment of any such other amendment shall be deemed null and void, as though it had not been enacted." Acts 1967, 60th Leg., p. 1858, ch. 723, § 26, which purported to amend this article, was deemed null and void, as though it had not been enacted, by Acts 1967, 60th Leg., p. 1026, ch. 452, § 4.

Art. 6.08. Repetaled. Acts 1967, 60th Leg., p. 1858, ch. 723, § 77. Eff. Aug. 28, 1967.

Synopsis of Changes—1967

Art. 6.08, Election Code, has been incorporated into Art. 6.05; Arts. 13.04A and 13.04b have been incorporated into Art.

13.04; and Art. 13.40 has been incorporated into Art. 13.34.

CHAPTER SEVEN—ARRANGEMENT AND EXPENSES OF ELECTION

Art. 7.15. Providing for Electronic Voting Systems [New].

Art. 7.07 County election board

In general and special elections for election of officers who are regularly elected at the general election provided for in Section 9 of this code,¹ the county judge, county clerk, sheriff, and county chairman of each political party which is required to nominate candidates by primary election shall constitute a board, a majority of whom shall act to provide the supplies necessary to hold and conduct the election. In all other elections held by the county, the board shall be composed of the county judge, county clerk and sheriff. As used herein, the word "supplies" means all supplies and equipment needed for the election, including, without limitation, ballot boxes, voting booths, guard rails, voting machines, and other voting equipment. The supplies shall be delivered to the presiding judges of

the election by the sheriff or any constable of the county, when not called for and obtained in person by the presiding judges, provided, however, that delivery of voting machines shall be made in accordance with the provisions of Section 79 of this code.² The board shall file with the commissioners court a written report of their action as to supplies furnished by the county, giving a detailed statement of the expenses incurred in procuring such supplies.

Amended by Acts 1967, 60th Leg., p. 1885, ch. 723, § 27, eff. Aug. 28, 1967.

¹ Article 2.01.

² Article 7.14.

Synopsis of Changes—1967

Adds the county chairmen of the major political parties to the election board in general and special elections for the election of officers. (For other elections held by the county, the board continues to be composed of the county judge, county clerk, and sheriff.) Adds a provision clarifying that the board has jurisdiction over distribution of voting machines.

Art. 7.14 Providing for voting machines

* * * * *

Sec. 14. Instructions for voters in the polls. In addition to the sample ballots and model hereinbefore mentioned, which shall be prominently displayed and the particular attention of each voter thereto called by the presiding officer, if any voter after entering the machine, but before the curtains thereof are closed, shall desire further instructions, an election officer shall give such instruction without asking, persuading, or otherwise trying to induce such voter to vote for or against any ticket, candidate, amendment, question, or proposition, and watchers may be present while such instruction is being given. Finishing instructions, the election officer and watchers shall retire, whereupon such voter shall close the curtain and vote as in the case of an unassisted voter.

Sec. 14 amended by Acts 1967, 60th Leg., p. 1886, ch. 723, § 28, eff. Aug. 28, 1967.

* * * * *

Sec. 18. Making out the returns and proclamation of the result. (a) Prior to the day of election, the authority charged with furnishing the supplies for the election shall cause to be prepared the necessary blanks for the statement of canvass mentioned herein, which shall be delivered to the presiding judge with other supplies for the election. The statement of canvass shall be of a form to be approved by the Secretary of State and shall conform with the type of voting machine to be used, and the designating number and letter of each candidate or proposition shall be printed next to the candidate's name or the proposition on the statement of canvass.

(b) As soon as the polls are closed, the election officers shall immediately lock the machine against voting. They then shall sign a certificate stating that the machine was locked and sealed, giving the exact time, and giving the number of voters shown on the public counters, which shall be the total number of votes cast on such machine in that precinct, the number on the seal, and the number registered on the protective counter. (This also shall be the procedure at the close of absentee voting when the machines are used for absentee voting by personal appearance.) They then shall open the counting compartment in the presence of the watchers, giving full view of all the counter numbers. The presiding judge shall, under the scrutiny of the watchers, in the order of the offices as their titles are arranged on the machines read and announce in distinct tones the designating number and letter on each counter for each candidate's name, and the result as shown by the counter numbers, and shall then read the votes recorded for each office on the irregular ballots. He shall also in the same manner announce

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the result of each proposition voted on. The vote as registered shall be entered on the statements of canvass in ink by two clerks and verified by the three election officers and by two watchers of opposing interest (if there be such), the entries to be made in the same order on the space which has the same designating number and letter, after which the figures shall again be verified by being called off in the same manner from the counters of the machines by watchers of opposed interest (if there be such). The returns of the canvass as required by law shall then be filled out and verified, and shall show the number of votes cast for each candidate and the number of votes cast for and against any proposition submitted, and shall be signed by the three election officers and at least two watchers of opposed interest (if such there be). The counter compartments of the voting machine shall remain open throughout the time of making of all statements and certificates and the official returns and until they have been fully verified, and during such time any candidate or his representative or any representative of any newspaper or press association shall be admitted. The proclamation of the result of the votes cast shall be deliberately announced in a distinct voice by the presiding judge, who shall read the names of each candidate, with the designating number and letter of his counter, and the vote registered on such counter, and also the vote cast for or against any proposition submitted. During such proclamation ample opportunity shall be given to any person lawfully entitled to be in the polling place to compare the results announced with the counter dials of the machine, and any necessary corrections shall then and there be made, after which the doors of the voting machine shall be locked and sealed with the seal provided, so sealing the operating lever of the machine that operation of the voting and counting mechanism will be prevented.

(c) If the machine is provided with a device which produces a printed record of the numbers registered on the counters, the procedure outlined herein shall be followed in lieu of the procedure set out above for preparation of the statements of canvass. After preparation of the certificate giving the number of voters shown on the public counters and the other information as provided for in the preceding paragraph, the presiding judge, in the presence of at least two clerks and two watchers of opposed interest (if such there be) and of any other person lawfully present who wishes to observe, shall take the necessary steps to secure a printed record from each machine. The election officers shall then open the counter compartments and shall compare the printed record with the counters, verifying that the printed record correctly shows the designating number and letter on each counter and the result as shown by the counter numbers. Ample opportunity shall be given to all persons lawfully entitled to be present at the polling place to examine the printed record and compare it with the machine. The printed record shall then be signed by the presiding judge and two clerks and by two watchers of opposed interest (if such there be), certifying that the printed record was obtained from the machine designated thereon and that the printed record was compared with the machine and correctly records the results as shown on the counter dials, and the certified printed record shall constitute the official statement of canvass for that machine. The returns of the canvass shall then be filled out, verified, and signed as provided in the preceding paragraph.

(d) After the making out of the returns has been completed, the presiding judge shall deliver immediately, and in no event later than five hours after the closing of the polls, the statement of canvass and the returns to the proper authorities as provided by law. Irregular ballots, properly sealed and signed, shall be delivered to the officer designated by law as the custodian of voted paper ballots, and shall be preserved in the same manner and for the same length of time as provided by law for other ballots. The presiding judge shall deliver to the coun-

ty clerk the keys of the voting machine enclosed in a sealed envelope, across the seal of which shall be written his own name together with that of at least two watchers of opposed interest (if such there be) or of two other election officers, and on the envelope shall be recorded the date of the election, the number of the precinct, the number of the seal with which the machine was sealed, the number of the public counter and the number of the protective counter.
 Sec. 18 amended by Acts 1967, 60th Leg., p. 1886, ch. 723, § 29, eff. Aug. 28, 1967.

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Synopsis of Changes—1967

Amended [Sec. 14] to require that the instructions to the voter be given by an election judge or clerk rather than by watchers.

Amended [Sec. 18] to require that the returns be delivered by the election judge within five hours after the polls close. See first sentence of Paragraph (d). This is the only change.

Art. 7.15 Providing for Electronic Voting Systems

Subdivision 1. Purpose. The purpose of this section is to authorize the use of electronic voting systems in which the voter records his votes by marking or punching a ballot which is so designed that votes may be counted by data processing machines.

Subdivision 2. Definitions. As used in this section, unless otherwise specified:

- (a) "Electronic voting system" means a system of voting in which voted ballots are counted and tabulated by automatic tabulating equipment.
- (b) "Automatic tabulating equipment" means any apparatus which automatically examines and counts voted ballots and tabulates the results.
- (c) "Voting equipment" means any kind of equipment used in connection with an electronic voting system other than automatic tabulating equipment.
- (d) "Ballot card" means a card which is placed upon or inserted in a voting device and which is marked or pierced by the voter in the process of voting.
- (e) "Ballot labels" means card, papers, booklet, pages, or other material attached to a voting device containing the names of offices, candidates and parties and statements of measures to be voted on.
- (f) "Ballot" may refer to paper ballots, ballot cards, ballot labels, or combinations of ballot cards and ballot labels depending on the context.
- (g) "Central counting station" means one or more locations selected by the proper public official for the automatic counting and tabulating of ballots.

Subdivision 3. Examination and approval of electronic voting systems. (a) Any person, firm, or corporation desiring to have an electronic voting system adopted for use in this state may apply to the Secretary of State to have such system examined. Before the examination the applicant shall pay to the Secretary of State the sum of \$450. The Secretary of State shall cause such system to be examined as hereinafter provided and shall make and file and keep on file in his office a report of such examination, which shall show whether the system so examined meets the requirements set forth in Subdivision 4 of this section. If the report states that the system meets those requirements, it shall be approved, and the system may be adopted for use at elections as provided in this section.

(b) Before making and filing his report, the Secretary of State shall require the system to be examined by three examiners to be appointed by the Secretary of State for such purpose, one of whom shall be expert in patent law, one of whom shall be expert in electronic data proc-

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essing, and one of whom shall be expert in election law and procedure, and shall require from them a written report on their examination, which shall be attached to the Secretary of State's report and kept on file. Each examiner shall receive one hundred and fifty dollars as his compensation and expenses in making the examination and report. Neither the Secretary of State nor any examiner shall have any pecuniary interest in any electronic voting system. When a system has been approved, any improvement or change that does not impair its accuracy, efficiency, or capacity shall not make necessary a reexamination or reapproval thereof. Any electronic voting system not approved as herein provided cannot be used at any election in this state.

Subdivision 4. Requirements for electronic voting systems. (a) Any electronic voting system approved by the Secretary of State must meet the following requirements:

(1) It must permit voting in absolute secrecy, except in the case of voters who have received assistance as provided in this code.

(2) It shall permit each voter:

(A) to vote at any election for all persons and offices for whom and for which he is lawfully entitled to vote, and no others;

(B) to vote, in a general election, for any person for any office, whether or not nominated as a candidate by any party but whose name is legally on the ballot as an independent candidate;

(C) to vote for a person whose name does not appear on the ballot, in any election and for any office where write-in votes are permitted by law;

(D) to have his vote counted for no more than one person for the same office, unless permitted by law, and at the same time prevent his vote from being counted more than once for the same person for the same office;

(E) to vote for or against any question upon which he is entitled to vote;

(F) to vote, by means of a single mark or punch, for all candidates of one party or to vote a split ticket as he desires.

(b) No electronic voting system shall be approved by the Secretary of State unless he finds that it is suitable for the purpose for which it is intended, and that it will operate efficiently and accurately and provide adequate safeguards against fraudulent manipulation under the conditions under which it is intended to be used.

(c) In his certification of approval of any electronic voting system, the Secretary of State shall certify whether in cases where a voter splits a straight party vote, the system is capable of counting the straight party vote only for the candidates of that party for offices as to which the voter has not voted for individual candidates and of counting the votes cast for individual candidates. If the system is so certified, the voting of a split ticket in that manner shall be allowed in elections using that system.

Subdivision 5. Adoption by commissioners court. (a) The commissioners court of any county in the state may adopt one or more kinds of approved electronic voting systems for use in elections in part or all of the election precincts in the county. If a particular system is not adopted for use throughout the county, the commissioners court shall designate the precincts, which shall be not less than three in number, in which such system is to be used, and any other authorized method of voting may be used in the remaining precincts. The court may provide that in any precinct designated for use of a particular electronic voting system the voting in that precinct may be supplemented by use of some other authorized method of voting when in any election it appears that the number of available units of the system designated for use in that

precinct is inadequate for that election; and the officer or board charged with the duty of furnishing supplies of the election may make such supplementation under those conditions.

(b) The commissioners court at any time may rescind or modify its previous order or orders adopting any electronic voting system and may discontinue use of the system altogether, but use of the system shall be retained in at least three of the voting precincts if retained for use in any part of the county.

(c) The electronic voting system adopted by the commissioners court shall be used at the biennial general elections for state and county officers in all precincts designated by the court for use of such system. In all other elections, general, special, or primary, the authority holding the election shall determine within its discretion whether the voting in such precincts for the particular election shall be by use of such system or by some other authorized method of voting in any or all of the precincts for which the system has been adopted. The determination shall be made by the commissioners court in elections held at the expense of the county, by the governing body of the municipality or political subdivision in elections held by municipalities and other political subdivisions, and by the county executive committee of the party holding the election in primary elections of political parties.

Subdivision 6. Experimental use of electronic voting systems. The commissioners court of any county in the state may secure, for experimental use at elections in one or more precincts, without formal adoption thereof, any kind of electronic voting system approved by the Secretary of State, and its use at any election in such precinct within the period specified by the commissioners court for experimental use of such electronic voting system shall be as valid for all purposes as if it has been formally adopted; provided, however, that the period for experimental use shall not exceed two years from the date of the order authorizing its use.

Subdivision 7. Providing voting equipment. The commissioners court of a county which has adopted an electronic voting system for that county or any portion thereof, shall as soon as practicable and in no case later than six months after adoption thereof, provide for each election precinct designated the voting equipment which the court deems necessary for accommodation of voters in the general election for state and county officers, and shall thereafter preserve and keep such equipment in repair. The commissioners court may also, if it deems such action in the best interests of the county, provide for the county a suitable number of pieces of automatic tabulating equipment for use in the central counting stations in the county.

Subdivision 8. Payment for voting equipment and automatic tabulating equipment. (a) The commissioners court shall provide for the payment for voting equipment and automatic tabulating equipment to be used in such county in such manner as the court may deem for the best interests of the county, and for the purpose of paying for such voting equipment or automatic tabulating equipment, or both, the commissioners court is hereby authorized to issue bonds, certificates of indebtedness, warrants, or other obligations to be used for this purpose and no other, which shall be a charge against the general revenue fund of the county. Such bonds, certificates of indebtedness, warrants, or other obligations may be issued with or without interest payable at such time or times as the commissioners court may determine, but shall never be issued or sold for less than par. The commissioners court shall issue such bonds, certificates of indebtedness, warrants, or other obligations in the same manner and with the same authority as provided for the issuance of bonds, certificates of indebtedness, warrants, or other obligations by the general laws of this state. The necessary tax shall be set aside at the

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time of creating such obligation so as to meet the debt provisions of the Constitution.

(b) If the commissioners court of any county deems it for the best interests of such county, the court is hereby authorized to contract for the renting of an electronic voting system or any portion thereof by such county for use in elections for a term of not more than five years in any one contract of rental. Upon expiration of such terms of contract of rental, the commissioners court may renew or extend the contract from time to time. The commissioners court of any county is also authorized to accept proposals of rental and/or sale of electronic voting systems or any part thereof wherein the rentals paid by such county for the use of such an electronic voting system or a part of the rentals may be applied on the purchase price of such system if the commissioners court determines that it is to the best interest of the county to do so.

(c) The voting equipment and automatic tabulating equipment shall be the property of the county paying for or renting it, subject to the terms of the rental contract. When used in any election not held at the expense of the county, the voting equipment and county-owned tabulating equipment so used shall be leased to the authority holding the election, and payment shall be received by the county at such lease price as the commissioners court shall fix for each piece of voting equipment or tabulating equipment used, but not to exceed ten percent of the original cost of the unit for each election day such equipment is used; and the authority charged with the expense of holding the election shall pay the lease price, whether it be a municipality or other political subdivision, a political party, or any other organization or authority.

(d) Notwithstanding any other provision of this subdivision, the commissioners court may enter into agreements with the owners or lessees of automatic tabulating equipment located at central counting stations designated by the court pursuant to this section, under which the authority holding the election will pay to such owner or lessee a stipulated charge for use of the equipment under such terms as may be agreed upon. Any such agreement shall be for a term of not more than two years, but it may be renewed or extended from time to time.

Subdivision 9. Absentee voting. (a) In any election in which an electronic voting system is to be used in all or part of the voting precincts, the authority charged with holding the election shall within its discretion determine by proper resolution or order whether or not an electronic voting system shall be used for absentee voting by personal appearance at such election. If the electronic voting system is to be used for such absentee voting and more than one kind of system has been adopted by the commissioners court, the authority shall specify what kind is to be used.

(b) If the authority holding the election determines that an electronic voting system shall be used for absentee voting by personal appearance, the necessary ballots and voting equipment shall be provided in the clerk's office. The procedure for absentee voting by personal appearance where paper ballots are used shall be followed insofar as it can be made applicable. The clerk shall enter on a poll list the name of each such voter at the time he votes. If an electronic voting system is used for voting by personal appearance and the absentee ballots voted by mail are counted manually, such ballots shall be counted by a special canvassing board as provided in Subdivision 6 of Section 37 of this code.¹ The board shall also prepare the voted electronic voting system ballots for delivery to the central counting station in the manner provided in Subdivision 19 of this section, and such ballots shall be delivered to the central counting station and there tabulated, as provided in Subdivisions 19 and 20 of this section. The presiding judge shall add the results of any manually counted ballots and the results of any write-in votes to the

tabulation made on the automatic tabulating equipment, and shall make returns showing the totals thus obtained.

(c) When absentee ballots voted by personal appearance are to be marked with an ordinary pen or pencil in the manner that ordinary paper ballots are marked, and the absentee ballots are to be counted manually, the ballots shall be handled in the manner provided in Section 37 of this code for the handling of absentee paper ballots, and shall be counted and tallied by a central canvassing board or by the precinct election officers, as the case may be, in the same way that paper ballots are tallied. Absentee ballots sent to precinct polling places for counting shall be added to the results for ballots cast at the polling place.

(d) When absentee voting is conducted by paper ballots, the ballots prepared for use in the electronic voting system may be used, if practicable, in the absentee voting both by personal appearance and by mail; otherwise, the ballots shall be prepared as ordinary paper ballots provided for in this code.

(e) The authority holding the election may authorize true copies of paper absentee ballots voted by personal appearance or by mail to be made on electronic voting system ballots in the presence of watchers and the ballots counted and tabulated in the manner provided in Subdivisions 19 and 20 of this section. Both the original ballot and the duplicate shall be preserved. Each duplicate ballot shall be clearly labeled by the word "Duplicate" and shall bear a serial number, which shall also be recorded on the original ballot.

¹ Article 5.05.

Subdivision 10. Instruction of election officers. Not less than three days before an election, the authority holding the election shall cause to be held a public school of instruction on the use of the electronic voting system for those who will conduct the election at the polling places and those who will be at the central counting stations, such school to be open to any interested person. Notice of the meeting shall be given to the public press at least 48 hours before it is to be held.

Subdivision 11. Form of the ballot. (a) Except as otherwise provided herein, the ballot for electronic voting systems shall conform to the applicable provisions of this code governing voting by ordinary paper ballots to the extent that they are consistent with the use of electronic voting systems.

(b) This paragraph (b) shall govern the form of the ballot to be used with electronic voting systems in which the voter records his votes on a ballot on which the names of offices, candidates and parties and statements of measures to be voted on are set forth in a manner similar to ordinary paper ballots.

(1) Ballots may be of such size, composition, texture, and color (other than yellow, which shall be used for sample ballots only), and may be printed in any type of ink or combination of inks that will be suitable for use in the automatic tabulating equipment in which they are intended to be placed. Printing on the ballots shall be of such size that it will be clearly legible when read by the voter in the manner contemplated by the voting system being used.

(2) The ballots may contain printed code marks or prepunched holes necessary for placing the ballots in correct reading position in the tabulating equipment, but the code marks or prepunched holes shall not be used in any way that will reveal the identity of the voters voting the ballots.

(3) The ballot may be divided into parts and printed upon two or more pages. Where all candidates for the same office or all party columns cannot be placed on the same face of the same page, the candidates or columns may be carried on more than one page, but in such event the first page of the sequence shall contain a statement that the names of

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other candidates or other party columns appear on the following page or pages. If the ballot is printed on more than one page, different tints of paper other than yellow, or some other suitable means may be used to facilitate the sorting of ballots. Each page shall bear the ballot number, and other appropriate provision may be made for identifying the related parts of the ballot. When party columns appear on the ballot, there shall be printed at the head of the ballot the names of the parties and a space for voting a straight party ticket.

(4) Each ballot shall have attached at the top a detachable stub of such size and placement on the ballot as is appropriate for the tabulating equipment to be used for counting the ballots. The stub shall contain the printing specified in Section 61 of this code,¹ and shall contain no other printing or writing, except that it may contain the instructions for marking the ballot.

(c) This subparagraph (c) shall govern the form of the ballot to be used with electronic voting systems in which the names of offices, candidates and parties and statements of measures to be voted on are set forth on ballot labels attached to a voting device and the voter records his vote by marking or punching a ballot card which is placed upon or inserted in the voting device.

(1) Ballot cards may be of such size, composition, texture and color (other than yellow, which shall be used for sample ballots only) and may be printed in any type of ink or combinations of ink that will be suitable for use in the automatic tabulating equipment in which they are intended to be placed. Ballot labels may be of such size, composition, texture and color (other than yellow) that will be suitable for use on the voting device on which they are placed. Printing on the ballot label shall be of such size that it will be clearly legible when read by the voter in the manner contemplated by the voting system being used.

(2) Ballot cards may contain printed code marks or prepunched holes to assure that the card is properly positioned in the voting device or to assure that the card is placed in correct reading position in the tabulating equipment, but the code marks or prepunched holes shall not be used in any way that will reveal the identity of the voters voting the ballots.

(3) The names of candidates, offices, parties and statements of issues to be voted on may be printed on two or more ballot labels placed on the voting device. Where all candidates for the same office or all party columns cannot conveniently be placed on the same face of the same label, the candidates or columns may be carried on more than one page, but in such event the first page of the sequence shall contain a statement that the names of other candidates or other parties appear on the following page or pages. If the ballot is printed on more than one ballot label, different tints of paper, other than yellow, may be used for different pages of the ballot labels, and other suitable means may be adopted to facilitate the use of the ballot labels with the ballot card. When party columns appear on the ballot there shall be printed at the head of the ballot the names of the parties and a space for voting a straight ticket.

(4) In elections in which party columns appear on the ordinary paper ballot, the following method of showing party affiliations may be used in lieu of party columns. The title of each office shall be printed on the party labels followed by the names of the candidates for that office and their party affiliations, if any. Provision shall be made on the first page of the ballot labels for voting a straight party ticket, and the candidate of the party which is printed in the first party column on paper ballots shall be printed in the first position under the office title, the candidate of the party which is printed in the second column on paper ballots shall be printed in the second position, and so on. Uncontested races may be listed separately from contested races under the heading "Uncontested Races."

(5) Each ballot card shall have attached at the top a detachable stub of such size and placement on the card as is appropriate for the tabulating equipment to be used for counting the ballots. The stub shall contain the printing specified in Section 61 of this code,¹ and shall contain no other printing or writing, except that it may contain the instructions for marking the ballot.

(6) If the number of candidates and/or propositions to be voted upon in any election exceeds the capacity of one voting device, the ballot may be divided into parts and a different voting device used for each of the separate parts. A separate voting device shall be provided for each part at each polling place, but in all cases where more than one device is necessary to list the entire ballot, the names of all candidates for any particular office shall be placed on one device. Each ballot card shall bear the ballot number, and other appropriate provision may be made for identifying the related ballot cards. In lieu of using an additional voting device for listing the ballot, uncontested races may be listed separately under the heading "Uncontested Races," with the name of each candidate appearing under the title of the office for which he is a candidate, and if the election is one in which party columns appear on the ballot, the party affiliation of the candidate shall be indicated by printing the name of the party which nominated him (or the word "Independent" if he is an independent candidate) after the candidate's name; and all such uncontested races may be voted on as a bloc.

(7) If the authorities holding the election determine, in their discretion, that more than one voting device is necessary to accommodate the number of voters in an election precinct, as many voting devices shall be used for each precinct as such authorities deem necessary, and the same form of ballot containing the names of all candidates and/or propositions arranged in the same manner shall be provided for each device.

(8) A separate write-in ballot, which may be in the form of an envelope in which the voter places his ballot or ballot card after voting, shall be provided to permit voters to vote for a person whose name does not appear on the ballot.

(d) This subparagraph (d) shall apply to the form of the ballot for all electronic voting systems.

(1) Where officers are to be elected or nominated, there shall be printed on each ballot the following instruction note: "Vote for the candidate of your choice in each race by placing a punch hole in the space provided adjacent to the name of that candidate." Where the ballot is to be marked with a marking device using ink or other substance, the work "mark" shall be substituted for "punch hole." Appropriate changes in the instruction note shall be made where only one race is listed on the ballot or where more than one person is to be elected in any given race. Where measures or propositions are to be voted on, the instruction note shall be: "Place a punch hole (mark) in the space provided beside the statement indicating the way you wish to vote." The ballots shall also contain instructions on how to vote a straight ticket, how to vote a split ticket, and how to vote for a candidate whose name is not on the ballot. The wording of the instructions shall be prescribed by the Secretary of State.

(2) The statement of propositions and measures submitted to the voters may be abbreviated on the ballot if necessary, provided there is displayed in each voting booth or place prepared for the voter to mark his ballot the verbatim statement on each proposition or measure as it appears on paper ballots. Abbreviation of matter to be voted on throughout the state shall be done by the Secretary of State.

¹ Article 6.05.

Subdivision 12. Sample ballots and instruction cards. The authority charged with providing ballots for an election where an electronic vot-

For Annotations and Historical Notes, see V.A.T.S.

ing system is used shall provide sample ballots and printed instruction cards for voting. Without limitation on other instructions which may be included, the instruction card shall include instructions on how to mark the ballot, how to vote for a person whose name is not printed on the ballot, how to vote a straight ticket or a split ticket where party columns or party affiliations are on the ballot, and how to secure an additional ballot if the ballot is spoiled or marked erroneously. Throughout the time the polls are open, a sample ballot and instruction card shall be posted in each booth or place prepared for the voter to mark his ballot. Extra voting equipment for demonstration purposes may be placed in the polling place.

Subdivision 13. Instructions to voters. In addition to the sample ballots and instruction cards hereinbefore mentioned, if any voter desires further instructions, an election officer shall give such instruction without asking, persuading, or otherwise trying to induce such voter to vote for or against any ticket, candidate, or measure, and watchers may be present while such instruction is being given. Finishing instructions, the election officer and watchers shall retire and the voter shall proceed to mark his ballot.

Subdivision 14. Assistance to voter. If because of some bodily infirmity a voter is physically unable to operate the voting equipment or to see, he may be assisted by two election officers, or by a person selected by the voter, who shall mark the ballot in accordance with the voter's wishes. The provisions of Section 95 of this code¹ govern the assistance rendered insofar as they can be made applicable.

¹ Article 8.13.

Subdivision 15. Ballot box and stub box. For each polling place where an electronic voting system is used, there shall be supplied two ballot boxes for the deposit of voted ballots, which shall be of suitable design and with a suitable opening for placing the ballots therein in such manner that the ballots will not be damaged or rendered unfit for counting on the tabulating equipment. There shall be supplied a stub box prepared in the manner prescribed in Section 97 of this code,¹ except that the opening thereof shall be of such size as necessary, but no larger, to permit the convenient deposit of the ballot stubs used at the election. There shall also be supplied suitable containers for transporting the voted ballots to the central counting station.

¹ Article 8.15.

Subdivision 16. Preliminaries of opening the polls. There shall be provided for each polling place sufficient voting equipment to accommodate the voters at the election. Before the time set for opening the polls, the presiding judge shall inspect the equipment to ascertain whether it is in good working condition. Each voting booth shall be so placed that it will be in full view of all election officers and watchers at the polling place but will permit a voter to mark his ballot in secret.

Subdivision 17. Conduct of the voting. (a) The procedure at the polls where voting is by use of an electronic voting system shall be the same as at polling places where paper ballots are used, except as provided in this section. Where the portion of the ballot to be marked by the voter consists of more than one page or ballot card, the related parts may be placed in an envelope or otherwise secured so that the parts will not become separated before delivery to the voter. When a voter selects his ballot, he shall be instructed to use only the voting equipment provided for marking the ballot and that he is not to mark his ballot in any other way and is not to place any other marks thereon, except for write-ins. After a voter has marked his ballot, he shall follow the procedure prescribed in Section 97 of this code¹ for signing and detaching the ballot stub and for deposit of the ballot and stub.

(b) The election officers shall inspect the voting equipment from time to time while voting is in progress to ascertain that it has not been

injured or tampered with and is in proper working order. If any equipment becomes out of order at an election, it shall be repaired or replaced as promptly as possible. If repair or replacement cannot be made, the ballots may be marked with a pencil and counted manually in the same manner that paper ballots are counted.

¹ Article 8.15.

Subdivision 18. Procedure while polls are open. At any time after the expiration of one hour after the voting has begun, the presiding judge may direct the receiving officers to deliver ballot box No. 1 to the counting officers, who shall immediately deliver in its place ballot box No. 2, which shall be opened and examined and securely closed and locked; and until the boxes are again interchanged, the voters shall deposit their ballots in box No. 2. In this manner, ballot boxes No. 1 and No. 2 may be interchanged periodically as directed by the presiding judge, but the box for receiving the ballots shall not be delivered to the counting officers and the ballots shall not be removed from it at any time before the polls are closed unless there are more than ten ballots in the box. Once the box for receiving the ballots is delivered to the counting officers, they shall remove the voted ballots from the ballot box and carry out the procedures prescribed in Subdivision 19 of this section preparatory to making the ballots, envelopes, and other materials ready for delivery to the central counting station. The authority holding the election may in its discretion also provide that voted ballots of designated precincts shall be delivered by authorized election officials, in the presence of watchers, to a central counting station at stated intervals during the day and that the processing of such ballots in accordance with the procedures prescribed in Subdivision 20 may begin prior to the close of the polls. Such processing may be limited by the authority holding the election to procedures preparatory to the counting and tabulating of ballots, or the authority holding the election may also permit the preliminary counting and tabulating of ballots with automatic tabulating equipment; but in no event shall any results be disclosed prior to the close of the polls, and all persons connected with the handling and tabulating of the ballots shall be subject to the provisions of Section 105 of this code¹ with respect to revealing information as to the results of the election.

¹ Article 8.23.

Subdivision 19. Procedure after polls are closed. (a) As soon as the polls are closed and the last ballot has been deposited in the ballot box, the election officers shall immediately secure or inactivate all voting equipment in the polling place so that no equipment may be used or operated by any unauthorized person. They shall then count the number of names on the poll list, the number of unused ballots and the number of spoiled ballots returned by voters, and shall insert these totals on the report forms provided therefor. They shall then remove from the ballot box all voted ballots not theretofore removed in accordance with Subdivision 18 of this section. They shall examine the ballots for write-in votes and count the votes cast for candidates whose names have been written in; provided, however, that if the voting system is such that write-in votes can be detected and segregated by the tabulating equipment, the counting of write-in votes may be done at the central counting station. Before any write-in vote is counted, the election officers shall examine the ballot to ascertain whether the write-in vote is valid, and count it only if it is found to be valid. A notation shall be made on the invalid portion of a ballot and it shall be segregated from other ballots and placed in the container provided for that purpose. Write-in votes shall be added to the results of the count of the ballots at the central counting station and be included in the official returns for the precinct. If the ballot consists of more than one part, the precinct election officials, after checking for write-in votes, shall then sort the ballots according to types or parts.

For Annotations and Historical Notes, see V.A.T.S.

(b) The authority holding the election shall provide metal or wood ballot containers with numbered metal seals for use in delivering voted ballots from the polling place to the central counting station. A record of the serial numbers of the seals shall be preserved, and a copy of such records shall be furnished the central counting station. All voted ballots which are to be counted by automatic tabulating equipment shall be placed in a ballot container at the polling place for delivery to the central counting station. The poll lists and tally sheets for write-in votes shall be enclosed in envelopes provided for that purpose and placed in the container with the voted ballots. Before sealing the ballot container, the election judge shall execute a certificate in triplicate recording the number of ballots placed in the container and the serial number of the seal. The certificate shall also be signed by an election clerk as witness and by at least two watchers of opposed interests if such there be. The original of the certificate shall be placed in the container with the ballots, and the container shall then be sealed so that no additional ballots may be deposited and no ballots may be removed without breaking the seal. One copy of the certificate shall be immediately mailed to the authority holding the election in a pre-addressed stamped envelope at the nearest post office or postbox by two election officers other than those who deliver the ballot container to the counting station. The other copy of the certificate shall be retained with the election records at the polling place.

(c) After the ballot container is sealed, two authorized election officers shall immediately deliver the ballot container to the central counting station, and watchers shall have the privilege of accompanying them and of being present throughout the proceedings at the polling place and at the central counting station. The container shall be opened only by the person in charge of the central counting station or his designated representative, who shall inspect the container and the seal and shall verify the serial number on the seal with the record of serial numbers provided by the authority holding the election and with the original certificate enclosed in the container. Any irregularities shall be reported to the officer in charge of the counting station, who shall take appropriate action. After the container has been opened and the ballots removed, the original certificate and the broken seal shall be preserved with the other permanent election records of the central counting station.

(d) As an alternative to the procedure provided above, the authority holding the election may in its discretion provide pre-locked and pre-sealed ballot boxes for use in designated precincts and require that ballot boxes be delivered to the central counting station in their locked and sealed condition and that the processing of voted ballots required to be performed at the polling place by the above provisions be performed at the central counting station. In that event, the authority holding the election shall provide an adequate number of ballot boxes for each polling place, which shall be locked and sealed prior to delivery. Each ballot box shall be locked in such a way that it may not be opened except with a key of which only the election authority has possession and sealed with a numbered metal seal in such a way that the ballot box may not be opened without breaking the seal. A record of the serial numbers of the seals shall be preserved, and a copy of such record and the keys to the ballot box locks shall be furnished the central counting station. Upon completion of the voting at the polling place, or whenever a ballot box has been inactivated, the ballot box slot through which ballots are inserted shall be closed with a paper seal signed by the election judge, an election clerk, and two watchers of opposed interests if such there be. The ballot box containing the voted ballots shall then be delivered to the central counting station by the election officers in its locked and sealed condition under the same security measures as are provided in Paragraph (c) above for ballot containers. All procedures provided above to be performed at the polling place other than the processing of voted ballots shall be performed by the election

officers at the polling place, and copies of all poll lists and reports shall be enclosed in envelopes provided for that purpose and inserted in the final ballot box to be delivered to the central counting station before the ballot box slot is sealed. The ballot box shall be opened at the central counting station only by the person in charge or his designated representative, who shall inspect the ballot box, the metal seal and the paper seal and shall verify the serial number on the metal seal with the record of serial numbers provided by the election authority. Any irregularities shall be reported to the officer in charge of the counting station, who shall take appropriate action. The broken metal and paper seal shall be preserved with the other permanent election records of the central counting station. After the ballot box has been opened, the voted ballots shall be processed in the manner provided in Paragraph (a) above by authorized central counting station election officers. The presiding judge for the polling place or his designated representative shall have the privilege of being present during such processing, and watchers shall have the privilege of being present throughout the proceedings both at the polling place and the counting station. In the event the election authority permits early processing of ballots at the central counting station as provided in Subdivision 18, emptied ballot boxes may be relocked and resealed at the central counting station by representatives of the election authority for further use at polling places.

(e) After the election officers at the polling place have delivered all ballots to the central counting station, the stub box and all other election supplies and records, including all duplicate certificates and unused seals, shall be delivered to the proper authority designated by law to receive them.

Subdivision 20. Procedure at central counting station. (a) The commissioners court shall establish one or more central counting stations to receive and tabulate voted ballots. A central counting station shall be under the supervision and control of the commissioners court, and all persons employed and designated to handle the ballots or operate the tabulating equipment shall be approved by the commissioners court. No person except one employed and designated for the purpose shall touch any ballot card or ballot container.

(b) Prior to the start of the count of the ballots, the authority in charge of holding the election shall have the automatic tabulating equipment tested to ascertain that it will accurately count the votes cast for all offices and on all measures. Public notice of the time and place of the test shall be given at least forty-eight hours prior thereto by publication once in one or more daily or weekly newspapers published in the county, city or other political subdivision where such equipment is used, if a newspaper is published therein, otherwise in a newspaper of general circulation therein. The test shall be conducted by processing a preaudited group of ballots marked or punched so as to record a predetermined number of valid votes for each candidate and on each measure, and shall include for each office one or more ballots which have votes in excess of the number allowed by law in order to test the ability of the automatic tabulating equipment to reject such votes. In such test a different number of valid votes shall be assigned to each candidate for an office, and for and against each measure. If any error is detected, the cause therefor shall be ascertained and corrected and an errorless count shall be made and certified to by the person in charge of the test before the count of the official ballots is started. The tabulating equipment shall pass the same test at the conclusion of the count before the election returns are approved as official. On completion of the test count, the programs and test materials shall be sealed and retained as provided for paper ballots.

(c) The ballots for the various election precincts shall be separately tabulated by precincts. The ballots for a precinct shall be removed from their containers and prepared for processing by the automatic tabulating

For Annotations and Historical Notes, see V.A.T.S.

equipment. They shall be checked to ascertain that they are properly grouped and arranged so that all similar ballots from the precinct are together.

(d) The valid portion of a ballot which has been invalidated in part by the election officers as provided in Subdivision 19 of this section may be duplicated in the presence of watchers and substituted for the partially invalidated ballot, which shall be preserved, or such partially invalidated ballots may be counted manually.

(e) If it appears that a ballot cannot be counted by the automatic tabulating equipment, it may be counted manually or the person in charge of the counting station may cause a duplicate ballot to be made in the presence of the watchers and substituted for the original ballot, which shall be preserved. Each duplicate ballot prepared under either this paragraph or the preceding paragraph shall be clearly labeled with the word "Duplicate" and shall bear a serial number, which shall also be recorded on the original ballot.

(f) Upon completion of the count for each precinct, the presiding judge shall add to the results as so determined the results of the write-in votes as counted and tallied by the precinct election officers and shall thereupon make a written return of the election in the number of copies required for elections where paper ballots are used. The ballots, together with one copy of the returns, the poll list, and the tally list for write-in votes, shall be placed in a wooden or metallic box, which shall be securely locked. The voted ballots and all records of the election shall be delivered to the proper authorities as provided for election precincts where paper ballots are used.

(g) If for any reason it becomes impracticable to count all or a part of the ballots or ballot cards with tabulating equipment, the authority holding the election may direct that they be counted manually, following as far as practicable the provisions governing the counting of paper ballots.

(h) If the automatic tabulating equipment used with any electronic voting system produces a printed record of the votes tabulated by such equipment, such printed record to which have been added the write-in and absentee votes shall, after being duly certified, constitute the official return for that precinct.

Subdivision 21. Applicability of other laws. Except as otherwise provided in this section, the provisions of all other laws relating to the conduct of elections shall apply, so far as practicable, to the conduct of elections where electronic voting systems are used.

Added by Acts 1967, 60th Leg., p. 1888, ch. 723, § 29a, eff. Aug. 28, 1967.

Synopsis of Changes—1967

This new section is permissive legislation to authorize use of electronic voting systems. Before a system can be used, it must be approved by the Secretary of State in a manner similar to that prescribed for voting machines under existing law. County commissioners courts are authorized to adopt any approved system for use at elections within the county, in similar manner as authorized for voting ma-

chines under existing law. The Voting Machine Law (Art. 7.14 of the Election Code) is not affected, and a county may use electronic voting equipment in combination with voting machines, or paper ballots, or both. The new section details the procedures for voting and for counting of ballots in elections conducted by electronic systems.

CHAPTER EIGHT—CONDUCTING ELECTIONS AND RETURNS THEREOF

Art. 8.02 Preliminary arrangements

The presiding judge and such clerks as he designates shall meet at the polling place in sufficient time before opening of the polls to complete the preliminary arrangements required by this section. However,

no judge or clerk shall be paid for more than one hour of work before the polls open. Watchers may be present during any or all of the time that the preliminary arrangements are being made. Before opening of the polls, the election officers shall arrange the guard rail, the space within the guard rail, the voting booths, if any, and the furniture for the orderly and legal conduct of the election. The election officers shall then examine the ballot boxes and the blank official ballots to see that they are properly printed and numbered, removing any unnumbered or otherwise defectively printed ballots, and shall deposit such ballots as are found to be defective in printing in ballot box No. 4. for defective, mutilated, and unused ballots. They shall examine the sample ballots, instruction cards, distance markers, tally sheets, return sheets, certified list of voters, rubber stamps and all things required for the election. The package of official ballots shall remain in the custody of the presiding judge and shall not be opened until the morning of the election and at the polling place. The presiding judge shall cause to be placed, at the outer limits of the area prescribed in Section 109¹ within which loitering and electioneering are prohibited, visible distance markers in each direction of approaches to the polls, on each of which shall be printed in large letters the words: "Distance marker. No electioneering or loitering between this point and the entrance to the polls." The election officers shall examine the ballot boxes and then relock them, after all present can see that they are empty. The ballot clerks with official ballots, the presiding officer of the election, the poll clerk, the election supplies and the certified lists of registered voters for the precinct shall be as conveniently near each other as practicable within the polling place.

Amended by Acts 1967, 60th Leg., p. 1900, ch. 723, § 30, eff. Aug. 28, 1967.

¹ Article 8.27.

Synopsis of Changes—1967

Deletes statement of the specific distance within which electioneering is prohibited in the provision for placement of distance markers, the purpose of the change being to eliminate necessity for

amending this section each time the section regulating electioneering is amended. Adds a provision limiting pay of judges and clerks for work before the polls open to a period not exceeding one hour.

Art. 8.19 Deposit and count

In all elections, general, special, or primary, at the expiration of one hour after voting has begun, the receiving officers shall deliver ballot box No. 1 to the counting officers, who shall at once deliver in its place ballot box No. 2, which shall again be opened and examined and securely closed and locked; and until the ballots in box No. 1 have been counted, the voters shall deposit their ballots in box No. 2. Ballot box No. 1 shall, upon its receipt by the counting officers, be immediately opened and the ballots taken out by one of them, who shall read and distinctly announce while the ballot remains in his hand, the name of each candidate voted for thereon, which shall be noted on the tally sheet. The ballot shall then be placed in box No. 3, which shall remain locked and in view until the counting is finished, when the box shall be returned, locked and sealed, to the county clerk or other officer as provided by law. Ballot boxes No. 1 and 2 shall be used by the receiving officers and the counting officers alternately, as above provided, as often as the counting officers have counted and exhausted the ballots in either box. It is provided, however, that the box for receiving the ballots shall not be delivered to the counting officers and the ballots shall not be removed therefrom at any time before the polls are closed unless there are more than ten ballots in the box. After the polls have closed, the counting of votes shall proceed continuously until all of the votes are counted and the returns are properly certified and signed.

Amended by Acts 1967, 60th Leg., p. 1900, ch. 723, § 31, eff. Aug. 28, 1967.

For Annotations and Historical Notes, see V.A.T.S.

Synopsis of Changes—1967

Adds provision that ballots are not to be removed for counting during the time the polls are open unless there are more than 10 ballots in the box. Also adds provision that after the polls are closed, the counting of ballots shall proceed continuously until the counting is completed.

Art. 8.22 Death, declination or ineligibility of candidate before election

(a) If a nominee dies or declines the nomination before the election, or is declared ineligible to be elected to or to hold the office for which he is a candidate, and no one is nominated to take his place, his name shall be printed on the ballot and the votes cast for him shall be counted and return made thereof; and, if he shall have received a plurality of the votes cast for the office, the vacancy shall be filled as in case of a vacancy occurring after the election.

(b) If a candidate in the first primary dies after the thirtieth day preceding that election, his name shall be printed on the first primary ballot and the votes cast for him shall be counted and returned for him. If such a deceased candidate receives a majority of the votes, the proper executive committee shall choose a nominee and certify such name to the proper officer, as provided in Section 233 of this code,¹ to be printed on the general election ballot. If such a deceased candidate is one of the two highest candidates in that race in the first primary and if no one has a majority vote, the two living candidates with the highest votes shall be certified to have their names printed on the second primary ballot. If a candidate whose name is to appear on the second primary ballot dies between the dates of the first and second primaries, his name shall be printed on the second primary ballot and the votes cast for him shall be counted and returned for him; and if such a deceased candidate receives a majority of the votes in the second primary, the proper executive committee shall choose a nominee and certify his name to the proper officer, as provided in Section 233 of this code,¹ to be printed on the general election ballot.

Amended by Acts 1967, 60th Leg., p. 1901, ch. 723, § 32, eff. Aug. 28, 1967.

¹ Article 13.56.

Synopsis of Changes—1967

The provision for keeping the name of a deceased candidate on the first primary ballot if death occurs after the deadline for filing is changed to provide for retention of his name if death occurs after the 30th day preceding the election, in keeping with an amendment to Art. 13.12, below. The provision for keeping on the ballot the name of a nominee who has died or declined the nomination if no one is nominated to take his place is amended to include an ineligible nominee also.

Art. 8.23 Revealing information before polls are closed

It shall not be unlawful for any presiding judge of an election to reveal at any time the number of votes that have been cast up to that time, but it shall be unlawful for any judge, clerk, watcher, or other person connected with the holding of an election, before the hour for closing the polls, to reveal any information as to the names of persons who have or have not voted at the election, or as to the votes that have been received for or against any proposition or candidate, or as to the candidate who is leading or trailing in the tabulation of the votes. Anyone who violates any provision of this section is guilty of a misdemeanor and upon conviction shall be fined not to exceed one thousand dollars.

Amended by Acts 1967, 60th Leg., p. 1901, ch. 723, § 33, eff. Aug. 28, 1967.

Synopsis of Changes—1967

Reenacted to cure a caption defect in the original enactment in 1951. See Ex parte Meyer, 357 S.W.2d 754 (Tex.Crim.App. 1962).

Art. 8.27 Electioneering or loitering near polls

(a) It shall be unlawful for any sound truck to approach within one thousand feet of a polling place during the hours the polls are open for the purpose of making any political speeches or electioneering for or against any proposition or candidate.

(b) It shall be unlawful for any person to do any electioneering or loitering while the polls are open within one hundred feet of any outside door through which a voter may enter the building in which a polling place is located. The presiding judge shall prevent unlawful electioneering or loitering, and for this purpose he may appoint a special peace officer to enforce this authority upon approval of the appointment by the presiding officer of the canvassing authority for the election. Notwithstanding the general authority granted to election judges in Section 87 of this code,¹ a special peace officer appointed by the presiding judge shall not undertake to enforce the provisions of this section unless his appointment has been approved as required herein.

(c) Any person who operates a sound truck, either as the driver of the vehicle or as the speaker or operator of the sound equipment, in violation of this section, or who does any electioneering or loitering in violation of this section, is guilty of a misdemeanor and upon conviction shall be fined not to exceed one thousand dollars."

Amended by Acts 1967, 60th Leg., p. 1901, ch. 723, § 34, eff. Aug. 28, 1967.

¹ Article 8.05.

Synopsis of Changes—1967

Clarifies the point from which prohibited distance for electioneering is measured. Adds a provision requiring approval by the presiding officer of the canvassing authority for the election before an election judge

can appoint a special peace officer to enforce the prohibitions against electioneering. Transfers the corresponding penal provision from Art. 259 of the Penal Code to this section.

Art. 8.32 Ballots and copy of returns delivered to county clerk

Immediately after the counting of the ballots is completed, the presiding judge shall place all the ballots voted, together with one copy of the returns, poll list, and tally list, into a wooden or metallic box, and shall securely fasten the box with nails, screws, or locks, and he shall immediately, and in no case later than twenty-four hours after the closing of the polls, deliver the box to the county clerk of his county. He shall deliver the key or keys to the sheriff, who shall keep the same for thirty days. It shall be the duty of the county clerk to keep the box securely, and it shall be unlawful for the county clerk or anyone else to burn or otherwise destroy these ballots and records, or permit it to be done, except where provided for by the law; and anyone violating this provision of this section upon conviction shall be fined not to exceed one thousand dollars. Also, the presiding judge shall deliver a copy of the returns, together with a copy of the poll list and tally list, to the county clerk at the same time that he delivers the ballot box, and the clerk shall immediately announce the returns of the election in the precinct reporting, and shall post the returns on a bulletin board within his office. In event of any contest or criminal investigation growing out of the election within sixty days after the day of the election, the county clerk shall deliver the ballot box to any competent officer having process therefor, for any tribunal or authority authorized by law to demand such box. If no contest or criminal investigation arose out of the election within sixty days after the day of such election, the clerk shall destroy the contents of the ballot box by burning same; provided, that the district judge, upon his own motion or upon the request of the county or district attorney, may, by an order entered on the minutes of the district court, defer the destruction of the contents of the

For Annotations and Historical Notes, see V.A.T.S.

ballot box for such period as he deems necessary, subject to further orders of the court.

Amended by Acts 1967, 60th Leg., p. 1902, ch. 723, § 35, eff. Aug. 28, 1967.

Synopsis of Changes—1967

Reenacted to cure invalidity of the criminal penalty stated in this section because of a caption defect in the original enactment. See Ex parte Meyer, 357 S.W.2d 754 (Tex.Crim.App.1962).

Art. 8.37 Returns for certain state and district officers

In all elections for State or district officers, including presidential electors, and including members of the Legislature, the county judge shall, within forty-eight (48) hours after the Commissioners Court shall have opened the returns and canvassed the result, as provided in Section 116,¹ make out duplicate returns of the election; one of which he shall immediately transmit to the seat of government of the State, sealed in an envelope, directed to the Secretary of State; and endorsed, "Election Returns for _____ county, for _____" (filling the first blank with the name of the county and the other blank with the name of the office for which the election was held, or a designation of the proposed Amendments to the Constitution voted upon, as the case may be); and the other of such returns shall be deposited in the office of the clerk of the county court of the county where such election was held.

Amended by Acts 1967, 60th Leg., p. 1157, ch. 514, § 1, eff. Aug. 28, 1967.

¹ Article 8.34.

Section 2 of the amendatory act of 1967 repealed article 8.41.

Art. 8.41 Repealed. Acts 1967, 60th Leg., p. 1158, ch. 514, § 2. Eff. Aug. 28, 1967

See, now, art. 8.37.

Acts 1967, 60th Leg., p. 1157, ch. 514, § 1 amended article 8.37.

Art. 8.43 County clerk to certify to Secretary of State

On or immediately after January 1, next following a general election, each county clerk shall make out and certify to the Secretary of State a tabular statement showing who were elected, and to what office and the date of qualification, and giving the number of the precinct officers; together with the statutory fees, for issuance of each commission.

Amended by Acts 1967, 60th Leg., p. 1902, ch. 723, § 36, eff. Aug. 28, 1967.

Synopsis of Changes—1967

Changed to provide that the county clerk, rather than the county judge, furnishes the Secretary of State with a list of county and precinct officers who have qualified after a general election. Revises wording for greater clarity, and deletes the specific

amount of the fee for issuance of commissions to officers, so as to eliminate the necessity for amending this section whenever the statute fixing the amount of the fee (Art. 3914, R.C.S.) is amended.

CHAPTER NINE—CONTESTING ELECTIONS

Art.
9.38a. Recount of paper ballots [New].

Art. 9.38a Recount of paper ballots

Subdivision 1. Grounds for recount. (a) A candidate for nomination or election to any public office or to the party office of county chairman or precinct committeeman may obtain a recount of the votes cast for

the office on manually counted paper ballots, in the manner outlined in this section:

(1) if the difference in the number of votes received by him and the next highest candidate above him is less than five percent of the number of votes received by such next highest candidate, as shown by the returns of the election officers, and the candidate seeking the recount would gain the election or nomination or a place on a runoff election ballot if the recount showed him to have received a greater number of votes than that opponent, or

(2) if one or more judges of the election make an uncontradicted affidavit stating that certain ballots cast for the office were counted or were not counted, as the case may be, and the Secretary of State certifies that, on the basis of the statements in the affidavit, the election officers were in error in either counting or failing to count the ballots, as the case may be, and further certifies that from the affidavit or affidavits submitted to him and on the basis of the unofficial returns it appears likely that the number of miscounted ballots were of sufficient number to change the result of the election in that race as it affects the candidate seeking the recount.

(b) If the ground of the application for a recount is that the difference in votes is less than five percent, the request must be for a recount of all the ballots cast for the office in each and every election precinct, including the absentee ballots cast for the office; and the canvassing board shall order a complete recount.

(c) If the ground of the application is that election officers erroneously counted or failed to count certain ballots, the candidate at his option may request a recount of all the ballots cast in the election or only the ballots cast in the election precincts in which the miscounting is alleged to have occurred; and if only a partial recount is requested, the canvassing board shall order a recount only of all the ballots cast in those precincts in which the Secretary of State certifies that ballots were erroneously counted or not counted.

Subdivision 2. Procedure for requesting recount; general provisions. (a) A candidate desiring a recount must file a written, signed application with the presiding officer of the body which canvasses the returns of the election and makes the official declaration of the result (hereinafter called "canvassing board"). The application may be presented for filing at any time after the returns from all election precincts involved have been received from the presiding judges of the election, and it must be presented not later than the second day after the official declaration of the result; provided, however, that if the application is for a partial recount in any election wherein the unofficial returns show that a runoff election for the office involved will be necessary or wherein a runoff would be necessary if the recount changed the result of the election, the application must be filed not later than the fifth day after the day of the election. If the chairman of a state executive committee receives an application under the first ground stated in Subdivision 1 of this section, or receives the certification for a recount from the Secretary of State upon an application filed under the second ground, more than three days before the next scheduled meeting of the state committee, he may direct the county executive committee in each county involved to conduct the recount and to report the result to the state committee; and if the application is for a recount in a first primary election, which recount might affect a runoff election in the second primary, in the stated circumstances the state chairman shall direct the county committee in each county involved to proceed immediately with the recount.

(b) In addition to other requirements stated in this section, each application must show the name and address of each opposing candidate, and the name and address of the presiding judge of each election precinct

For Annotations and Historical Notes, see V.A.T.S.

for which a recount is requested. On the same day that a candidate delivers or mails his application to the presiding officer of the canvassing board, he must deliver in person or mail by certified or registered mail, with return receipt requested, a copy of the application and any supporting papers to each opposing candidate at the election.

Subdivision 3. Procedure where ground for recount is alleged error in counting or failing to count ballots. A candidate requesting a recount under the second ground stated in Subdivision 1 of this section must attach to his application a supporting affidavit or affidavits showing that the conditions for requesting the recount are met. On the same day that he delivers or mails his application to the presiding officer of the canvassing board, he must deliver or mail a copy of the application, together with a copy of each supporting affidavit, executed as an original, to the Secretary of State with the request that the Secretary of State make the certification described in Subdivision 4 of this section. Any opposing candidate shall be entitled to file with the Secretary of State a controverting affidavit or affidavits in denial of statements made in the supporting papers filed by the candidate requesting the recount, within three days after the date on which the application was delivered in person or mailed to him.

Subdivision 4. Action by Secretary of State on request for certification. Not sooner than three days nor later than five days after receipt of a request for certification under Subdivision 3 of this section, the Secretary of State shall consider the request and take action thereon. If from uncontroverted statements in the supporting papers it clearly appears, on the basis of the statutes and court decisions of this state, that the election officers were in error in counting or failing to count certain ballots and that the error likely affected the outcome of the race, he shall so certify. If the facts alleged fail to show a clear case of error or raise an unresolved legal question as to whether an error was committed with respect to certain ballots, the Secretary of State shall so find, and he shall not undertake to make a ruling on disputed facts or unresolved legal questions. Within the time stated above, the Secretary of State shall certify his findings and conclusions to the candidate making the request, with a copy to the presiding officer of the canvassing board and to each opposing candidate.

Subdivision 5. Deposit to cover costs of recount. A candidate requesting a recount shall deposit with the presiding officer of the canvassing board either cash, a cashier's check, a certified check, or a surety bond of an authorized corporate surety, in the amount of ten dollars for each election precinct in which a recount is to be made pursuant to his request, or in the amount of fifty dollars, whichever amount is the greater. If the application is filed under the first ground stated in Subdivision 1 of this section, the deposit must accompany the application; if the application is filed under the second ground, the deposit must be made within three days after the date on which the Secretary of State certifies that error which likely affected the outcome of the race was committed in one or more of the election precincts. For the purpose of this section, absentee ballots counted by a special board of election officers constitute ballots for a separate election precinct.

Subdivision 6. Right of opposing candidate to obtain full recount. If a candidate is granted a partial recount under Subdivisions 3 and 4 of this section, any opposing candidate may obtain a recount of all ballots in all precincts by filing a request for a full recount with the chairman of the canvassing board within three days after the date on which the Secretary of State makes his certification, and by accompanying the request with either cash, a cashier's check, a certified check, or a surety bond of an authorized corporation surety, in the amount of ten dollars for each additional election precinct for which a recount will be made

as a result of his request. On the same day that he delivers or mails his request, the opposing candidate must deliver in person or mail by registered or certified mail, with return receipt requested, a copy of the request to the original applicant. Within two days thereafter, the original applicant must make a similar deposit covering the additional precincts to be recounted.

Subdivision 7. Procedure for ordering recount. (a) Where a candidate has complied with all conditions for obtaining a recount, as soon as practicable the canvassing board conducting the recount shall set a date on which the recount is to begin and shall notify by mail each opposing candidate of the place or places where the recount will be conducted and the exact time when it will begin. The time for commencing the recount shall not be sooner than two days nor later than four days after the date of the notification. The recount shall be conducted in the office of the officer having custody of the voted ballots, who shall be entitled to be present or to have a representative designated by him present while the recount is in progress.

(b) The canvassing board shall appoint a committee of three disinterested registered voters of the political subdivision in which the ballots were cast, who shall make the recount. The board shall designate one member of the recount committee to serve as its chairman. Where ballots to be recounted are in the custody of different officers at more than one location, a committee shall be appointed for each location. No person who served as an election judge, clerk, or watcher in any precinct for which ballots are to be recounted shall be eligible for appointment to a recount committee. The committee shall permit any affected candidate or one person authorized in writing by such candidate to be present to watch the recount, to inspect the ballots, to observe the tallying of the votes, and to observe all other actions of the committee in connection with the recount.

Subdivision 8. Procedure for making the recount. (a) The canvassing board shall issue an order to the officer having custody of the voted ballots, stating the names of the recount committee and the time at which the recount is to begin, and directing him to deliver to the chairman of the committee the ballot box or boxes containing the ballots to be recounted. A similar order for delivery of the keys to the ballot boxes shall be issued to the officer having custody of the keys. A copy of each order shall be delivered to the chairman of the committee, who shall present it, as proof of his identity, to the officer named in the order.

(b) The committee shall proceed to make the recount as directed, working for at least seven hours each day on every day that is not a Sunday or a legal holiday until the recount is completed. During the time that the recount is not actually in progress, the ballot boxes shall be relocked and returned to the custody of the officer who delivered them to the committee, and the keys shall be retained in the custody of the chairman of the committee.

(c) After the recount is completed, the committee shall make out its report and deliver it to the presiding officer of the canvassing board. The chairman of the committee shall deliver the locked ballot boxes with the original contents intact and the ballot box keys to the respective officers who originally had custody of the boxes and the keys.

Subdivision 9. Action by canvassing board following recount. As soon as practicable, and not later than two days after receiving all the committee reports, the presiding officer of the canvassing board shall convene the board, which at such meeting shall declare the result of the election for the office involved on the basis of the revised returns. The board and its presiding officer shall take such further actions as may be necessary in the same manner as for an original canvass.

For Annotations and Historical Notes, see V.A.T.S.

Subdivision 10. Costs of recount. (a) The members of the recount committee shall be paid an amount to be fixed by the canvassing board, but not to exceed one dollar and twenty-five cents per hour to each member, which shall be charged as costs. Expenses incurred by the canvassing board or its chairman in giving the notices required by this section shall also be charged as costs.

(b) If the recount shows that the applicant received a greater number of votes than shown by the returns of the election judges, and if as a result of the recount the applicant is declared to have been nominated or elected to the office, or to have become entitled to be a candidate in a runoff election, or to have tied with another candidate between the two of whom the right of nomination, election, or a place on a runoff ballot is to be decided, the cost of the recount shall be paid by the authority charged with the duty of paying the expenses of the election for which the recount was made, and the amount deposited by the applicant shall be returned to him; provided, however, that if the original application was for a partial recount and the results of the election would have been changed in either of the foregoing manners on the basis of the partial recount only, the costs of the recount in additional precincts as the result of a request by an opposing candidate for a full recount shall be borne by the opposing candidate making the request. Otherwise, the cost of the recount shall be paid by the applicant, and any amount remaining from the deposit shall be returned to him. Any costs over the amount of the deposit shall be paid by the applicant if he is charged with the cost of the recount; and any costs of a recount in additional precincts over the amount of the deposit made by the opposing candidate requesting the full recount shall be paid by such candidate if he is charged with the costs in those precincts.

Subdivision 11. Application for a full recount following a partial recount. (a) Whenever there has been only a partial recount in which less than fifty percent of the total votes cast for the office, as shown by the original returns, were recounted, and as a result of the partial recount the number of votes received by any candidate is changed in such a manner that he would be entitled to request a recount under the first ground stated in Subdivision 1 of this section, but he had not been entitled to a recount on that ground on the basis of the original returns, he may obtain a recount in all additional precincts by following the procedure outlined in this subdivision.

(b) Whenever there has been a partial recount of more than fifty percent but less than seventy-five percent of the total votes cast, any candidate may obtain a recount in all additional precincts if he was not entitled to a recount on the first ground on the basis of the original returns, but as a result of the recount the difference in the number of votes received by him and the next highest candidate above him is less than two percent of the number of votes received by such next highest candidate, as shown by the revised returns, and he would gain the election or nomination or a place on a runoff election ballot if the full recount showed him to have received a greater number of votes than that opponent.

(c) An application under this subdivision for a recount in all additional precincts shall be made in the same manner and shall be treated in all other respects as an original application for a full recount, except that it covers only the additional precincts. The application may be made at any time after every recount committee involved in the partial recount has made its report, and must be filed not later than the second day after the canvassing board declares the result of the election on the basis of the revised returns following the partial recount. If as a result of the recount in the additional precincts the applicant therefor is declared to have been nominated or elected to the office, or to have become entitled to be a candidate in a runoff election, or to have tied with another candidate between

the two of whom the right of nomination, election, or a place on a runoff ballot is to be decided, the cost of the recount in the additional precincts shall be paid by the authority charged with the duty of paying the expenses of the election, and the amount deposited by the applicant shall be returned to him. Otherwise, the cost of the recount in the additional precincts shall be paid by the applicant therefor, and any amount remaining from the deposit shall be returned to him. Any costs for the recount in the additional precincts over the amount of the deposit shall be paid by the applicant therefor if he is charged with the cost of the recount.

Subdivision 12. Effect of recount on an election contest. Nothing in this section shall be deemed to prevent the filing of an election contest in a district court or to prevent the ordering of a recount in an election contest or to compel the court hearing the election contest to accept a recount under this section as conclusive of the results of the election.

Added by Acts 1967, 60th Leg., p. 1903, ch. 723, § 37, eff. Aug. 28, 1967.

Synopsis of Changes—1967

Heretofore, the only way in which a recount of paper ballots could be obtained was through an election contest filed in a district court, upon prior allegation and proof that there had been a miscount. This new section allows a recount, under supervision of the canvassing board for the election, whenever the difference between the two highest candidates is less than

5 percent of the number of votes received by the highest candidate. Costs are borne by the candidate requesting the recount unless the recount causes a change in the result of the election. The amendment also allows a recount upon the uncontroverted affidavit of an election officer that error was made in the original count.

CHAPTER ELEVEN—PRESIDENTIAL ELECTION

Art. 11.01a Parties entitled to nominate presidential elector candidates

Any political party entitled to have the names of its nominees printed on the ballot for the general election provided for in Section 9 of this code¹ may nominate candidates for presidential electors and have the names of its candidates for President and Vice President printed on the ballot.

Amended by Acts 1967, 60th Leg., p. 1907, ch. 723, § 38, eff. Aug. 28, 1967.

¹ Article 2.01.

Synopsis of Changes—1967

This section is amended to conform to the change made in Art. 13.45 of the Election Code as amended in this chapter, pre-

scribing new conditions under which minor parties are entitled to make nominations.

CHAPTER THIRTEEN—NOMINATIONS

Art.
13.45a. Regulation of party affairs and conventions [New].

Art. 13.01a Who are members of organized party

(1) The members of an organized political party who shall be permitted to participate in its convention procedure as set forth in this code shall be only those persons who have become qualified as members of the party by voting in the elections of the party or have otherwise qualified as provided in this section. Having once become a qualified member of a party, a person shall remain a qualified member of that party for the duration of that voting year.

(2) The election and convention procedure of the party shall include the general primary election and the second primary election provided for in Section 181 of this code,¹ and shall include the conventions of the

For Annotations and Historical Notes, see V.A.T.S.

party at precinct, county and state level in both its state convention procedure and its national convention procedure insofar as they apply herein.

(3) Persons who have not qualified as members of a political party as required by this section shall be disqualified to participate in the convention procedure of the political parties and shall also be disqualified to be selected or to hold the position of executive committee member, precinct judge or chairman, delegate to any convention of a party, national committeeman, committeewoman or presidential elector of the party.

(4) An applicant for party affiliation shall become a qualified member of a political party which is holding primary elections when he has voted within that party's primary. Each voter shall present his voter registration certificate or an affidavit of its loss to the election judge the first time he participates in a primary election, and the election judge shall stamp within the party affiliation space on the face of the certificate the words "Democrat" or "Republican" or other party designation as the case may be. If the voter is voting upon an affidavit of a lost registration certificate, the election judge shall issue to him a certificate of his having voted, in the following form:

Date _____
 _____ has voted on this date in the
 (Name of Voter)
 primary election of the _____ Party.

 Presiding Judge, Precinct No. _____,
 _____ County, Texas.

In the event a voter votes by absentee ballot, the county clerk shall stamp the appropriate party designation within the party affiliation space on the face of the voter registration certificate, or if the voter is voting on an affidavit of a lost or unreturned registration certificate, the clerk shall deliver or mail to him, immediately upon receipt of his marked ballot, a certificate of his having voted, in the form prescribed above, substituting the clerk's title for that of the presiding judge of the election precinct.

(5) To become qualified to participate in any party convention of a party which does not hold a primary or to become qualified for party membership for any party convention held prior to a primary, each voter who desires to participate in such party convention shall present to the precinct chairman at the convention his voter registration certificate showing that he has not affiliated with another party, or an affidavit that he has lost his registration certificate and that he has not participated in the primary or convention of another party. Upon such presentation, the precinct chairman shall cause to be stamped on the face of the certificate or affidavit the appropriate party designation.

(6) A voter registration certificate, an affidavit of a lost registration certificate, or a certificate of having voted, which has been stamped with a party designation in accordance with the foregoing provisions of this section shall serve as evidence that the person whose name appears thereon is affiliated with the party designated thereon and is therefore eligible to participate in that party's conventions.

(7) No person who participates in the primary or convention of any political party during a voting year shall participate in any subsequent primary or convention of any other party during that same voting year. Any vote cast in a primary election in violation of this prohibition shall be void and shall not be counted for any purpose, and the violator shall be punishable as provided in Article 240 of the Texas Penal Code.

(8) Any person who participates or attempts to participate in a party convention held by a political party on a certification of qualifications

other than one prescribed in this section shall be guilty of a misdemeanor and upon conviction shall be fined not to exceed one thousand dollars. Amended by Acts 1967, 60th Leg., p. 1907, ch. 723, § 39, eff. Aug. 28, 1967.

¹ Article 13.03.

Synopsis of Changes—1967

Amended to delete references to poll tax receipts and to eliminate needless repetition of certain other provisions, without change in substance. Also amended to clarify that

a person shall not participate in the affairs of more than one party during the same voting year.

Art. 13.04 Voting places of political parties

Subdivision 1. The chairman of the county executive committee of each party holding a primary shall designate the polling place in each precinct where voting in the primary of that party will be held.

Subdivision 2. Each political party holding a primary shall have a sign, showing the party name, prominently displayed immediately above each entrance to each of the party's precinct polling places.

Subdivision 3. The primary election or convention of a political party may be held in the same building as the primary or convention of a different party or parties, but each party shall hold its primary or convention in a separate room from any other party, and the room shall be specifically designated as to political party by a sign in 160-point type or larger, prominently displayed above each entrance to the room. If such primary elections or conventions are held in adjoining rooms, there shall be no avenue of communication from one such room to the other. The voting machines, ballots, election supplies, and election officers of one primary election or convention shall not be used in the election or convention of another political party.

Amended by Acts 1967, 60th Leg., p. 1909, ch. 723, § 40, eff. Aug. 28, 1967.

Synopsis of Changes—1967

This amendment consolidates former Secs. 182, 182A and 182b (Arts. 13.04, 13.04A and 13.04b). It extends to all counties the provisions of former Sec. 182A, heretofore applicable only to counties of 500,000 or more, which permit different political parties to hold their primaries in the same

building or in proximity to the polling place of another party, under the restriction of having to be conducted in separate rooms, without any direct avenue of communication between the polling places if they are in adjoining rooms.

Art. 13.04A Repealed. Acts 1967, 60th Leg., p. 1932, ch. 723, § 77. Eff. Aug. 28, 1967

See, now, art. 13.04.

Art. 13.04b Repealed. Acts 1967, 60th Leg., p. 1932, ch. 723, § 77. Eff. Aug. 28, 1967

See, now, art. 13.04.

Synopsis of Changes—1967

See note under former art. 6.08.

Art. 13.06 Judges of primary

Judges of primary elections have the authority, and it shall be their duty, to administer oaths, to preserve order at the election, to appoint special officers to enforce the observance of order and to make arrests, as judges of general elections are authorized and required to do.

Amended by Acts 1967, 60th Leg., p. 1909, ch. 723, § 40a, eff. Aug. 28, 1967.

Synopsis of Changes—1967

Amended to delete provisions expressly relating to enforcement of the restrictions on electioneering and conveyance of voters to the polls, to make their authority the

same as that of judges of other elections under Arts. 8.05 and 8.27 of the Election Code.

For Annotations and Historical Notes, see V.A.T.S.

Art. 13.07a Deposit to accompany application for place on ballot

(1) Every candidate for public office who is subject to assessment by the county executive committee for a portion of the expenses of holding the primary election, except candidates for the Legislature and for the State Board of Education, shall pay to the county chairman, at the time of filing his application for a place on the ballot, a deposit of fifty dollars. In case of district offices in districts containing more than one county or part thereof, the candidate shall pay a deposit of fifty dollars to each county chairman with whom his application is filed. A candidate for the Legislature shall pay to the county chairman, at the time of filing his application, a deposit in the amount of the maximum amount which he may be assessed in that county, or the amount of the filing fee in that county in cases where a fixed fee is prescribed. A candidate for the State Board of Education shall pay to each county chairman, at the time of filing his application, the quotient obtained upon dividing fifty dollars by the number of counties in the district in which he is a candidate. The fees and deposits accompanying the applications shall become a part of the primary fund.

(2) After the county executive committee makes the assessments provided for in Section 186 of this code,¹ it shall refund to each candidate within thirty days thereafter the amount of the payment in excess of the assessment against the candidate if the deposit exceeds the assessment. If the deposit does not exceed the assessment, the balance due on the assessment shall be paid as provided in Section 186.¹

Amended by Acts 1967, 60th Leg., p. 1909, ch. 723, § 41, eff. Aug. 28, 1967.

¹ Article 13.08.

Synopsis of Changes—1967

This amendment revises provisions on changes made by this chapter in Art. 13.-
refund of the deposit to conform to the 08b.

Art. 13.08 Expenses of primary

(1) Prior to the assessment of the candidates, the county committee shall carefully estimate the cost of printing the official ballots, renting polling places where same may be found necessary, providing and distributing all necessary poll books, blank stationery and voting booths required, compensation of election officers and clerks, and all other necessary expenses of holding the general primary and second primary in such county and on the second Monday in February preceding each primary, shall apportion such cost in such manner as in their judgment is just and equitable among the various candidates for nomination for district, county, and precinct offices only as herein defined, except the offices of Justice of the Court of Civil Appeals and member of the State Board of Education, and except the office of state senator and state representative if the assessment or fee payable to the county chairman is fixed at a definite amount, but taking into account the assessments and filing fees received from candidates for the Legislature and the State Board of Education. Where a district office covers more than one county, the assessment of such candidate by the county shall be not more than a sum which is the quotient of the amount which he would be assessed if he represented only one county determined by the formula used to assess county candidates, when divided by the number of counties in his district. In making the assessment upon any candidate the committee shall give due consideration to the importance, emolument, and term of office for which the nomination is to be made. Within 24 hours after adjournment of the meeting, the chairman shall mail to each person against whom an assessment is made a notice stating the amount of such expenses apportioned to him and informing him that the difference between the amount of the assessment and the amount of the deposit which accompanied the

candidate's application must be paid to the chairman on or before the fourth Monday in February; and no person's name shall be placed on the ballot unless he pays the assessment within the prescribed time. The notices shall be sent to the candidates by registered or certified mail, and the chairman shall obtain a receipt for each letter, postmarked by the post office at which the letter is mailed, as evidence of the mailing, and shall preserve the receipts for a period of three months.

(2) A candidate filing after the date of the aforesaid meeting shall not be required to accompany his application with the deposit provided for in Section 185a of this code,¹ but shall pay the full amount assessed against him by the county executive committee within one week from the date on which his application is filed; provided, however, that where a fixed filing fee is required for an office included in this section, the amount of the fee must accompany the application.

(3) It shall be sufficient to meet the requirements of this law to mail by registered or certified letter to the chairman before the deadline herein provided, as shown by the postmark on the letter, a money order, a certified check, or a cashier's check; but it shall not be sufficient to make the payment by any other type of mail unless it is delivered before the deadline.

(4) A candidate for the State Board of Education shall pay a filing fee of fifty dollars, which shall be prorated equally among the counties comprising the district in which he is a candidate, and the prorated amount shall be paid to each county chairman at the time the candidate files his application for a place on the ballot.

Amended by Acts 1967, 60th Leg., p. 1910, ch. 723, § 42, eff. Aug. 28, 1967.

¹ Article 13.07a.

Synopsis of Changes—1967

Sets a deadline for notification to the candidates of the amount of their assessment and requires that the notice be by registered or certified mail. In Paragraph

(3), payment by personal check has been deleted as an authorized method, and payment by cashier's check has been added.

Art. 13.08b Refund upon death of candidate

If before the first primary a candidate dies or is declared ineligible to be a candidate for the office, all fees and assessments paid by the candidate, including the deposit which accompanied his application, shall be refunded to the candidate or to his estate, as the case may be. No refund shall be made upon the death or ineligibility of a nominee or of a candidate in the second primary, and no refund shall be made to a candidate who withdraws or who declines a nomination, with the exception that in the event a candidate who is subject to assessment by the county executive committee withdraws before the assessments are made, the committee shall determine the amount which would have been assessed against him if he had remained a candidate, and if the amount of the deposit made by the candidate exceeds that amount, the committee shall refund the difference to him; and with the further exception that a withdrawing, declining, or ineligible candidate and the estate of a deceased candidate shall be entitled to share in the distribution of the surplus in the primary fund the same as if he had not died, withdrawn, declined, or been declared ineligible for the nomination.

Amended by Acts 1967, 60th Leg., p. 1911, ch. 723, § 43, eff. Aug. 28, 1967.

Synopsis of Changes—1967

Heretofore, a fixed filing fee could not be refunded under any circumstance, but the county executive committee within its discretion could refund assessments in excess of the deposit accompanying the application if the candidate died or withdrew before the first primary. This amendment

requires a refund of all fees and assessments, including the deposit accompanying the application, if the candidate dies or is declared ineligible before the first primary, but prohibits a refund under any other circumstances.

For Annotations and Historical Notes, see V.A.T.S.

Art. 13.08c Repealed. Acts 1967, 60th Leg., p. 1932, ch. 723, § 77. Eff. Aug. 28, 1967

Synopsis of Changes—1967

Art. 13.08c, which provided for collection of filing fees and assessments against write-in candidates in the first primary who won nomination or got into the runoff primary, has been repealed because of the

amendment to Art. 13.09 (Sec. 44 of this chapter [Acts 1967, 60th Leg., p. 1858, ch. 723]) which prohibits write-in votes in the first primary.

Art. 13.09 Balloting at primaries: write-in votes permitted for party offices only

(a) The vote at all primary elections shall be by official ballot, which shall have a detachable stub as described in Section 61 of this code. The name of the party shall be printed at the head of the ballot, and under such head shall be printed the names of all candidates, those for each nomination being arranged in the order determined by the county executive committee as herein provided for, beneath the title of the office for which the nomination is sought. The ballot shall also contain the instruction note prescribed in Section 61 of this code.¹

(b) Write-in votes shall not be permitted in primary elections for any office other than the party offices of county chairman and precinct chairman, and a write-in vote for any other office shall be void and shall not be counted for any purpose. Write-in votes for the party offices of county chairman and precinct chairman shall be permitted in the general primary election but shall not be permitted in the second (runoff) primary. On the general primary ballot, an appropriate space for a write-in candidate shall be provided under the title of each of these two party offices, following the names of the candidates; and if for either office there is no candidate whose name is to be printed on the ballot, the title of the office shall nevertheless be printed on the ballot with a space for a write-in candidate provided thereunder.

(c) The official ballot shall be printed in black ink upon white paper. The ballot shall be printed by the county committee in each county, which shall furnish to the presiding judge of the general primary for each voting precinct at least as many of such official ballots plus ten percent as there are registered voters in the precinct, as shown by the current list of registered voters.

(d) Where two or more candidates are to be nominated for the same office, to be voted for by the qualified voters of the same district, county, or justice precinct, such candidates shall be voted for and nominations made separately, and all such nominations shall be separately designated on the official ballots by numbering the same "Place No. 1," "Place No. 2," etc. Each candidate for such nominations shall designate in the announcement of his candidacy, and in his request to have his name placed on the official ballot, the number of the nomination for which he desires to become a candidate, and the names of all candidates so requesting shall have their names printed beneath the title of the office and the number so designated. Each voter shall vote for only one candidate for each nomination. Amended by Acts 1967, 60th Leg., p. 1911, ch. 723, § 44, eff. Aug. 28, 1967.

¹ Article 6.05.

Synopsis of Changes—1967

This amendment outlaws write-in votes in a primary election, except for party offices (county chairman and precinct chairman) in the first primary. It also deletes

the provision for listing on the ballot the county of residence of candidates for state and district offices.

Art. 13.12 Application for place on ballot

The application to have the name of any person affiliating with any party placed on the official ballot for a general primary as a candidate

for the nomination of such party for any office for which a nomination may be made at such primary shall be governed by the following.

* * * * *

2. The application shall be filed with the state chairman in the case of statewide offices, with the county chairman of each county which is included wholly or partially within the district in the case of district offices, and with the county chairman of the particular county in the case of county and precinct offices; provided, however, that applications of candidates for Justice of the Court of Civil Appeals shall be filed with the state chairman. Except as provided in Paragraph 2a of this section, the application shall be filed not later than the first Monday in February preceding such primary. An application shall be considered filed if sent to the proper chairman at his post office address by registered or certified mail from any point in this state before the filing deadline, as shown by the postmark. Any application not received by the chairman before the deadline does not comply with this law unless it has been mailed by registered or certified mail as herein provided, and it shall not be sufficient to send the application by any other type of mail unless it is delivered before the deadline.

Subsec. 2 amended by Acts 1967, 60th Leg., p. 1912, ch. 723, § 45, eff. Aug. 28, 1967.

2a. If any filed candidate for an office dies between the fifth day preceding the first Monday in February and the fortieth day preceding the general primary, both dates inclusive, the name of the deceased candidate shall not be printed on the ballot, and applications for that office may be filed not later than the fifteenth day following the death of the candidate. If a filed candidate dies between the forty-first day and the thirtieth day preceding the general primary, both dates inclusive, his name shall not be printed on the ballot, and applications for that office may be filed not later than the twenty-fifth day preceding the election. If a filed candidate dies after the thirtieth day preceding the general primary, his name shall be printed on the ballot and the procedure detailed in Section 104 of this code¹ shall be followed. Notwithstanding the provisions of Paragraph 2 of this section, an application which is not received by the chairman until after the twenty-fifth day preceding the general primary shall not be timely, and applications mailed but not actually received by that time shall not be accepted for filing. As used in this paragraph, the term "filed candidate" means a candidate who had complied with all prerequisites for having his name placed on the ballot which he was required to perform by the date of his death.

Subsec. 2a added by Acts 1967, 60th Leg., p. 1912, ch. 723, § 45, eff. Aug. 28, 1967.

3. Within ten days after the first Monday in February, the state chairman shall file with the Secretary of State, and each county chairman shall file with the county clerk of his county a list of the names of all candidates, arranged by office for which nomination is sought, whose applications have been timely received. In like manner each chairman shall file, within three days after any extended filing deadline under Paragraph 2a of this section, a supplemental list of candidates whose applications were timely received after the original list was prepared. Each county chairman shall forward to the chairman of the state executive committee a copy of each list which he files with the county clerk.

Subsec. 3 amended by Acts 1967, 60th Leg., p. 1913, ch. 723, § 45, eff. Aug. 28, 1967.

¹ Article 8.22.

* * * * *

Synopsis of Changes—1967

Deletes the provision extending the deadline for filing until the first Monday in March if the only filed candidate dies, and substitutes new provisions opening up the filing for a period of 15 days after the death of any candidate who dies between the regular deadline (first Monday in February) and the 30th day before the primary. Also adds a provision requiring the county chairman to forward a copy of the list of filed candidates to the chairman of the state executive committee.

Art. 13.12a Nomination and election to fill unexpired term

(1) Offices to which applicable; occurrence of vacancy. The provisions of this section shall govern nomination for and election to unexpired terms which are to be filled by election at the general election, in state, district, county and precinct offices where the vacancy occurs by reason of the creation of a new office or the death, resignation, or removal from office of the incumbent in an existing office, and the length of the unexpired term to be filled at the election extends beyond the first day of January following the election. This section does not apply to offices, vacancies which are to be filled by special election, nor does it apply to the office of United States Senator, which is governed by Section 177 of this code.¹ For the purpose of this section, where a new office is created to come into existence at a date subsequent to the effective date of the statute or date of entry of the order creating it, the vacancy shall be deemed to occur as of the effective date of the statute or date of entry of the order, and where the incumbent of an office has submitted a resignation to become effective at a future date, the vacancy shall be deemed to occur upon acceptance of the resignation.

Subsec. (1) amended by Acts 1967, 60th Leg., p. 1913, ch. 723, § 46, eff. Aug. 28, 1967.

¹ Article 12.02.

(2) Nominations by parties holding primary elections. For any party holding primary elections for nominating candidates for the ensuing general election, nominations for unexpired terms shall be made in accordance with the following provisions.

* * * * *

(iii) If the vacancy occurs on or after the thirtieth day preceding the day of the general primary and more than twenty days before the day of the general election, the state executive committee in the case of state offices, the appropriate district executive committee in the case of district offices, the county executive committee in the case of county offices, and the appropriate precinct committee in the case of precinct offices, shall have the power to name a nominee for such office, and a nomination shall not be made by any other method; provided, however, that in any case where a district committee empowered to name a nominee fails to do so because it is unable to agree upon a nominee by majority vote, the state executive committee of that political party may name a candidate for such office and certify the name of the nominee to the proper officer.

Subsec. (2)(iii) amended by Acts 1967, 60th Leg., p. 1913, ch. 723, § 47, eff. Aug. 28, 1967.

* * * * *

(8) In all nominations made by an executive committee under this section or under Section 233 of this code,¹ or under any other provision of law, a majority of the members of the committee must participate in making the nomination, and all nominations must be made by a majority vote of those members participating in the nomination.

Subsec. (8) added Acts 1967, 60th Leg., p. 1913, ch. 723, § 48, eff. Aug. 28, 1967.

¹ Article 13.56.

Synopsis of Changes—1967

Extends coverage of the section to include vacancies arising by creation of new offices or removal of incumbents, as well as those created by death or resignation of the incumbent.

Provides that nominations for precinct offices are to be made by the precinct committee rather than the county committee (see amendment to Subsection (5) of Art. 13.18a for composition of the precinct committee). Also authorizes the state com-

mittee to make a nomination for a district office in any instance where the district committee is unable to agree upon a nominee by majority vote.

A new provision, added in Subsection (8), requires that a majority of the members of a committee must participate in making a nomination, and provides that a majority vote of those members participating is required for nomination.

Art. 13.17 Order of offices and names on ballot

(a) The various county committees of any political party, on the third Monday in March preceding each general primary, shall meet at the county seat and determine by lot, in open meeting, the order in which the names of all candidates for all offices, including statewide races, requested to be printed on the official general primary ballot shall be printed thereon.

(b) At the meeting of the county executive committee for canvassing the returns of the general primary, as provided for in Section 202 of this code,¹ the committee shall determine in like manner the order in which the names of candidates for county and precinct offices shall be printed on the ballot in those races for which a runoff election is necessary. Upon receipt from the state chairman of the names of candidates for state and district offices which are to be printed on the second primary ballot, the chairman of the county executive committee shall immediately convene the primary committee, which shall determine by lot in open meeting the order in which the names of the candidates for state and district offices shall be printed on the second primary ballot and shall make up the official ballot for such election.

Amended by Acts 1967, 60th Leg., p. 1914, ch. 723, § 49, eff. Aug. 28, 1967.

¹ Article 13.24.

Synopsis of Changes—1967

Deletes a provision for determining the order of offices by lot, and adds a provision

for determining by lot the order of names on a second primary ballot.

Art. 13.18a District and precinct executive committees

(1) For a district composed of more than one county or part thereof, the county chairman of each county wholly within the district shall be ex officio a member of the district executive committee for each such district of which his county is a part. When a part of a county is joined with one or more other counties or parts of counties to form a district, at the meeting of the county executive committee provided for in Section 186 of this code¹ the precinct chairman of the election precincts included within such part of the county shall elect one of their number to serve as district committeeman; and a district committeeman shall be selected in this manner for each type of district and for each district for which any part of the county less than the whole county is joined with territory in another county or counties. The district committee thus formed shall elect its own chairman. Whenever a vacancy occurs in a district office or in the nomination for a district office and the district committee is empowered to name a nominee or a substitute nominee, or whenever for any other reason it becomes necessary for the district committee to meet and organize, the chairman of the state executive committee shall call a meeting of the district committee by giving notice to each member of the time and place where such meeting will be held and of the purpose of the meeting. The state chairman shall designate one member as temporary chairman, who shall call the meeting to order and preside until the committee elects its own chairman. The chairman elected by the committee shall continue to

For Annotations and Historical Notes, see V.A.T.S.

act as chairman during the remainder of that term of office, and shall call any subsequent meetings of the committee which are held during that time.

(2) For a district composed of only one county, the county executive committee shall constitute the district executive committee for that district, and the county chairman shall be chairman of the district executive committee.

(3) For a district composed of only a part of one county, the precinct chairmen of the election precincts included within the district shall constitute the district executive committee. At the meeting of the county executive committee provided for in Section 186 of this code,¹ the precinct chairmen within the district shall elect one of their number to serve as chairman of the district executive committee; and a chairman shall be selected in this manner for each type of district and for each district composed of only a part of the county.

(4) Within three days after the aforesaid meeting of the county executive committee, the county chairman shall forward to the state chairman the names of the district committeemen and of the chairmen of the district committees who were selected at the meeting.

(5) At this same meeting of the county committee, the precinct chairmen in each commissioners precinct and justice precinct shall select one of their number to serve as chairman of the precinct executive committee for each respective commissioners precinct and justice precinct. The precinct chairmen of the election precincts within the commissioners precinct or justice precinct shall constitute the precinct committee.

Amended by Acts 1967, 60th Leg., p. 1914, ch. 723, § 50, eff. Aug. 28, 1967.

¹ Article 13.08.

Synopsis of Changes—1967

Amendment changes the composition of a district committee for a district composed of less than one county (the county committee constituted the district committee under former law) and adds new provisions on composition of a district committee in districts having a part of a county joined with other counties. In a district of less than one county, the precinct chairmen within the district comprise the district committee. In a district having a part of a county joined with other territory, the

precinct chairmen within the partial county elect a district committeeman from among their number and the committeemen so elected together with the county chairmen in the whole counties make up the district committee. The amendment also provides for precinct committees for commissioners precincts and justice precincts, composed of the precinct chairmen of the election precincts comprising the commissioners or justice precinct.

Art. 13.18b Names of elected party officers to be recorded

In certifying the names of the elected county chairman and precinct chairmen to the county clerk, as required by Section 196 of this code, the county chairman shall enter the names on a separate list from the list of party nominees certified by him. In the list he shall include the addresses and precinct numbers of the precinct chairmen and the address of the county chairman. He shall mail a copy of the list to the chairman of the state executive committee of the party. The county clerk shall record the names of the elected party officers, designating the office to which each person was elected, in the book provided for in Section 116 of this code. The purpose of requiring certification of the names of the elected party officers is to provide a public record thereof, and the titles of the party offices and the names of the persons elected thereto shall not be placed on the general election ballot.

Amended by Acts 1967, 60th Leg., p. 1915, ch. 723, § 51, eff. Aug. 28, 1967.

Synopsis of Changes—1967

Amended to require the county chairman to include the addresses and precinct numbers of the precinct chairmen on the list of party officers which he files with the

county clerk, and also to require him to send a copy of the list to the state chairman.

Art. 13.23 Ballots delivered to county clerk

Immediately after the counting of the ballots is completed as required in Section 101 of this code,¹ and not later than twenty-four hours after closing of the polls, the presiding judge of each election precinct shall deliver to the county clerk the ballot box containing ballots voted, in the manner prescribed in Section 114 of this code;² and all other provisions of Section 114 shall also apply to primary elections.

Amended by Acts 1967, 60th Leg., p. 1915, ch. 723, § 52, eff. Aug. 28, 1967.

¹ Article 8.19.

² Article 8.32.

Synopsis of Changes—1967

Adds a reference to Sec. 101 (Art. 8.19), counting of the ballots continue without so as to bring this section into line with interruption after the polls are closed until the amendment to Sec. 101 requiring that the counting is completed.

Art. 13.24 Returns and canvass

Immediately upon completion of counting of the ballots, as required in Section 101 of this code,¹ the presiding judge of each election precinct shall notify the chairman of the county executive committee either personally or by telephone of the results. He shall immediately thereafter make out returns of the same in the manner prescribed in Section 111 of this code² and shall immediately and not later than twenty-four hours after the closing of the polls, make the proper distribution of the returns and other records of the election as provided in Section 111b of this code.³

Upon receiving returns from each election precinct in the county, the chairman of the county executive committee shall order the members of the county executive committee to convene at the county seat of the county on the following Tuesday succeeding the day of such primary election, and the returns shall be opened by the committee in executive session and shall be canvassed by them. The results recording the state of the polls in each precinct shall be entered in the book provided for in Section 116 of this code⁴ by the county clerk, and the chairman of the county executive committee shall furnish to the county clerk the necessary information for compliance with this provision. Upon relation of the county chairman, the county attorney shall immediately institute mandamus proceedings in the proper court to compel delinquent returning officers to make proper returns as required by law, and it shall be the duty of the county chairman and county clerk to notify the county attorney of the delinquency.

Amended by Acts 1967, 60th Leg., p. 1915, ch. 723, § 53, eff. Aug. 28, 1967.

¹ Article 8.19.

² Article 8.29.

³ Article 8.29b.

⁴ Article 8.34.

Synopsis of Changes—1967

Amended to conform to the amendment after the polls close until counting is completed to Art. 8.19 requiring continuous counting.

Art. 13.26a Withdrawal of candidate in second primary

Any candidate whose name is to appear on a second primary ballot may withdraw as a candidate by filing with the chairman of the state executive committee in the case of a state or district office, and with the chairman of the county executive committee in the case of a county or precinct office, not later than twenty days prior to the day of the election, a signed request, duly acknowledged by him, that his name not be printed on the ballot at such election. If one of the candidates withdraws, the remaining of the two highest candidates shall be certified as the nominee and a runoff election for nomination to that office shall not be held.

Amended by Acts 1967, 60th Leg., p. 1916, ch. 723, § 54, eff. Aug. 28, 1967.

Synopsis of Changes—1967

Amended to provide that if one of the draws, the remaining candidate is declared candidates in the second primary with- the nominee.

Art. 13.27 Canvass by state executive committee

(a) The chairman of the executive committee for each county shall immediately prepare, within twenty-four hours after the vote in the primary election has been canvassed by the county executive committee as provided in Section 202 of this code,¹ a tabulated statement of the votes cast in his county for each candidate for each nomination for a state, district, county or precinct office, and of those cast for county chairman and precinct chairman, and within that twenty-four-hour period mail such statement as to a state or district office, in a sealed envelope by registered or certified letter to the chairman of the state executive committee, who shall present the same to the state executive committee as herein provided.

(b) On the second Tuesday following the day of the general primary in May, the state executive committee shall meet at a place selected at the meeting held on the second Monday in March preceding, and shall open and canvass the returns of the election as to candidates for state and district offices, as certified by the various county chairmen, and shall prepare a tabulated statement showing the number of votes received by each such candidate in each county, which statement shall be approved by the state committee and certified by its chairman. In the event any candidate for a district office received in the general primary the necessary vote to nominate, within twenty days after the canvass the chairman of the state executive committee shall certify the name of such candidate to the Secretary of State, to be printed upon the official ballot for the general election as a candidate of the party for the office to which he was nominated. If such returns show that for any state or district office no candidate received a majority of all the votes cast for all candidates for such office, the committee shall prepare a list of the two candidates receiving the highest vote for each office for which no candidate received a majority and shall certify same to the county chairmen of the several counties to be placed upon the official ballot as candidates for office at the second primary election to be held on the first Saturday in June thereafter.

(c) Not later than the third Saturday in June of each election year, the state executive committee shall meet at the call of the chairman fixing the date of the meeting, at a place selected at the meeting held on the second Tuesday following the day of the general primary, and shall open and canvass the returns of the second primary election as to candidates for state and district offices as certified by the various county chairmen to the state chairman, and shall prepare a tabulated statement showing the number of votes received by each such candidate in each county, which statement shall be approved by the state committee and certified by its chairman. Within twenty days thereafter, the chairman of the state executive committee shall certify to the Secretary of State, the names of the district candidates receiving the highest vote, to be placed on the general election ballot.

(d) Within twenty days after the date of each canvass, the chairman of the state executive committee shall forward a copy of the tabulated statement prepared by the committee to the Secretary of State, who shall file such statement in the records of his office.

Amended by Acts 1967, 60th Leg., p. 1916, ch. 723, § 55, eff. Aug. 28, 1967.

¹ Article 13.24.

Synopsis of Changes—1967

Amended to permit the state executive Saturday in June to canvass the returns of committee to meet earlier than the third the runoff primary if all the county returns

are received before that date. Also clarifies state chairman within 24 hours after the that county returns are to be mailed to the canvass by the county committee.

Art. 13.30 Contest of primary nominations

* * * * *

(3) Any candidate desiring to contest the result of any primary election in which he was a candidate shall file his suit in the district court within ten days from the date of canvass of the results of the election by the state executive committee in the case of a state-wide office or a district office in a district which includes territory situated in more than one county, and within ten days from the date of canvass by the county executive committee in the case of a county or precinct office or a district office in a district which consists of only one county or part of one county. Process with a true copy of the petition or complaint attached thereto shall be served upon the opposite party as in other civil suits, except that the return day thereof shall be fixed by the district judge. If the contestee cannot be found within the county in which the contest is filed, service may be had upon the agent or attorney of the contestee, or by leaving the process with some person over the age of sixteen years at the usual place of abode or business of the contestee, or his last address. If service cannot be effected within three days in any of the above methods, service upon the contestee may be had by serving the county clerk in the county where suit is filed, and any candidate who files for a place on the ballot in the primary election shall thereby appoint such county clerk as his agent to receive service for him under the circumstances above set forth. If a candidate for a district office in a district which includes territory situated in more than one county files a contest in one or more counties without filing a contest in every county having territory within the district, the contestee shall have five days from the date of first service of process on him in the suit or suits filed by the contestant, in which to file a contest in such other counties of the district as he may desire to do. In a suit filed by a contestee under the authorization of the preceding sentence, the parties shall be designated, and the suit shall proceed, in the same manner as original contests filed under this Section. Nothing herein shall be construed to prevent the contestee in a pending suit from himself filing a contest as a contestant, within ten days from the applicable date of canvass, in the district court of any county having venue of the contest preceeding.

Par. (3) amended by Acts 1967, 60th Leg., p. 1917, ch. 723, § 55a, eff. Aug. 28, 1967.

* * * * *

Synopsis of Changes—1967

Amended to clarify the date from which the 10-day period for filing a contest begins to run. Former wording measuring the period "from the date of declaring the result by the executive committee," which was ambiguous in the case of offices canvassed by the state executive committee as well as by county committees, has been changed to provide that the period runs from the date of canvass by the state committee for statewide offices and district offices in districts containing territory in more than one county, and from the date

of canvass by the county committee for county and precinct offices and district offices in districts of only one county or part of one county.

Also amended to add provisions applying to contest of a district office in a district containing territory in more than one county, so as to give the contestee five days after service of process on him in which he may file a contest in any county in which the contestant has not filed a contest.

Art. 13.34 Precinct, county, and senatorial district conventions

(a) On the first Saturday after the general primary election day in each election year, there shall be held in each county a county convention of each party holding primary elections; provided, however, that when-

For Annotations and Historical Notes, see V.A.T.S.

ever the territory of a county forms all or part of more than one state senatorial district, in lieu of the county convention in such county there shall be held on the day stated above a convention (hereinafter called senatorial district convention) in each part of the county constituting all or part of each of such senatorial districts. Each county convention or senatorial district convention shall be composed of one delegate from each election precinct in such county or senatorial district or part thereof for each twenty-five votes, or major fraction thereof, cast for the party's candidate for Governor in such precinct at the last preceding general election, which delegate or delegates shall be elected by the qualified members of the party in each precinct at precinct conventions to be held on the general primary election day. In case at the preceding general election there were cast for such candidate for Governor less than twenty-five votes in any precinct, then all such precincts shall elect one delegate. Where the boundaries of an election precinct have been changed or a new precinct formed since the last general election, the county executive committee shall allocate to each such precinct the number of delegates to be elected in that precinct, and may use any fair and reasonable method for making the allocation.

(b) At the meeting of the state executive committee provided for in Section 190 of this code,¹ the committee shall set the ratio for the selection of delegates to the state conventions of that party for that election year, which ratio shall be one delegate for not less than each three hundred votes and not more than each six hundred votes cast for the party's candidate for Governor in each county or in each part of a county forming all or part of a state senatorial district; and the state chairman shall notify the county chairman of each county and the temporary chairman of each senatorial district convention of the ratio set for that year's conventions within ten days after the date of such meeting. Each county convention or senatorial district convention shall elect one delegate for each such number of votes, or major fraction thereof, as set by the state committee. If at the preceding general election there were cast for the party's candidate for Governor in the territory represented at the convention less than the number set by the state committee, then the convention shall elect one delegate. In the state conventions each county or each part of a county which holds a senatorial district convention shall be entitled to one vote for each delegate which it is entitled to elect.

The delegates so elected shall be delegates for all state conventions held throughout the remainder of the year and such of them as may attend such state conventions shall cast the votes for the territory which they represent in such conventions.

¹ Article 13.12.

(c) The qualified members of the party in each election precinct of the county shall assemble on the date named and shall be called to order by the precinct chairman, or in his absence by any qualified member of the party presiding within the precinct. Before transacting any business, the precinct chairman shall cause to be made a list of all qualified members of the party present. The name of no person shall be entered upon the list nor shall he be permitted to vote, be present at, or participate in the business of the convention until it is made to appear that he is a qualified voter in the precinct, from a certified list of the qualified voters, the same as is required in conducting a general election, and that he has qualified as a member of the party as provided in Section 179a of this code.¹ The precinct convention shall elect from among those present and qualified a permanent chairman and such other officers as may be necessary to conduct its business. The chairman of the convention shall possess all the power and authority that is given to election judges by the provisions of this code. After the convention is organized it shall elect its delegates to the county convention or senatorial district convention,

as the case may be, and transact such other business as may properly come before it. The only qualifications for serving as a delegate to a county or senatorial district convention, or to a state convention, are that the person shall be a qualified voter residing within the territory which he is selected to represent and shall be affiliated with the party as prescribed in Section 179a of this code.¹ Such of the delegates selected at the precinct convention as may attend the county or senatorial district convention shall cast the number of votes equal to the full delegate strength of the precinct. The officers of the precinct convention shall keep a written record of its proceedings, including the list of persons present and a list of delegates elected to the county or senatorial district convention, with the residence address of each delegate shown thereon, which shall constitute the returns from the convention. The record, and a copy thereof, shall be signed officially, sealed up and safely transmitted by the permanent chairman of the precinct convention within three days after the precinct convention to the county clerk of the county, who shall affix his file mark thereto and who shall promptly deliver the original copy of such return to the chairman of the county executive committee, and the return filed with the county clerk shall be open to public inspection during the regular office hours.

¹ Article 13.12a.

(d) The chairman of the county executive committee shall deliver the lists of delegates named by the precinct conventions in the county to the county convention, or shall deliver the appropriate precinct lists to each of the temporary chairmen of the senatorial district conventions to be held within the county, as the case may be, and these lists shall constitute the temporary roll of those selected as delegates to the county convention or senatorial district conventions and only delegates on such temporary roll shall be permitted to vote in the temporary organization of the convention. No person shall be permitted to hold a proxy or vote a proxy at a county convention or senatorial district convention. The county chairman shall be the temporary chairman of the county convention. The senatorial district committeeman selected as provided in Section 196a of this code shall be the temporary chairman of the senatorial district convention for a part of a county which is joined with other territory in a senatorial district, and the chairman of the district executive committee selected as provided in Section 196a of this code¹ shall be the temporary chairman in a district composed of only a part of one county. After being called to order by the temporary chairman, the convention shall elect a permanent chairman and such other officers as may be necessary to conduct its business. Immediately upon the adjournment of each such county or senatorial district convention, the permanent chairman thereof shall make out a certified list of the delegates chosen, together with a copy of all resolutions adopted by the convention, and shall sign the same, the permanent secretary of such convention attesting his signature, and within five days after the convention shall forward such certified list, resolutions and copies of each thereof by sealed registered or certified letter to the Secretary of State in Austin, Texas, who shall affix his file mark thereon and who shall deliver the originals thereof to the chairman of the state executive committee, prior to any state convention. The state chairman shall call a meeting of the state executive committee, which shall, at the meeting, prepare a complete list of the delegates elected to the state conventions by each county convention or senatorial district convention as certified by the Secretary of State. The chairman shall then present the certified list to any state convention, at any time prior to its beginning, and such lists shall constitute the temporary roll of those selected as delegates to such conventions, and only delegates on such temporary roll shall be permitted to vote in the temporary

For Annotations and Historical Notes, see V.A.T.S.

organization of any such state convention. No person shall be permitted to hold a proxy or vote a proxy at a state convention from more than one county.

¹ Article 13.18a.

(e) The county executive committee in its meeting on the third Monday in March preceding the general primary, provided for in Section 195 of this code,¹ or, upon its failure to act, the county chairman shall determine the hour and place at which the precinct conventions shall be held on primary election day. The time for convening of the precinct convention in each precinct must be set between the hours of two o'clock p.m. and nine o'clock p.m. The county chairman shall then be required to post a copy of this order on a bulletin board at the county courthouse and file a copy of the same in the office of the county clerk, where it shall be open to public inspection. This notice shall be posted and filed by the county chairman at least ten days prior to the holding of the precinct conventions. Also at this meeting the county executive committee, or, upon its failure to act, the county chairman, shall decide the hour and place at which the county convention shall be held, and the county chairman shall post this order on the bulletin board at the county courthouse and also file a copy of this notice with the county clerk, at least ten days prior to the date of the county convention. When senatorial district conventions are to be held in a county in lieu of the county convention, at this meeting the precinct chairmen for the election precincts which will select delegates to each senatorial district convention, or upon their failure to act, the temporary chairman of the convention, shall decide the hour and place at which each respective senatorial district convention shall be held, and each temporary chairman shall post this order on the bulletin board at the county courthouse and also file a copy of this notice with the county clerk, at least ten days prior to the date of the convention. Should the above-designated persons fail to post such orders and file such notices, then any member of the county executive committee who was entitled to participate in the decision may post such orders and file such notices and such shall constitute the orders and notices required herein. Should more than one member of the county executive committee post such orders and file such notices, then the first posting and filing in point of time shall prevail.

¹ Article 13.17.

(f) Representatives of newspapers, wire news services, and radio and television stations shall have the right to attend the precinct conventions, the county conventions, the senatorial district conventions, and the state conventions for the purpose of reporting the proceedings thereof.

(g) All nominees for the Legislature or the United States Congress and all state representatives, state senators and members of Congress shall be entitled to admission to the state conventions of their party, but unless elected as a delegate they shall not be entitled to vote or otherwise participate in the affairs of the convention.

(h) No person shall be ineligible to serve as a delegate to any county, senatorial district, state or national convention of any political party by reason of his holding any public office.

Amended by Acts 1967, 60th Leg., p. 1918, ch. 723, § 56, eff. Aug. 28, 1967.

Synopsis of Changes—1967

Amended to provide that in counties which comprise all or part of more than one senatorial district, a convention will be held in each part of the county constituting all or part of a senatorial district, in lieu of a county convention. Procedures for conducting the senatorial district conventions are provided by the amendment.

Also amended to make the following changes: In lieu of former provision fixing

delegate ratio of a county to the state convention at one delegate for each 300 votes, the state committee sets the ratio for each election year within the limits of one delegate for not less than 300 nor more than 600 votes. Clarifies that a person does not have to be present at the precinct or county (senatorial district) convention in order to be elected a delegate to the next higher convention; also that there can be no

proxies to the county (senatorial district) convention, but those delegates attending the convention have a voting strength equal to the entire delegate strength of the precinct. Requires that the list of persons at-

tending a precinct convention be forwarded as part of the convention record, and also that the delegate list show the residence address of each delegate.

Civil Statutes

Vernon's Ann.Civ.St. arts. 3154(a) and 3158a, appearing in the main volume following article 13.34, were repealed by Acts 1967, 60th Leg., p. 1858, ch. 723, § 77(4).

effective Aug. 28, 1967. The provisions of articles 3154(a) and 3158a have been incorporated into articles 13.41 and 13.45a and into Vernon's Ann.Civ.St. art. 1735a.

Art. 13.39 Certificate of nomination

Every certificate of nomination made by the permanent chairman of the state convention, or by the chairman of any executive committee, must state when, where, by whom, and how the nomination was made.

Amended by Acts 1967, 60th Leg., p. 1921, ch. 723, § 57, eff. Aug. 28, 1967.

Synopsis of Changes—1967

Amended to change "president" of the state convention to "permanent chairman" of the convention.

Art. 13.40 Repealed. Acts 1967, 60th Leg., p. 1932, ch. 723, § 77. Eff. Aug. 28, 1967

Art. 13.41 Mandamus

Any executive committee or committeeman or primary officer or other person charged under any provision of this code with any duty relative to the holding of the primary election, or the canvassing, determination or declaration of the result thereof, or the holding of any party convention, may be compelled by mandamus to perform the same in accordance with the provisions of this code.

Amended by Acts 1967, 60th Leg., p. 1921, ch. 723, § 58, eff. Aug. 28, 1967.

Synopsis of Changes—1967

Amended to include party conventions as well as party primaries, as provided in Art. 3154(a), Vernon's Civil Statutes. This enlargement of Art. 13.41 permits repeal

of Art. 3154(a), which is being done by Sec. 77 of this chapter [Acts 1967, 60th Leg., p. 1858, ch. 723, § 77].

Art. 13.45 Nominations by parties under two hundred thousand votes

Subdivision 1. Parties receiving more than two percent of vote for governor. Any political party whose nominee for Governor in the last preceding general election received as many as two percent of the total votes cast for Governor and less than two hundred thousand votes, may nominate candidates for the general election by primary elections held in accordance with the rules provided in this code for the primary elections of parties whose candidate for Governor received two hundred thousand or more votes at the last general election; or such party may nominate candidates for the general election by conventions as provided in Sections 224 and 225 of this code.¹

¹ Articles 13.47 and 13.48.

Subdivision 2. Parties receiving less than two percent of vote for governor. Any political party whose nominee for Governor received less than two percent of the total votes cast for Governor in the last preceding general election, or any new party, or any previously existing party which did not have a nominee for Governor in the last preceding general election, may also nominate candidates by conventions as provided in Sections 224 and 225,¹ but in order to have the names of its nominees printed on the general election ballot there must be filed with the Secretary of

For Annotations and Historical Notes, see V.A.T.S.

State, within twenty days after the date for holding the party's state convention, the lists of participants in precinct conventions held by the party in accordance with Sections 222a and 224 of this code,² signed and certified by the temporary chairman of each respective precinct convention, listing the names, addresses (including street address or post office address), and registration certificate numbers of qualified voters attending such precinct conventions in an aggregate number of at least one percent of the total votes cast for Governor at the last preceding general election; or if the number of qualified voters attending the precinct conventions is less than that number, there must be filed along with the precinct lists a petition requesting that the names of the party's nominees be printed on the general election ballot, signed by a sufficient number of additional qualified voters to make a combined total of at least one percent of the total votes cast for Governor at the last general election. The address and registration certificate number of each signer shall be shown on the petition. No person who, during that election year, has voted at any primary election or participated in any convention of any other party which has nominated candidates to be voted on at the general election shall be eligible to sign the petition. To each person who signs the petition there shall be administered the following oath, which shall be reduced to writing and attached to the petition: 'I know the contents of the foregoing petition, requesting that the names of the nominees of the _____ Party be printed on the ballot for the next general election. I am a qualified voter at the next general election under the Constitution and laws in force, and during the current election year I have not voted in any primary election or participated in any convention held by any other political party which has nominated candidates to be voted on at that election.' The petition may be in multiple parts. One certificate of the officer administering the oath may be so made as to apply to all to whom it was administered.

The chairman of the state executive committee shall be responsible for forwarding the precinct lists and petition to the Secretary of State.

At the time the Secretary of State makes his certifications to the county clerks as provided in Section 3 of this Code,³ he shall also certify to the county clerks the names of parties subject to this subdivision which have complied with its requirements, and the county clerks shall not place on the ballot the names of any nominees of such a party which have been certified directly to them unless the Secretary of State certifies that the party has complied with these requirements.

Amended by Acts 1967, 60th Leg., p. 1921, ch. 723, § 59, eff. Aug. 28, 1967.

¹ Articles 13.47 and 13.48.

² Articles 13.45a and 13.47.

³ Article 1.03.

Synopsis of Changes—1967

Amended to provide that in order for a political party whose candidate for Governor received less than two percent of the total vote in the preceding election to have nominees on the ballot, it must submit records showing that its precinct conventions for the current year were attended by at least one percent of the total vote for Governor in the preceding general election, or must supplement the delegate list by a petition of voters bringing the combined number to that percent.

Art. 13.45a Regulation of party affairs and conventions

Subdivision 1. Party holding primary elections. If a political party whose nominee for Governor in the last preceding general election received less than two hundred thousand votes has chosen to make its nominations by the primary election method, the management of its party affairs and the conduct of its conventions during that election year shall be subject to the provisions of this code relating to the affairs and conventions of parties which are required to hold primaries.

Subdivision 2. Party not holding primary elections. The management of party affairs and the conduct of conventions of political parties

which are making nominations by the convention method are not subject to the provisions of Sections 196, 196a, 196b, 212, 213, 215, and 216 of this code.¹ Except as to matters regulated in this code by express provisions applying to such parties, each such party has authority to regulate its affairs and convention procedures.

¹ Articles 13.18, 13.18a, 13.18b, 13.34, 13.35, 13.37 and 13.38.

Subdivision 3. Time and place of precinct and county conventions. The county executive committee of each political party which is making nominations by the convention method shall determine, at a meeting held at least twenty days before the date of the precinct conventions, the hour and place of holding each precinct convention in such county, as well as the hour and place of holding the county convention. Should the county executive committee fail to do so, it shall be the duty of the county chairman to make such determination. It shall be the duty of the county chairman to post a notice of the hours and places of holding the conventions on a bulletin board at the county courthouse and to file a copy thereof in the office of the county clerk at least ten days prior to the precinct conventions. The notice filed with the county clerk shall be open to inspection by the public during office hours of the clerk. Failure of the county chairman to post or to file the above notice as provided herein shall make such chairman ineligible to be a delegate or alternate delegate, or to hold or vote a proxy at the next succeeding county, district and state conventions of the party.

Should the county chairman fail to file with the county clerk a notice of the hour and place of holding the precinct convention in any precinct, then any qualified voter, resident in such precinct, may file with the county clerk a notice of the hour and place of holding such precinct convention, and such shall constitute the legal hour and place therefor. Should more than one such qualified voter file such notice, then the first filing in point of time shall prevail. A certificate of the county clerk as to the filing or nonfiling of any notice provided in this section shall be conclusive.

Neither the county chairman nor the county executive committee shall appoint any precinct chairman during that period of time subsequent to the posting and filing of notices for the precinct conventions and prior to the time of holding such precinct conventions. Nothing herein, however, shall prevent qualified voters of a precinct having no chairman from meeting, electing their own chairman and holding a precinct convention of such party, but if an hour and place therefor has been designated in either of the methods provided above, then the convention shall be held at such hour and place.

The county convention of any such party shall be held in a public place at the county seat.

Subdivision 4. Precinct convention lists of certain parties. At each precinct convention of a party subject to the provisions of Subdivision 2 of Section 222 of this code,¹ the precinct chairman shall serve as the temporary chairman of the convention until a permanent chairman is elected. The temporary chairman shall cause a list to be made of the names of all persons attending the convention and participating therein, together with the address (including street address or post office address) and registration certificate number of each participant. Within three days after the precinct convention, he shall officially sign and certify to the list and shall transmit one signed, certified copy to the chairman of the state executive committee of the party, and shall file another signed, certified copy in the office of the county clerk of the county wherein the precinct is situated.

Added by Acts 1967, 60th Leg., p. 1922, ch. 723, § 60, eff. Aug. 28, 1967.

¹ Article 13.45.

Synopsis of Changes—1967

Subdivisions 1 and 2 clarify extent of applicability to minor parties of provisions in the Code relating to parties required to hold primaries (major parties). Subdivi-

For Annotations and Historical Notes, see V.A.T.S.

sion 3 incorporates into the Election Code the provisions of Art. 3158a, Vernon's Civil Statutes, and Art. 3158a is being repealed, the purpose of this change being to get these provisions into the Election Code,

where they belong. Subdivision 4 provides the machinery by which the precinct lists required in Art. 13.45, as amended by this chapter, are obtained.

Art. 13.47 Conventions of parties not required to hold primary

Political parties which are not required by law to make nominations by primary election may make nominations by conventions as provided herein.

Nominations for statewide offices shall be made at a state convention, which shall be held on the second Saturday in June of the election year, and which shall be composed of delegates selected in the various counties at county conventions held on the second Saturday in May. The county conventions shall be composed of delegates from the general election precincts of such counties elected therein at precinct conventions held in such precincts on the first Saturday in May.

Nominations for district offices of districts composed of more than one county or part thereof shall be made at district conventions held on the third Saturday in May of the election year, composed of delegates elected thereto from the counties having territory within the district, at the county conventions held on the second Saturday in May.

Nominations for county and precinct offices and for district offices of districts composed of only one county or part of one county shall be made at the county conventions held on the second Saturday in May.

The state executive committee of each party shall determine the formula by which the number of delegates to the county, district, and state conventions of that party shall be governed, and shall also formulate such rules as it deems desirable with respect to participation of delegates at a county convention in the nomination of candidates for precinct offices and for district offices of districts composed of only a part of the county, and in the election of delegates to a district convention where only a part of the county is included in the district.

Amended by Acts 1967, 60th Leg., p. 1923, ch. 723, § 61, eff. Aug. 28, 1967.

Synopsis of Changes—1967

Changes date of state convention from Monday preceding last Tuesday in May to the second Saturday in June, and changes date of district conventions from Saturday preceding last Tuesday in May to the third Saturday in May. Authorizes the state ex-

ecutive committee to set the formula for determining the number of delegates to the various conventions, and to make certain rules with respect to participation of delegates in nominations for precinct offices and district offices in split-county districts.

Art. 13.47a Application for nomination; affidavit of intent to run; filing

* * * * *

Sec. 4. The requirements of Sections 1 and 3 shall not apply to candidates for unexpired terms where the vacancy in office occurs subsequent to the tenth day preceding the regular deadline for filing applications for a place on a primary election ballot as prescribed in Paragraph 2 of Section 190 of this code.¹ The requirements of Section 3 shall not apply to independent candidates for any office for which the filing deadline in a primary election is extended under the provisions of Paragraph 2a of Section 190 of this code.

Sec. 4 amended by Acts 1967, 60th Leg., p. 1924, ch. 723, § 61a, eff. Aug. 28, 1967.

¹ Article 13.12.

Synopsis of Changes—1967

Amended [Sec. 4] to provide that an independent candidate does not have to file the declaration of intent required by this

section where the primary filing deadline for the office has been extended because of the death of a primary candidate.

Art. 13.56 Declination of death of nominee; filling vacancy in nomination

* * * * *

(b) If prior to the twentieth day before the day of the election, a nominee dies or declines the nomination, or is declared ineligible to be elected to or to hold the office for which he is a candidate, the executive committee of the party for the state, district, county, or precinct, as the office to be nominated may require, may nominate a candidate to supply the vacancy. A certificate of such nomination, signed and duly acknowledged by the chairman of the executive committee, must be filed with the officer with whom the certificate of the original nomination was filed not later than twenty days before election day, which certificate shall set forth the name of the original nominee, the cause of the vacancy, the name of the new nominee, the office for which he was nominated, and when, where, by whom, and how he was nominated. The officer with whom the substitute nomination is filed shall immediately take the necessary action to cause the name of the new nominee to be placed on the ballot.

Subsec. (b) amended by Acts 1967, 60th Leg., p. 1924, ch. 723, § 62, eff. Aug. 28, 1967.

(c) In any case where a district committee is empowered to name a nominee and fails to do so prior to twenty days before the election because it is unable to agree upon a nominee by majority vote, the state executive committee may name a candidate for such office and certify the name to the proper officer to have the name printed on the official ballot for the general election; provided, however, that the certification must be filed not later than twenty days before election day.

Subsec. (c) amended by Acts 1967, 60th Leg., p. 1924, ch. 723, § 62, eff. Aug. 28, 1967.

* * * * *

(e) If a party nominee dies or declines the nomination or is declared ineligible to be elected, and no one is nominated to fill the vacancy, his name shall be printed on the ballot and the procedure set out in Section 104 of this code shall be followed.

Subsec. (e) amended by Acts 1967, 60th Leg., p. 1925, ch. 723, § 62, eff. Aug. 28, 1967.

* * * * *

Synopsis of Changes—1967

Amended to make the section applicable to vacancy arising from ineligibility as well as from death or declination, and to provide for nomination by the precinct committee, created by the amendment to Art. 13.18a, where the vacancy is for an office of a justice or commissioners precinct. Also rewords the provision on power of the state committee to name a nominee for a district office.

Art. 13.58 National convention

(a) Any political party holding primary elections in an election year during which it desires to elect delegates to a national convention shall hold a state convention at such hour and place as may be designated by the state executive committee of the party, on the second Tuesday following the second primary election date. Such convention shall be composed of delegates duly elected at the county and senatorial district conventions as provided for in Section 212 of this code.¹ The chairman of the state executive committee shall notify the Secretary of State as to the hour and place at which the state convention will be held and shall also mail a copy of such notice to each county chairman and the temporary chairman of each senatorial district convention in the state at least ten days prior to the date of the state convention.

For Annotations and Historical Notes, see V.A.T.S.

(b) Any political party not holding primary elections which desires to elect delegates to a national convention shall elect such delegates at the state convention provided for in Section 224 of this code.²

Amended by Acts 1967, 60th Leg., p. 1925, ch. 723, § 63, eff. Aug. 28, 1967.

¹ Article 13.34.

² Article 13.47.

Synopsis of Changes—1967

Amended to provide that minor parties may nominate delegates to a national convention at the state convention for nominating candidates for state offices, instead of having to hold a separate convention as was required under the former law.

CHAPTER FOURTEEN—LIMITING CAMPAIGN EXPENDITURES

Art. 14.06 Criminal Penalty

Any candidate, campaign manager, assistant campaign manager, or other person, who makes an unlawful campaign expenditure in violation of the foregoing sections of this chapter shall be fined not less than one hundred dollars nor more than five thousand dollars, or be imprisoned in the penitentiary not less than one nor more than five years, or be both so fined and imprisoned.

Reenacted Acts 1967, 60th Leg., p. 1925, ch. 723, § 64, eff. Aug. 28, 1967.

Synopsis of Changes—1967

Reenacted to cure a caption defect in the original enactment in 1951. See Ex parte Meyer, 357 S.W.2d 754 (Tex.Crim. App.1962).

Art. 14.08 Records and Sworn Statement

* * * * *

(b) Each opposed candidate whose name and whose opponent's name are printed on the ballot at a first primary election or at a general or special election shall file a sworn statement, not less than seven nor more than ten days prior to the day of each such election, of all gifts and loans previously received and of all gifts, loans, and payments made and all debts incurred and obligations incurred or contracted for future use in behalf of such person's candidacy for office. The statement must include all such gifts, loans, payments, debts and obligations made or incurred, whether before or after the announced or filed candidacy of such person. Not more than ten days after the election the candidate shall also file a supplemental sworn statement of all gifts and loans received prior to the election and of all gifts, loans and payments made and debts and obligations incurred prior to the election not specifically included in the sworn statement filed prior to the election.

Subsec. (b) amended by Acts 1967, 60th Leg., p. 1925, ch. 723, § 65, eff. Aug. 28, 1967.

* * * * *

(g) If any candidate fails to file such sworn statement at the time provided herein or swears falsely therein, he shall be subject upon conviction to a fine not less than one hundred dollars nor more than five thousand dollars, or be imprisoned in the penitentiary not less than one nor more than five years, or be both so fined and imprisoned.

Subsec. (g) reenacted by Acts 1967, 60th Leg., p. 1926, ch. 723, § 66, eff. Aug. 28, 1967.

(h) Any candidate failing to file such sworn statement at the time provided or swearing falsely therein shall be subject to forfeiture, in accordance with the procedure stated in Section 245 of this code,¹ of his right to have his name placed upon the ballot at any subsequent runoff or

general election which would be necessary for nomination or election to the term of office which the candidate is seeking.

Subsec. (h) amended by Acts 1967, 60th Leg., p. 1925, ch. 723, § 65, eff. Aug. 28, 1967.

* * * * *

(k) Statements filed under this section shall be open to public inspection. They shall be preserved for a period of two years, after which they may be destroyed unless a court of competent jurisdiction has ordered their further preservation.

Subsec. (k) added by Acts 1967, 60th Leg., p. 1926, ch. 723, § 67, eff. Aug. 28, 1967.

¹ Article 14.09.

Synopsis of Changes—1967

Subsec. (b) is amended to extend to all elections the provision, formerly applicable only to general elections, that only opposed candidates are required to file campaign statements.

Subsec. (h) is amended to clarify that a quo warranto proceeding in a district court is the exclusive method for keeping a candidate's name off the ballot for a violation of the campaign statement provisions, and

that forfeiture of a right to have his name on the ballot extends only to subsequent elections in the same series.

Reenacted [Subsec. (g)] to cure a caption defect in the original enactment in 1951. See Ex parte Meyer, 357 S.W.2d 754 (Tex. Crim.App.1962).

A new subsection [Subsec. (k)] makes express provision that campaign statements are open to public inspection.

Art. 14.10 Political advertising

* * * * *

(b) No political advertising shall be accepted for printing, publication, or broadcasting unless a copy of the matter to be printed, published, or broadcast, signed by the individual contracting therefor and showing his full address, is deposited with the printer, publisher or broadcaster accepting the advertising (herein called the "advertising medium"). The advertising medium shall preserve the signed copy for a period of six months after the date of the election to which such advertising relates, and shall permit any interested person to inspect the signed copy at any time during business hours. Such advertising shall be labeled as political advertising in the advertisement as printed, published, or broadcast. Any printed or published political advertising not otherwise clearly reflecting its source or origin shall also have printed on it the name and address of the printer or publisher or of the person or organization paying for the advertising. Any advertising medium or any officer or agent thereof who violates any provision of this paragraph shall be fined not more than one hundred dollars.

Subsec. (b) amended by Acts 1967, 60th Leg., p. 1926, ch. 723, § 68, eff. Aug. 28, 1967.

* * * * *

Synopsis of Changes—1967

Amended [Subsec. (b)] to require that the name and address of the printer or publisher or of the person or organization

paying for the advertising be printed on any political advertising that does not clearly reflect its source or origin.

TITLE 51—ELEEMOSYNARY INSTITUTIONS

CHAPTER ONE—GENERAL PROVISIONS

Art. 3183g. Standards of physical safety to assure adequate medical, psychiatric and rehabilitative care at state tuberculosis and mental hospitals and schools for the retarded [New].

Art. 3183a. State Eleemosynary and State Memorial Park Lands

* * * * *

Royalties payable to General Land Office; sworn statement of production

Sec. 11. Royalty as stipulated in the sale shall be paid to the General Land Office at Austin, Texas, for the benefit of the Special Building Fund of the Eleemosynary Institutions on or before the last day of each month for the preceding month during the life of the rights purchased, and it shall be accompanied by the sworn statement of the owner, manager or other authorized agent showing the gross amount of oil produced and saved since the last report and the amount of gas produced and sold off the premises and the market value of the oil and gas, together with a copy of all daily gauges of tanks, gas meter readings, pipeline receipts, gas line receipts, and other checks and memoranda of the amounts produced and put into pipelines, tanks or pools and gas lines or gas storage. The books and accounts, receipts and discharge of all wells, tanks, pools, meters, pipelines, and all contracts and other records pertaining to the production, transportation, sale and marketing of the oil and/or gas shall at all times be subject to inspection and examination by the Commissioner of the General Land Office, the Attorney General, or any member of the State Board of Control.

Sec. 11 amended by Acts 1967, 60th Leg., p. 912, ch. 400, § 4, emerg. eff. June 8, 1967.

* * * * *

Acts 1967, 60th Leg., p. 910, ch. 400, §§ 1-3, 5-9 amended articles 2603a, § 11; 2613a-3, § 10; 2628a-9, § 10; 5380; 5382d, § 9; 5382e, § 1(b); 6077o, § 11 and 6203a, § 11 by changing the day on which oil and gas royalties on public lands must be paid to the state.

Art. 3183g. Standards of physical safety to assure adequate medical, psychiatric and rehabilitative care at state tuberculosis and mental hospitals and schools for the retarded

Section 1. On and after the effective date of this Act, the Texas State Department of Health shall by rule and regulation set standards as to the physical safety of buildings and adequacy of staff, in number and quality, necessary to assure a continuous plan of adequate medical, psychiatric, nursing and social work services to patients cared for in State tuberculosis hospitals, State mental hospitals and State schools for the retarded.

Sec. 2. The Texas State Department of Health shall approve those State tuberculosis hospitals, State mental hospitals and State schools for the retarded which meet the standards promulgated by it and shall certify its approval to the Texas Department of Public Welfare or the United States Department of Health, Education and Welfare when requested to do so.

Acts 1967, 60th Leg., p. 430, ch. 195, emerg. eff. May 15, 1967.

Title of Act: State mental hospitals and State schools for the retarded; and declaring an emergency. Acts 1967, 60th Leg., p. 430, ch. 195.
An Act concerning standards of physical safety, medical, psychiatric and rehabilitative care at State tuberculosis hospitals,

CHAPTER THREE—OTHER INSTITUTIONS

CONFEDERATE WOMAN'S HOME

Art.
3220a. Services for widows in licensed nursing homes [New].

CONFEDERATE WOMAN'S HOME

Art. 3220a. Services for widows in licensed nursing homes

Section 1. The Texas Department of Mental Health and Mental Retardation is hereby authorized to place in licensed nursing homes those widows of Confederate soldiers and sailors who are on the pension rolls of this state and who make application to the Department for care in the Texas Confederate Women's Home. The licensed nursing home selected to care for these persons shall be mutually agreed upon by the applicant for care and the Texas Department of Mental Health and Mental Retardation.

Sec. 2. The Department shall reimburse the licensed nursing home selected to care for these persons from its operating expenses appropriation.

Acts 1967, 60th Leg., p. 193, ch. 104, emerg. eff. May 4, 1967.

Section 3 of the act of 1967 repealed conflicting laws and parts of laws.

Title of Act:

An Act authorizing the Texas Department of Mental Health and Mental Re-

tardation to provide services for widows of Confederate soldiers and sailors in licensed nursing homes; and declaring an emergency. Acts 1967, 60th Leg., p. 193, ch. 104.

TEXAS SCHOOL FOR THE DEAF

Art. 3221. Powers and duties of State Board of Education

Transfer of Administrative Responsibility and Change of Name

The management and administrative responsibility for the Texas Blind, Deaf and Orphan School was transferred from the Texas Youth Council to the Board for Texas State Hospitals and Special Schools by Acts 1963, 58th Leg., p. 208, ch. 111, § 1 and from the Board for Texas State Hospitals and Special Schools to the State Board of Education by Acts 1965, 59th Leg., p. 117, ch. 45, § 1. The name of the Texas Blind, Deaf and Orphan School was changed to the Texas Blind, and Deaf School by Acts 1965, 59th Leg., p. 117, ch. 45, § 2 and was changed to the Texas School for the Deaf by Acts 1967, 60th Leg., p. 1197, ch. 534, § 1. See article 3221c.

Art. 3221b. Texas School for the Deaf; name

Change of Name

The name of the Texas Blind, Deaf and Orphan School was changed to the Texas Blind, and Deaf School by Acts 1965, 59th Leg., p. 117, ch. 45, § 2, and was changed to the Texas School for the Deaf by Acts 1967, 60th Leg., p. 1197, ch. 534, § 1. See article 3221c, § 2.

Art. 3221c. Texas School for the Deaf, jurisdiction of State Board of Education

Sec. 2. Texas Blind, and Deaf School (formerly known as Texas Blind, Deaf and Orphan School) shall hereafter be designated and known as Texas School for the Deaf and by this Act is combined and consti-

For Annotations and Historical Notes, see V.A.T.S.

tuted, territorially and for all purposes, a part and campus of the so enlarged Texas School for the Deaf and of Texas School for the Deaf Independent School District.

Sec. 3. The State Board of Education shall have exclusive jurisdiction and control of the Texas School for the Deaf as herein or hereafter enlarged. Such jurisdiction shall extend to all physical assets, including lands, property, etc., now owned or purchased for the benefit of the former Texas Blind, and Deaf School; and appropriations, grants, funds, and gifts made for the benefit thereof shall be administered and expended by the State Board of Education.

Acts 1963, 58th Leg., p. 208, ch. 111, amended by Acts 1965, 59th Leg., p. 117, ch. 45, § 1, eff. Sept. 1, 1965. Secs. 2 and 3 amended by Acts 1967, 60th Leg., p. 1198, ch. 534, §§ 1, 2, eff. Aug. 28, 1967.

TITLE 52—EMINENT DOMAIN

Art. 3266. 6507-28 General provisions

* * * * *

3. Commissioners shall receive for their services an amount fixed by the Commissioners Court, who shall set the fee of the commissioners at any amount they may deem reasonable, but not less than Five Dollars (\$5) for each day they are engaged in the performance of their duties. As amended Acts 1955, 54th Leg., p. 537, ch. 166, § 1; Acts 1959, 56th Leg., p. 874, ch. 399, § 1, eff. May 30, 1959.

(a) In all counties where County Courts at Law, or District Courts are given exclusive or concurrent jurisdiction to try and dispose of eminent domain proceedings and cases, each of such courts shall have jurisdiction to tax or re-tax a reasonable fee of not less than \$10.00 each as a part of the costs of court to each of the Special Commissioners sitting as a tribunal to hear and dispose of the Administrative Proceedings following the filing of a condemnation proceeding with the judge or with the court.

Sec. 3, par. (a) added by Acts 1967, 60th Leg., p. 1766, ch. 669, § 1, emerg. eff. June 17, 1967.

* * * * *

Acts 1967, 60th Leg., p. 1766, ch. 669, section 2 that the bill should be operative which amended section 3 of this article by on and after the date of its passage. adding paragraph (a) thereto, provided in

TITLE 55—EVIDENCE

1. WITNESSES AND EVIDENCE

Art.

3712a. Interpreters for deaf or deaf-mute persons [New].

3715a. Clergyman-penitent privilege [New].

1. WITNESSES AND EVIDENCE

Art. 3712a. Interpreters for deaf or deaf-mute persons

(a) In all civil cases or in the taking of depositions, where a party or a witness is a deaf or deaf-mute person, he shall have the proceedings of the trial interpreted to him in a language that he can understand by a qualified interpreter appointed by the court.

(b) In any case where an interpreter is required to be appointed by the court under this Act, the court shall not commence proceedings until the appointed interpreter is in court in a position not exceeding 10 feet from and in full view of the deaf or deaf-mute person.

(c) The interpreter appointed under the terms of this Act shall be required to take an oath that he will make a true interpretation to the deaf or deaf-mute person of all the proceedings of the case in a language that he understands; and that he will repeat the deaf or deaf-mute person's answer to questions to counsel, court, or jury, in the English language, in his best skill and judgment.

(d) Interpreters appointed under this Act shall be paid not less than \$15 nor more than \$50 a day, at the discretion of the judge presiding. When travel of the interpreter is involved all the actual expenses of travel, lodging, and meals incurred by the interpreter pertaining to the case he is appointed to serve shall be paid at the same rate applicable to state employees. All the cost of the services of the interpreters in civil cases shall be taxed as cost of court.

Acts 1967, 60th Leg., p. 194, ch. 105, § 1, eff. Aug. 28, 1967.

Acts 1967, 60th Leg., p. 194, ch. 105,
§ 2 amended Vernon's Ann.C.C.P. art. 38.31.

Art. 3715a. Clergyman-penitent privilege

No ordained minister, priest, rabbi or duly accredited Christian Science practitioner of an established church or religious organization shall be required to testify in any action, suit, or proceeding, concerning any information which may have been confidentially communicated to him in his professional capacity under such circumstances that to disclose the information would violate a sacred or moral trust, when the giving of such testimony is objected to by the communicant; provided, however, that the presiding judge in any trial may compel such disclosure if in his opinion the same is necessary to a proper administration of justice.

Added by Acts 1967, 60th Leg., p. 1005, ch. 435, § 1, eff. Aug. 28, 1967.

**TITLE 59—FEEBLE MINDED PERSONS—PROCEEDINGS
 IN CASE OF**

Art. 3871b. Mentally retarded persons

* * * * * * * * * * *

Voluntary admission procedure

Sec. 9. (a) Upon the basis of the results of an examination at a diagnostic center of the Department or a diagnostic center approved by the Department, the superintendent of a State school under the control and management of the Texas Department of Mental Health and Mental Retardation may admit a mentally retarded person to the State school of which he is superintendent upon the written application of the parents or a court-appointed guardian of the person.

(b) Except as hereinafter provided, no voluntary student may be detained more than ninety-six hours after the superintendent has received written notice from the person upon whose application the mentally retarded person was admitted to have the student removed from the State school. If, however, the condition of the person is deemed by the superintendent to be such that he can not be discharged with safety to himself or with safety to the general public the superintendent may forthwith file or cause to be filed an application for judicial admission. For the purpose of this subsection, the county within which the State school is located shall be deemed the county of residence of the student. Pending a final determination on the application, the court shall order the student placed in protective custody in:

(1) a State school, or

(2) a suitable place to be designated by the court, provided no person held under the provisions of this subsection may be confined in a jail unless there be a showing that he is "dangerous to himself or the general public and there is no other suitable place of custody available."

Sec. 9 amended by Acts 1967, 60th Leg., p. 567, ch. 255, § 1, emerg. eff. May 22, 1967.

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Support and Maintenance

Sec. 21. (a) The parents of a mentally retarded person under 21 years of age who is a student in a state school operated by the Texas Department of Mental Health and Mental Retardation shall pay, if able to do so, such portions of the cost and support and maintenance of the mentally retarded person as may be applicable under the following formula:

If the amount shown as "Net Taxable Income" of the parents as reported on their latest current financial statement or on their latest Federal Income Tax return at the election of the parent or guardian is:

The monthly payment per child shall not exceed:

Less than \$4,000	\$ 5.00
\$ 4,000-4,999	10.00
5,000-5,999	20.00
6,000-6,999	30.00
7,000-7,999	40.00

\$ 8,000-8,999	\$ 50.00
9,000-9,999	60.00
10,000-10,999	70.00
11,000-11,999	80.00
12,000-12,999	90.00
13,000-13,999	100.00
14,000-14,999	110.00
15,000-15,999	120.00
16,000-16,999	130.00
17,000-17,999	140.00
18,000-18,999	150.00
19,000-19,999	160.00
20,000-up	170.00

Provided that no payment under the above schedule shall exceed actual cost to the state per student and if the payment required under this schedule is more than actual cost then the amount paid shall be the actual cost.

(b) Parents of a mentally retarded person who is 21 years of age or older shall not be required to pay for his support and maintenance in a state school as a student, but the mentally retarded person and his estate shall be liable for his support and maintenance regardless of his age.

The unpaid portion of charges for support and maintenance due before the effective date of this amendment under agreements made before the effective date of this amendment shall remain as obligations of parents under previous law, but such pre-existing agreements for payment of support and maintenance shall be in force after the effective date of this amendment only to the extent of parental responsibility set forth in the foregoing formula.

Unpaid charges for support and maintenance accruing after the effective date of this amendment due by parents for the support and maintenance of mentally retarded persons who are minors and students in state schools shall be a claim in favor of the state for such support and maintenance, but only to the following extent:

Such charges shall always constitute a lien in favor of the state against the entire estate or any property of the mentally retarded person including but not limited to any share he may have by gift or descent or devise in his parents' estates or any other person's estate.

After a mentally retarded person who is a student in a state school reaches 21 years of age the cost of his support and maintenance may be determined under rules and regulations adopted by the Texas Board of Mental Health and Mental Retardation provided that charges for support and maintenance shall not exceed the actual cost of such support and maintenance and the costs determined under such rules and regulations shall constitute a claim by the state against the entire estate or any property of the mentally retarded person including but not limited to any share he may have by gift, descent or devise in his parents' estates or any other person's estate.

(c) Nothing in this amendment shall alter or amend the liability and responsibility of any parent under orders of a court or otherwise liable for child support payments under the provisions of Article 4639a-1, Revised Civil Statutes of Texas, 1925, as added by Chapter 31, Acts of the 57th Legislature, 1st Called Session, 1961.

Sec. 21 amended by Acts 1967, 60th Leg., p. 1935, ch. 725, § 1, eff. Sept. 1, 1968.

* * * * *
 Acts 1967, 60th Leg., p. 1935, ch. 725, which amend section 21 of this article, provided in sections 2 and 3 of the act:
 "Sec. 2. The provisions of this Act are severable, and if any article or Section is declared void by a court, the remainder of the Act remains in effect."
 "Sec. 3. This Act shall be in effect from and after September 1, 1968."

TITLE 61—FEEES OF OFFICE

CHAPTER ONE—GENERAL PROVISIONS

<p>Art. 3883f—2. Tax assessor-collector in counties of not less than 600,000 nor more than 900,000 population [New].</p> <p>3902f—3. Counties of 24,000 to 25,000; compensation of deputies, assistants, clerks and stenographers [New].</p>	<p>Art. 3912e—22. Counties of 26,000 to 28,000; compensation of officials [New].</p> <p>3912f—5. Salaries of deputy sheriffs in counties of 24,000 to 25,000 and 10,500 to 11,000 population [New].</p>
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Art. 3883f—1. Repealed. Acts 1967, 60th Leg., p. 841, ch. 352, § 2. Eff. Aug. 28, 1967

See, now, art. 3883f—2.

Art. 3883f—2. Tax assessor-collector in counties of not less than 600,000 nor more than 900,000 population

Section 1. The total compensation of any county assessor-collector of taxes of any county having a population of not less than 600,000 and not more than 900,000 according to the last preceding Federal Census shall not exceed \$18,000, inclusive of salary, fees, and other compensation received as assessor-collector of taxes.

Sec. 2. Chapter 248, Acts of the 57th Legislature, Regular Session, 1961, is repealed.

Acts 1967, 60th Leg., p. 841, ch. 352, eff. Aug. 28, 1967.

Title of Act:

An Act providing maximum compensation for assessor-collectors of taxes for all counties having a population of not less than 600,000 nor more than 900,000 according to

the last preceding Federal Census; repealing Chapter 248, Acts of the 57th Legislature, Regular Session, 1961; and declaring an emergency. Acts 1967, 60th Leg., p. 841, ch. 352.

Art. 3883i. Maximum and minimum salaries; certain precinct, county and district officials in certain counties

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Counties of 900,000 to 1,200,000 Inhabitants; Enumeration of Salaries and Restrictions

Sec. 8.

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(b) In all counties of this State having a population of one million (1,000,000) or more inhabitants, according to the last preceding Federal Census, the Commissioners Court of such counties shall fix the salaries of county officials in the following manner:

The salary of the county judge shall be Eighteen Thousand Dollars (\$18,000) per annum, provided, the county judge in such counties shall be allowed, in addition to all other compensation fixed herein, the sum of Three Thousand Dollars (\$3,000) per annum for serving as a member of County Juvenile Board, which shall be paid in twelve (12) equal monthly installments out of the general fund of such county and which additional compensation shall be in addition to all other salary or other compensation now paid to such county judge. The salary of the county commissioners shall be not more than Sixteen Thousand, Five Hundred Dollars (\$16,500); criminal district attorney and district attorney, not less than Sixteen Thousand Dollars (\$16,000) nor more than Nineteen Thousand, Nine Hundred Dollars (\$19,900); probate judge, Nineteen Thousand

Dollars (\$19,000); county attorney, not less than Fourteen Thousand, Six Hundred Dollars (\$14,600) nor more than Nineteen Thousand Dollars (\$19,000); sheriff, not less than Fourteen Thousand, Six Hundred Dollars (\$14,600) nor more than Eighteen Thousand, Two Hundred Dollars (\$18,200); judges of the county courts at law and county criminal courts, Seventeen Thousand, Five Hundred Dollars (\$17,500); county clerk and district clerk, Fifteen Thousand, Four Hundred Dollars (\$15,400); county treasurer, not less than Twelve Thousand Dollars (\$12,000) nor more than Thirteen Thousand, Eight Hundred Dollars (\$13,800); tax assessor and collector, Twenty Thousand Dollars (\$20,000); each of such salaries shall be payable in equal monthly installments; provided, however, that the total salary received by the tax assessor and collector, including all additional fees and compensation, shall not exceed Twenty Thousand Dollars (\$20,000) per annum in the aggregate; justices of the peace and the constables at not to exceed Twelve Thousand Dollars (\$12,000) per annum, to be paid in equal monthly installments; provided, however, that the justices of peace and constables whose precincts lie wholly or in part in cities having a population of six hundred thousand (600,000) or more, according to the last preceding Federal Census, shall receive not less than Ten Thousand Dollars (\$10,000) per annum.

Sec. 8, subsec. (b) amended by Acts 1967, 60th Leg., p. 906, ch. 397, § 1, eff. Aug. 28, 1967.

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Art. 3886f. Compensation of district attorneys

Section 1. From and after September 1, 1967, in all judicial districts of this State, the district attorney in each such district shall receive from the State as pay for his services the sum of \$10,000 per year. Such salary shall be paid in twelve (12) equal monthly installments upon warrants drawn by the Comptroller of Public Accounts upon the State Treasury. Provided that this Act shall not be construed as repealing any Act which allows the district attorneys travelling expenses or any other expenses or allowances.

Sec. 1 amended by Acts 1967, 60th Leg., p. 2072, ch. 773, § 1, eff. Sept. 1, 1967.

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Acts 1967, 60th Leg., p. 2072, ch. 773 amended section 1 of this article; sections 2 and 3 of the act provided:

"Sec. 2. There is hereby appropriated out of the General Revenue Fund in the State Treasury, for the purpose of paying the salary increases to district attorneys as authorized by this Act, for the fiscal

biennium ending August 1, 1969, the sum of money which, when added to the appropriation made for district attorneys' salaries, is required to pay the salaries authorized by this Act, estimated to be \$751,000."

"Sec. 3. The effective date of this Act shall be September 1, 1967."

Art. 3902f—3. Counties of 24,000 to 25,000; compensation of deputies, assistants, clerks and stenographers

Section 1. In all counties of this state having a population according to the last preceding federal census of more than 24,000 persons and less than 25,000 persons and having an assessed property valuation according to the latest approved tax rolls of not less than \$50 million, the commissioners court of such counties may fix the compensation for the deputies, assistants, clerks or stenographers of the county officials of such county, except the deputies of the sheriff of said county, at an amount not to exceed \$5,200 to be paid in twelve equal monthly installments. The salary of such deputies, assistants, clerks or stenographers from the effective date of this Act for the remainder of the year 1967 shall be paid on the same ratio basis as the remainder of the year bears to the total annual salary provided herein.

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Sec. 2. Provided further that the commissioners court of the counties affected by this Act may not fix the salaries of the deputies, assistants, clerks or stenographers of the officials in such county at a lesser amount than the salary paid such deputies, assistants, clerks or stenographers for the calendar year 1966.

Acts 1967, 60th Leg., p. 986, ch. 430, emerg. eff. June 12, 1967.

Section 3 of the act of 1967 repealed all conflicting laws and parts of laws.

Title of Act:

An Act authorizing the commissioners court in all counties in this state having a population according to the last preceding federal census of more than 24,000 persons and less than 25,000 and an assessed property valuation according to the approved tax rolls of not less than \$50 million to fix

the compensation of all deputies, assistants, clerks and stenographers of the county officials in such county, except the deputies of the sheriff of said county, providing a maximum compensation for each such deputy, assistant, clerk or stenographer, providing a minimum compensation for each such deputy, assistant, clerk or stenographer; repealing all laws or parts of laws in conflict therewith; and declaring an emergency. Acts 1967, 60th Leg., p. 986, ch. 430.

Art. 3912e-22. Counties of 26,000 to 28,000; compensation of officials

Section 1. In each county in the State of Texas having a population of at least 26,000 and not more than 28,000 according to the last preceding federal census, the commissioners court shall fix the salaries of the county and district officials named in Section 2 of this Act at not more than \$12,000 per year; provided, however, that no salary shall be set at a figure lower than that actually paid on the effective date of this Act.

Sec. 2. This Act applies to the salaries of district clerks, county clerks, county judges, judges of the county courts at law, county treasurers, sheriffs, assessors and collectors of taxes, county attorneys, and county commissioners.

Acts 1967, 60th Leg., p. 1238, ch. 561, eff. Aug. 28, 1967.

Title of Act:

An Act relating to the salaries of certain county and district officials in certain

counties; and declaring an emergency. Acts 1967, 60th Leg., p. 1238, ch. 561.

Art. 3912f-5. Salaries of deputy sheriffs in counties of 24,000 to 25,000 and 10,500 to 11,000 population

In all counties of this state of not less than 24,000 persons or more than 25,000 persons according to the last preceding federal census and in all counties of this state of not less than 10,500 persons or more than 11,000 persons according to the last preceding federal census, the commissioners courts of such counties are hereby authorized, when in their judgment the financial condition of the county and the need of the deputy sheriffs of such counties justifies an increase, to enter an order increasing the compensation being paid by such county to such deputy sheriffs in an additional amount not to exceed 20 percent of the sum being paid to such deputy sheriffs at the time of such increase.

Acts 1967, 60th Leg., p. 2059, ch. 762, § 1, eff. Aug. 28, 1967.

Title of Act:

An Act authorizing the commissioners court in counties of not less than 24,000 persons or more than 25,000 persons according to the last preceding federal census, and in counties of not less than 10,500 persons or more than 11,000 persons accord-

ing to the last preceding federal census, to increase the salary or compensation of deputy sheriffs in an amount not to exceed 20 percent of the amount being paid at the effective date of this Act; and declaring an emergency. Acts 1967, 60th Leg., p. 2059, ch. 762.

Art. 3912i. Maximum salaries of justices of the peace and constables; precinct officers; certain counties

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Amount of Salaries; Fixing; Construction of Act

Sec. 9.

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(1) In any county where the number of Justices of the Peace holding office and performing the duties of such office is less than the maximum number of Justices of the Peace authorized by the Constitution of Texas, the Commissioners Courts may increase the maximum salary of the Justice or Justices so performing the duties of the offices, and of the Constable or Constables serving as bailiff or bailiffs for such Justice or Justices, an additional amount not to exceed ten percent (10%) of the maximum salary applicable to such office for each such constitutionally authorized Justice of the Peace not holding such office and not performing the duties of such office, provided that under no circumstances shall any Justice of the Peace or Constable under this subsection be paid more than twenty-five percent (25%) over and above the maximum salary herein applicable to such office; except that in any county having a population of more than forty-six thousand (46,000) inhabitants according to the last preceding Federal Census and having not more than four Justices of the Peace holding office and performing the duties of such office any Justice of the Peace who is licensed to practice law in the State of Texas and who maintains in the courthouse or other county building at the county seat an office which is open for the transaction of the business of such office during the same hours as the principal offices in the courthouse of such county may be paid under this subsection not more than the following percent over and above such maximum salary herein applicable to such office, to wit: in any such county having a population of not more than ninety-eight thousand (98,000) inhabitants according to the last preceding Federal Census, forty percent (40%); in any such county having a population of at least ninety-eight thousand and one (98,001) and not more than one hundred ninety-five thousand (195,000) inhabitants according to such census, thirty-five percent (35%); and in any such county having a population of more than one hundred ninety-five thousand (195,000) inhabitants according to such census, thirty percent (30%).

Sec. 9, subsec. (1) amended by Acts 1967, 60th Leg., p. 1105, ch. 486, § 1, eff. Aug. 28, 1967.

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Increase in maximum compensation

Sec. 15. The Commissioners Court in each county in the State is hereby authorized to increase the maximum compensation of each officer enumerated in this Act, as amended, in an additional amount not to exceed twenty percent (20%) of the maximum sum authorized by said Act, as amended; provided that no increased compensation shall be authorized pursuant to this Act except at a regular meeting of said Court following publication of notice at least two times, one time a week, in a newspaper of general circulation in such county, of the salaries intended to be raised at such meeting and the amount of such proposed raise.

Sec. 15 added by Acts 1967, 60th Leg., p. 147, ch. 76, § 1, eff. Aug. 28, 1967.

Art. 3912j. Counties of 600,000 to 900,000; salaries of county road engineers

In all counties having a population of more than 600,000 persons, and less than 900,000 persons, according to the last preceding Federal Cen-

For Annotations and Historical Notes, see V.A.T.S.

sus, the county road engineer shall receive an annual salary not to exceed \$15,000, the exact amount thereof to be determined by the Commissioners Courts of such counties, and said salary shall be paid in 12 equal monthly installments out of the road and bridge fund of such counties. Amended by Acts 1967, 60th Leg., p. 803, ch. 337, § 1, eff. Aug. 28, 1967.

Section 2 of the act of 1967 provided:
"All laws or parts of laws in conflict herewith are hereby repealed to the extent of such conflict."

CHAPTER TWO—ENUMERATION

Art. 3930(b). County Clerks and Clerks of County Courts [New].	Art. 3936e.—1.	Justices of the peace in counties of more than 10,100 and less than 10,100 and less than 10,300; compensation [New].
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Art. 3927b. District clerks in counties of 900,000 or more population

In counties containing a population in excess of 900,000 inhabitants according to the last preceding federal census, the clerks of the district courts shall receive the following fees for their services:

(1) The fees in this Subsection shall be due and payable, and shall be paid at the time suit or action is filed.

For each suit filed, including appeals from interior courts	\$15.00
For each cross action, intervention, contempt action or motion for new trial filed	\$10.00
For issuing each subpoena, including one copy thereof, when requested at the time a suit or action is filed	\$ 1.00
For issuing each citation or other writ or process not otherwise provided for, including one copy thereof, when requested at the time a suit or action is filed	\$ 4.00
For issuing each additional copy of any process, not otherwise provided for, when requested at the time a suit or action is filed	\$ 2.00

(2) The fees in this Subsection shall be due and payable at the time or times of performance or request for performance of services; shall be an obligation of the person initiating the request, and shall be additional to the fees provided for in Subsection (1) of this Act; provided, however, that the District Clerk may accept bond or bonds as security therefor.

For issuing each subpoena not provided for in Subsection (1), including one copy thereof	\$ 1.00
For issuing each citation, commission for deposition, writ of execution, order of sale, writ of execution and order of sale, writ of injunction, writ of garnishment, writ of attachment, writ of sequestration not provided for in Section 1, or any other writ or process not otherwise provided for, including one copy thereof when required by law	\$ 4.00
For issuing each additional copy of any writ or process not otherwise provided for	\$ 2.00
For searching the files or records:	
a. To locate any one cause when the person requesting same does not furnish the docket number of said cause, or	
b. To ascertain the existence or nonexistence of any instrument or record in his office	\$ 5.00
For issuing certificate to any fact or facts contained in the records of his office	\$ 1.00

For taking deposition, each 100 words	\$.20
For issuing interrogatories with certificate and seal, per page or portion thereof	\$ 1.00
For abstracting judgment	\$ 2.00
For approving each bond	\$ 2.00
For making copy of all records, judgments, orders, pleading, or papers on file or of record in his office, whether certified or not, for any person applying for same, including the certificate and seal, per page or portion thereof	\$ 1.00.
Amended by Acts 1967, 60th Leg., p. 961, ch. 423, § 1, eff. Aug. 28, 1967.	

Art. 3930. [3860] [2457] [2393] County Clerk and County Recorders

County clerks and county recorders are hereby authorized and required to collect the following fees for services rendered by them to all persons, firms, corporations, legal entities, governmental agencies and/or governmental representatives:

Fees for County Clerk and County Recorder Records and Miscellaneous Services

(1) For filing, or filing and registering, including indexing, each instrument, document, legal paper, or record (excepting notaries public records, marriage records, vital statistics records, and those instruments, documents, legal papers and records filed in the county civil courts records, or in the county criminal courts records, or in the probate courts records, and those instruments, documents, legal papers and records filed and recorded in the real property records in the office of the county clerk, and those instruments the filing fee for which are fixed in the Uniform Commercial Code), authorized, permitted, or required, to be filed, or filed and registered, in the personal property, chattels and personal records in the office of the county clerk and county recorder, a fee or fees, as follows:

(a) For each such instrument, document, legal paper, or record, a fee, which shall be in addition to any and all specific fee or fees provided for in any and all other statute or statutes, of\$2.00

(2) For filing and recording, including indexing not more than twenty (20) names, each instrument, document, legal paper, or record (excepting map records, condominium records, notaries public records, marriage records, vital statistics records, and those instruments, documents, legal papers and records filed in the county civil courts records, or in the county criminal courts records, or in the probate courts records, or in the personal property, chattels and personal records in the office of the County Clerk) authorized, permitted, or required, to be filed and recorded in the real property records in the office of the county clerk and county recorder, a fee, or fees, as follows, which fee, or fees, shall be in addition to any specific fee, or fees, provided for in any other statute, or statutes:

(a) For the first page, a fee of\$1.50

(b) Plus, for each additional page, or part of a page, on which there are visible marks of any kind, a fee of\$1.00

(c) Plus a fee for each 8½" x 14", or part thereof, of attachment or rider, to be charged for each such attachment or rider, of\$1.00

(d) Plus, for each additional name that has to be indexed in excess of a total of twenty (20) names indexed for all records in which an instrument, document, paper or record must be indexed, a fee of\$0.20

(e) Provided, however, that in the absence of a statute prescribing minimum specifications for legal instruments, documents and papers to be filed, or filed and registered, or filed and recorded for the fees prescribed in this Act, a county clerk and county recorder in his discretion may substitute, in lieu of the per page fee prescribed by this Act, for each page of such a legal instrument, document or paper having more than 500 words on it, a fee per one hundred words of\$0.20

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(3) For issuing each certified copy (except certified copy of map records and condominium records), notice, statement, license where the fee for issuing the license is not specifically provided by statute, or any other instrument, document, or paper authorized, permitted, or required, to be issued by said county clerk or county recorder, except as otherwise provided in Section 1, of this Act:

For each page, or part of a page, a fee, to be paid in cash at the time each order is placed, of\$1.00

However, nothing in this Act shall be construed to limit or deny to any person, firm, or corporation, full and free access to any papers, documents, proceedings and records referred to in this Act, the right of such parties to read and examine the same, and to copy information from any microfilm or other photographic image, or other copy thereof under reasonable rules and regulations of the county clerk at all reasonable times during the hours the county clerk's office is open to the public, and without making payment of any charge, being hereby established and confirmed.

(4) For issuing each certified copy of birth certificate or death certificate a fee of\$1.00

(5) For approving bond, except notarial bonds and bonds required to be approved in County Civil Courts, County Criminal Courts and Probate Courts, a fee, to be paid at the time of said approval, of\$3.00

(6) For all clerical work in having appointment of notary public made, administering oaths and qualifying the notary public, and approving, filing and recording notarial bond, a fee (does not include the fee for the Secretary of State), to be paid at the time the executed oath and bond is filed, of\$2.00

(7) For issuing each marriage license, including all and every service relating thereto and including, but not limited to, preparing the application, filing health certificates, administering oaths, filing waivers and orders of county judge, issuing license and recording all papers including the return of the license, a total fee, to be paid at the time the license is issued, of\$5.00

(8) For administering each oath, with or without a seal of clerk, except oaths required to be administered in duties as Clerk of County Civil Courts, County Criminal Courts and Probate Courts, a fee of\$1.00

(9) For such other duties prescribed, authorized, and/or permitted by the Legislature for which no fee is set by this Act, reasonable fees shall be charged.

Amended by Acts 1967, 60th Leg., p. 1789, ch. 681, § 1, eff. Aug. 28, 1967.

Repeal of fee provisions

Acts 1967, 60th Leg., p. 1789, ch. 681, § 2 provided: "Article 3930a, Revised Civil Statutes of Texas, 1925, as added by Section 1, Chapter 495, Acts of the 57th Legislature, Regular Session, 1961, is repealed; and the fees provided for County Clerks in all other laws, or parts of laws, in conflict with the provisions of this Act are hereby repealed as to County Clerks only, including but not limited to: Section 10(b), Chapter 340, Acts of the 49th Legislature, Regular Session, 1945 (Article 912a—10, Vernon's Texas Civil Statutes); Sections 1 through 7, Chapter 465, Acts of the 44th Legislature, 2nd Called Session, 1935, as amended (Article 3912e, Vernon's Texas Civil Statutes); Subsection D, Section 18, Chapter 41, Acts of the 40th Legislature, 1st Called Session, 1927, as amended (Rule 51aD, Article 4477, Vernon's Texas Civil Statutes); Article 4524, Revised Civil Statutes of Texas, 1925; Article 4546, Revised Civil Statutes of Texas, 1925, as amended; Article 4562, Revised Civil Statutes of

Texas, 1925, as amended; Article 5333, Revised Civil Statutes of Texas, 1925; Section 4 and 4b, Chapter 85, General Laws, Acts of the 43rd Legislature, Regular Session, 1933, as amended (Article 5506a, Vernon's Texas Civil Statutes); Article 5926, Revised Civil Statutes of Texas, 1925; Article 6636, Revised Civil Statutes of Texas, 1925, as amended; Article 6641, Revised Civil Statutes of Texas, 1925, as amended; Article 6644, Revised Civil Statutes of Texas, 1925, as amended; Section 9, Chapter 48, Acts of the 48th Legislature, Regular Session, 1943 (Article 6899—1, Vernon's Texas Civil Statutes); Article 6927, Revised Civil Statutes of Texas, 1925; Article 7328, Revised Civil Statutes of Texas, 1925, as amended; Section 12, Chapter 506, Acts of the 45th Legislature, Regular Session, 1937, as amended (Article 7345b, Vernon's Texas Civil Statutes); Article 7362, Revised Civil Statutes of Texas, 1925; Section 1, Chapter 15, page 243, General Laws, Acts of the 46th Legislature, Regular Session, 1939 (Article 7363a, Vernon's Texas Civil Statutes); and Article 7517, Revised Civil Statutes of Texas, 1925."

Acts 1967, 60th Leg., p. 1789, ch. 681, § 3 provided: "If any provision, or provisions, of this Act or the application thereof to any person, or circumstances, is held invalid, such invalidity shall not affect other provisions, or applications, of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable."

Art. 3930a. Repealed. Acts 1967, 60th Leg., p. 1788, ch. 680, § 2. Eff. Aug. 28, 1967; Acts 1967, 60th Leg., p. 1790, ch. 681, § 2. Eff. Aug. 28, 1967

See, now, articles 3930 and 3930(b) and notes thereunder.

Art. 3930(b). County Clerks and Clerks of County Courts

Section 1. County clerks and clerks of county courts are hereby authorized and required to collect the following fees for services rendered by them to all persons, firms, corporations, legal entities, governmental agencies and/or governmental representatives:

A. Fees for County Civil Court Dockets

(1) For each cause or action, or docket in County Civil Courts: for filing, or filing and registering, or filing and recording, and for docketing and including taxing costs for each and all applications, complaints, petitions, returns, documents, papers, legal instruments, records and/or proceedings; for issuing, including the recording of the return thereon, each and all citations, notices, subpoenas, commissions to take depositions, executions while the docket is still open, garnishments before judgments, orders, writs, processes, or any and all other instruments, documents or papers authorized, permitted or required to be issued by said county clerk or said clerk of county courts on which a return must be recorded; for all attendances in court as clerk of court; for impaneling a jury; for swearing witnesses; for approving bonds involved in court actions, for administering oaths; and for all other clerical duties in connection with such county civil court docket:

(a) For each original cause or suit in a County Civil Court, including, but not limited to, appeals from Justice of the Peace Courts or Corporation Courts and transfers of causes or suits from other jurisdictions, a fee to be due and payable, and to be paid by the plaintiff or plaintiffs, or appellant or appellants, at the time said cause or suit is filed, started or initiated, which fee is to be paid but one time in each cause or docket, or suit, and which fee excludes the items listed in Paragraphs B, C, D, and E of this Section 1:

(i) For causes or dockets involving damages, debts, specific performance of contracts and agreements, pleas of privilege, appeals from Justice

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of the Peace Courts and Corporation courts, for appeals from driver's license suspension, and other causes of action not otherwise listed in this Paragraph A(1) (a): a fee of\$10.00

(ii) For eminent domain, or condemnation proceedings, with or without objections: a fee of\$25.00

(iii) For garnishments after judgment: a fee of\$7.50

(b) For each interpleading, or cross-action, or any other action other than the original action, in a cause or suit in a County Civil Court, a fee to be due and payable, and to be paid by the party or parties starting or initiating each such interpleading, or other action, or cross-action, at the time of starting or initiating each such cross-action or interpleading, or other action, which fee is to be paid but one time for each such cross-action, or interpleading, or other action, but excluding items listed in Paragraphs B, C, D and E of this Section 1: a fee of\$10.00

B. Fees for Probate Court Dockets

(1) For each cause or action, or docket in Probate Courts: for filing, or filing and registering, or filing and recording, and for docketing and including taxing costs for each and all applications, wills, complaints, petitions, returns, documents, papers, legal instruments, records and/or proceedings; for issuing, including the recording of the return thereon, each and all citations, notices, subpoenas, commissions to take depositions, orders, writs, processes, or any and all other instruments, documents, or papers authorized, permitted or required to be issued by said county clerk or said clerk of probate courts on which a return must be recorded; for all attendances in court as clerk of court; for swearing witnesses; for approving bonds involved in court actions; for administering oaths; and for all other clerical duties in connection with such probate court docket:

(a) For each original cause or action in a Probate Court, a fee to be due and payable and to be paid by the party or parties starting or initiating said cause or estate action, or with the permission of the court, payable at the time of qualifying of the legal or personal representative of such cause or estate action, or when a Veterans' Administration Chief Attorney is attorney of record in a cause, payable when the legal or personal representative of such cause or estate action receives funds with which to make such payment, for such services for the period of time as shown, and which fee excludes the items listed in Paragraphs A, B(1) (b), B(1) (d), C, D and E of this Section 1:

(i) For probating will with independent executor; for administration with will attached, for administration of an estate, for guardianship or receivership of an estate, for muniment of title, a fee for one year from the starting or initiating such cause of action: a fee of\$25.00

(ii) For community survivors: a total fee of\$20.00

(iii) For small estates: a total fee of\$ 5.00

(iv) For affidavits of heirship, including filing of affidavit, after approval by Judge, in Small Estates Records in the Recorder's Office: a total fee of\$ 7.50

(v) For mentally ill: Total costs for all services listed in Article 5547—13, Article 5547—14 and Article 5547—15, Vernon's Civil Statutes of Texas, shall be in the amount of\$40.00

(b) For each probate docket remaining open after its first anniversary date, the following fees shall be paid in cash at the time earned, which fee shall be separate and apart from other fees listed in Paragraphs A, B, C, D and E of this Section 1 hereof:

(i) For filing, or filing and recording, of each instrument of writing, legal document, paper or record in an open Probate Docket after its first anniversary date: a fee of\$ 2.00

(ii) For approving and recording each bond relating only to an open Probate Docket after said Docket's first anniversary date, a fee of ..\$ 3.00

(iii) For administering each oath relating to an open Probate Docket after said Docket's first anniversary date, a fee of\$ 1.00

(c) For each adverse action or contest, other than the filing of a claim against an estate, in a cause or docket in a probate court, a fee to be due and payable and to be paid by the party or parties starting or initiating such adverse action or contest, but excluding other items listed in Paragraphs A, B, C and D of this Section 1, of\$25.00

(d) For filing and entering each claim against an estate in the claim docket, a fee, to be paid by claimant at the time of filing such claim, of\$ 1.00

C. Where no cause is pending, as is contemplated in Section 1, Paragraphs A and B hereof, the clerk shall charge as follows for the herein-after listed services, for issuing (including recording of the returns thereon), each citation, notice, commission to take depositions, execution, order, writ, process, or any other instrument, document, or paper authorized, permitted or required to be issued by said county clerk or said clerk of county courts on which a return must be recorded:

(i) For issuing each such instrument, document, or paper, including the original and one copy and the recording of the return, a fee, to be paid at the time each order is placed, of\$ 3.00

(ii) For issuing for the same docket at the same time more than one set of one original and one copy of the same instrument, document, or paper, including recording the return thereon, a fee, per set, to be paid at the time the order is placed, of\$ 2.50

D. For issuing each certificate, certified copy, notice, statement, transcript, or any other instrument, document, or paper authorized, permitted, or required, to be issued by said county clerk or clerk of county courts on which there is no return to be recorded:

For each page, or part of a page, a fee, to be paid at the time each order is placed, of\$ 1.00

However, nothing in this Act shall be construed to limit or deny to any person, firm, or corporation, full and free access to any papers, documents, proceedings, and records referred to in this Act, the right of such parties to read and examine the same, and to copy information from any microfilm or other photographic image, or other copy thereof under reasonable rules and regulations of the county clerk at all reasonable times during the hours the county clerk's office is open to the public, and without making payment of any charge, being hereby established and confirmed.

E. For issuing each Letter Testamentary, Letter of Guardianship, Letter of Administration and each Abstract of Judgment a fee of ..\$ 1.00

F. For filing and keeping "Wills Held for Safekeeping", a fee, to be paid at the time said wills are filed, of\$ 3.00

Sec. 2. If the final judgment has not been entered for a docket, or cause, in a county civil court on the date this Act becomes effective, the amount of costs for such docket, or cause, accruing to such effective date shall be paid in full before final judgment is filed or recorded, and no further costs shall accrue in each such docket, or cause, after said effective date, except that the fees specified in Paragraphs A(1) (a) (iii), A(1) (b), C, D, and E of Section 1, for items and services therein specified shall apply after said effective date to each of such dockets, or such causes, and shall be paid in accordance with the provisions of said paragraphs. If the final judgment has not been entered for a docket, or cause, or estate action, in a probate court on the date this Act becomes effective, the amount of costs for such docket, or cause, or estate action, accruing

For Annotations and Historical Notes, see V.A.T.S.

to such effective date shall be paid in full, and no further costs shall accrue, prior to the next anniversary date of such docket, or cause, or estate action, except that the fees specified in Section 1, Paragraphs B(1) (b), B(1) (c), B(1) (d), and C, D, and E of Section 1, for items and services therein specified shall apply after said effective date to such dockets, or such causes, or such estate actions, and shall be paid in accordance with the provisions of said paragraphs. Any deposit balance or balances left after applying all costs accrued through the date this Act becomes effective, including the adjustments stipulated hereinabove, for a docket, or cause, shall be refunded without delay and all further fees and charges shall be paid for at the time of filing, or issuing, or otherwise becoming due and payable. Said clerk shall continue to collect, at the time said fees or costs accrue, or are earned, or are payable, all fees, or costs, authorized, or required, to be collected by said clerk, including, but not limited to: law library fees, county judge's fees, county judge's commissions, jury fees, and fees for state officials.

Added by Acts 1967, 60th Leg., p. 1785, ch. 680, eff. Aug. 28, 1967.

Acts 1967, 60th Leg., p. 1785, ch. 680.
 §§ 2, 3 provided:

"Sec. 2. All laws or parts of laws in conflict with the provisions of this Act are hereby repealed to the extent of conflict only, including but not limited to Article 3930a, Revised Civil Statutes of Texas, 1925; and Sections 13, 14, and 15, Chapter 243, Acts of the 55th Legislature, Regular Session, 1957 (Articles 5547-13, 5547-14, and 5547-15, Vernon's Texas Civil Statutes).

"Sec. 3. If any provision, or provisions, of this Act or the application thereof to any person, or circumstances, is held invalid, such invalidity shall not affect other provisions, or applications, of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable."

Art. 3933. Repealed. Acts 1967, 60th Leg., p. 1811, ch. 693, § 2. Eff. June 17, 1967

See, now, article 3933a.

Art. 3933a. Sheriffs and constables in counties of 900,000

In counties containing a population in excess of nine hundred thousand (900,000) inhabitants, according to the last preceding Federal Census, Sheriffs and Constables shall receive the following fees:

For each person, corporation or legal entity, on whom service of citation, subpoena, summons, or process not otherwise provided for, is performed or attempted, and return made, including mileage, if any, a fee of \$4.00

For executing or attempting to execute each writ of garnishment, injunction writ, distress warrant, writ of attachment, writ of sequestration, writ of execution, order of sale, writ of execution and order of sale, or writ not otherwise provided for, and making return thereon, including mileage, if any, a fee of \$4.00

For posting written notices in public places, as may be required by law, a fee for posting each location including mileage, if any \$1.00

For the taking and approving of bonds as may be required by law, and returning same to the court as may be required, a fee of \$2.00

For each case tried in District or County Court, a jury fee of \$.50

For executing a deed to each purchaser of real estate under execution or order of sale, a fee of \$2.00

For executing a bill of sale to each purchaser of personal property under an execution or order of sale, when demanded by purchaser, a fee of \$2.00

Collecting money on an execution or an order of sale, when the same is made by a sale, for the first One Hundred Dollars (\$100) or less, six percent (6%); for the second One Hundred Dollars (\$100), three percent (3%); for all sums over Two Hundred Dollars (\$200) and not exceeding One Thousand Dollars (\$1,000), two percent (2%); for all sums over One Thousand Dollars (\$1,000) and not exceeding Five Thousand Dollars (\$5,000) one percent (1%); for all sums over Five Thousand Dollars (\$5,000), one-half (½) of one percent (1%).

When the money is collected by the Sheriff or Constable without a sale, one-half (½) of the above rates shall be allowed him.
Amended by Acts 1967, 60th Leg., p. 1072, ch. 467, § 1, eff. Aug. 28, 1967.

Article 3933a, Sheriffs and constables, amended by Acts 1967, 60th Leg., p. 1810, ch. 693, § 1, see article 3933a, post.

Section 2 of the amendatory act of 1967 provided: "If any provision of this Act be declared unconstitutional or invalid for any reason, such holding shall not in any manner affect the remaining sections, paragraphs or provisions of this Act, but the same shall remain in full force and effect."

Art. 3933a. Sheriffs and constables

Sheriffs and Constables shall receive the following fees:

For each person, corporation or legal entity, on whom service of citation, subpoena, summons, or process not otherwise provided for, is performed or attempted, and return made, including mileage, if any, a fee of

- (a) Justice Courts \$2.00
- (b) All other Courts \$4.00

For executing or attempting to execute each writ of garnishment, injunction writ, distress warrant, writ of attachment, writ of sequestration, writ of execution, order of sale, writ of execution and order of sale, or writ not otherwise provided for, and making return thereon including mileage, if any, a fee of

- (a) Justice Courts \$2.00
- (b) All other Courts \$4.00

For posting written notices in public places, as may be required by law, a fee for posting each location including mileage, if any \$1.00

For the taking and approving of bonds as may be required by law, and returning same to the court as may be required, a fee of \$2.00

For each case tried in District or County Court, a jury fee of \$.50

For executing a deed to each purchaser of real estate under execution or order of sale, a fee of \$2.00

For executing a bill of sale to each purchaser of personal property under an execution or order of sale, when demanded by purchaser a fee of \$2.00

Collecting money on an execution or an order of sale, when the same is made by a sale, for the first One Hundred Dollars (\$100) or less, six percent (6%); for the second One Hundred Dollars (\$100), three percent (3%); for all sums over Two Hundred Dollars (\$200) and not exceeding One Thousand Dollars (\$1,000), two percent (2%); for all sums over One Thousand Dollars (\$1,000) and not exceeding Five Thousand Dollars (\$5,000), one percent (1%); for all sums over Five Thousand Dollars (\$5,000), one-half (½) of one percent (1%).

When the money is collected by the Sheriff or Constable without a sale, one-half (½) of the above rates shall be allowed him.

TITLE 67—FISH, OYSTER, SHELL, ETC.

CHAPTER TWO—FISH AND OTHER MARINE LIFE

Art. 4026a. Repealed. Acts 1967, 60th Leg., p. 1959, ch. 730, § 15. Eff. Sept. 1, 1967

See, now, Vernon's Ann.P.C. art. 978j—1.

CHAPTER FIVE—COASTAL WATERS

Art. 4075b. Texas Shrimp Conservation Act

* * * * *

Taking of Shrimp in Inside Waters

Sec. 6.

* * * * *

(h) It shall be unlawful for any bona fide licensed commercial bait-shrimp boat operator to take or catch, or attempt to take or catch, within the inside waters of this State, shrimp of any size or species, for use as bait only; provided, however:

* * * * *

4. It shall be unlawful for any bona fide commercial bait-shrimp boat operator, at any time, to sell or unload any shrimp caught under the provisions of this Act to any person except a bona fide bait-shrimp dealer, as that term is herein defined, or except to a sports fisherman while operating a boat or vessel in the inside waters. It shall be unlawful for a duly licensed bait-shrimp boat operator to take more than one-hundred and fifty (150) pounds of bait shrimp each day, of which not more than fifty (50) per cent may be dead and fifty (50) per cent shall be kept in a live condition on board the vessel taking said bait shrimp.

Prior to the issuance of a bait-shrimp boat license, an inspection shall be made by authorized personnel of the Parks and Wildlife Department to insure that adequate facilities are present aboard the vessel to be licensed, and to maintain fifty (50) per cent of the daily catch of bait shrimp alive. All frozen dead bait held under a bait-shrimp dealer's license shall be packaged and shall be labeled with block letters at least one (1) inch in height "Bait Shrimp".

Sec. 6, subsec. (h), par. 4 amended by Acts 1967, 60th Leg., p. 2064, ch. 766, § 1, eff. Aug. 28, 1967.

* * * * *

Shrimp House Operator's License; Fee

Sec. 9. It shall be unlawful for any shrimp house operator to unload or handle from any commercial gulf shrimp boat or commercial bay shrimp boat fresh shrimp or other edible aquatic products caught or taken from the coastal waters of this State, or from salt waters outside of this State and brought into this State without having been previously unloaded in some other state or foreign country, without the owner thereof having first procured a license, to be known as a Shrimp House Operator's License, from the Commission privileging such shrimp house operator to so unload or handle such fresh shrimp. The fee for a Shrimp House Operator's License shall be One Hundred Dollars (\$100), and said License shall expire August 31 following the date of issuance.

For Annotations and Historical Notes, see V.A.T.S.

Sec. 9, amended by Acts 1967, 60th Leg., p. 362, ch. 173, § 4, eff. Aug. 28, 1967.

* * * * *

Savings Provision

Acts 1967, 60th Leg., p. 1959, ch. 730, The Uniform Wildlife Regulatory Act, codified as Vernon's Ann.P.C. art. 978j—1, conferring upon the Parks and Wildlife Commission the power and duty of protecting and regulating the harvest of wildlife resources in various counties and repealing various acts of a similar nature, provides in section 15, inter alia, that the Texas Shrimp Conservation Act, insofar as it relates to any shrimping activities in outside waters of the Gulf of Mexico, shall not be repealed, altered or affected. See Vernon's Ann.P.C. art. 978j—1, § 15.

Acts 1967, 60th Leg., p. 362, ch. 173, §§ 1, 2 amended Vernon's Ann.P.C. art. 934a, § 3, subsecs. 1, 2, 2-a; section 3 of the act of 1967 amended Vernon's Ann.P.C. art. 934b—2, § 2; section 5 of the act of 1967

is codified as Vernon's Ann.P.C. art. 978f—3c; section 6 thereof repealed conflicting laws, and section 7 was a partial invalidity clause.

TITLE 70—HEADS OF DEPARTMENTS

CHAPTER TWO—COMPTROLLER OF PUBLIC ACCOUNTS

Art. 4357. [4348] Auditing claims and issuing warrants

(a) No warrant shall be prepared except on presentation to the warrant clerk of a properly audited claim, certified to its correctness, the proper auditing of which claim shall be evidenced by the initials written thereon by the person auditing the same; and such claim so certified and audited shall be sufficient and the only authority for the preparation of a warrant or warrants. No claim shall be paid from appropriations unless presented to the Comptroller for payment within two (2) years from the close of the fiscal year for which such appropriations were made, but any claim not presented for payment within such period may be presented to the Legislature as other claims for which no appropriations are available. No warrant shall be drawn against an appropriation of a special fund unless there is sufficient cash money in the fund in the State Treasury to pay such warrant, and no warrant, general or special, shall be released or delivered by the Comptroller unless there is sufficient balance in the appropriation against which the warrant is drawn to pay such warrant. When a claim has been audited and warrant drawn therefor, the claim shall be numbered with the same number as the warrant; and such claim shall be filed numerically according to class: "general," "special," "pension," respectively. The claims, as paid, shall be filed in such method as may be found most advisable to the Comptroller. After the expiration of two (2) years such claims shall be removed from the files and stored as records.

(b) It is specifically provided, however, that as to all appropriations relating to new construction contracts, and to repair and remodeling projects which exceed the sum of Twenty Thousand Dollars (\$20,000), including in either instance furniture and other equipment, architects' and engineering fees, and other related costs, any claim may be presented for payment within four (4) years from the close of the fiscal year for which such appropriations were made.

(c) If any person shall knowingly make a false certificate on any claim against the State for the purpose of authenticating any claim against the State, he shall be confined in the penitentiary not less than two (2) or more than five (5) years.

Amended by Acts 1967, 60th Leg., p. 339, ch. 163, § 1, emerg. eff. May 12, 1967.

Section 2 of the 1967 amendatory act repealed conflicting laws and parts of laws; section 3 thereof was a severability provision.

CHAPTER FOUR-D—STATE-FEDERAL RELATIONS

Art.
4413d—2. Coordinating relationships between local governmental units and federal agencies [New].

Art.
4413d—3. Contracts with federal government for eradication of noxious vegetation from state waters [New].

Art. 4413d—2. Coordinating relationships between local governmental units and federal agencies

Declaration of public policy

Section 1. The Legislature finds that the federal government has established and continues to establish grant programs of direct assistance

to cities, counties, school districts, hospital districts and other political subdivisions of the state and political subdivisions of the county, and that, due to the large number of such local governmental agencies in this state and that the lack of coincidence of service needs and taxing power within such local jurisdictions, it is frequently difficult for local government to marshal the technical and financial resources needed to meet the needs of its residents. For the state to assume its proper responsibility and leadership in meeting the needs of its residents, the declared policy of the state is to render technical assistance and to assume responsibility for coordinating relationships between local governmental units governed by this Act and federal agencies with regard to such programs.

**Duty of Governor to coordinate actions of political subdivisions;
rules and regulations**

Sec. 2. Except where a single state agency is otherwise designated or established pursuant to any other law of this state, it shall be the duty of the Governor of the State of Texas or any state agency designated by the governor for such purpose to coordinate the actions of any city, county, school district, hospital district or any other political subdivision of the state or political subdivision of the county participating in any grant program established pursuant to an Act of Congress or administrative ruling pursuant thereto. Such coordination shall be established under such rules and regulations as the governor or the state agency designated for such purpose shall promulgate. Such rules and regulations shall be approved by the Attorney General of Texas and filed with the secretary of state.

**Requesting Governor or state agency to stand in place of political
subdivision; revocation of request**

Sec. 3. Any city, county, school district, hospital district or other political subdivision of the state or political subdivision of the county may in the discretion of the governing body of such city, county, school district, hospital district or other political subdivision of the state or political subdivision of the county by order or resolution request the governor or the state agency established for such purpose to stand in the place and stead of such city, county, school district, hospital district or political subdivision of the state or political subdivision of the county in any matter pertaining to requests for financial assistance, either grants or loans, as to any agreement or assurance of compliance or requirement in connection therewith and as to any enforcement action relating thereto, which may be designated in such request. The governing body of any city, county, school district, hospital district or other political subdivision of the state or political subdivision of the county which has requested the governor or the state agency designated by the governor for such purpose to stand in its place and stead may by order or resolution revoke such request under any authority delegated thereby to the governor or the state agency established for such purpose.

**Applications for federal grants submitted to Governor or state agency;
approval or disapproval of grants outlined in request**

Sec. 4. Whenever the governing body of any city, county, school district, hospital district or other political subdivision of the state or political subdivision of the county has requested the Governor of the State of Texas or the state agency established for such purpose to stand in the place and stead of such city, county, school district, hospital district or other political subdivision of the state or political subdivision of the county, all applications for federal grants designated by such local governing body shall be submitted to the governor or such agency of the state established for such purpose. The governor or such state agency

shall approve or disapprove grants outlined in the request by the local governing body whenever any federal financial assistance, grant, loan or contract which would accrue to such city, county, school district, hospital district or other political subdivision of the state or political subdivision of the county under any existing federal assistance program is withheld from any such local governmental unit or if payment is deferred because of any action by any agency of the federal government in connection with the federal financial assistance program, the governor or the state agency established for such purpose shall take whatever action in the discretion of the governor or such state agency established for such purpose deems necessary or appropriate to meet the needs of such city, county, school district, hospital district, or other political subdivision of the state or political subdivision of the county. Acts 1967, 60th Leg., p. 920, ch. 403, emerg. eff. June 8, 1967.

Section 5 of the act of 1967 was a severability provision.

Title of Act:

An Act declaring the public policy of the state in regard to federal programs of assistance to cities, counties, school districts, hospital districts and other political subdivisions of the state and political subdivisions of the county; declaring the duty of the Governor of the State of Texas, or any state agency designated by the governor or by law to coordinate the actions of any city, county, school district, hospital district or any other political subdivision of the state or political subdivision of the county participating in any grant program established pursuant to an act of Congress or administrative ruling pursuant thereto;

providing for rules and regulations as the governor or the state agency designated for such purpose shall promulgate, and providing for their approval and filing thereof and declaring when requested, under what conditions assistance and intercession shall occur on behalf of the city, county, school district, hospital district or other political subdivision of the state or political subdivision of the county, and procedures and actions when requested, and providing for revocation of any request by any city, county, school district, hospital district, or any other political subdivision of the state or political subdivision of the county acting under the provisions of this Act; providing a severability clause; and declaring an emergency. Acts 1967, 60th Leg., p. 921, ch. 403.

Art. 4413d-3. Contracts with federal government for eradication of noxious vegetation from state waters

The Parks and Wildlife Department is hereby authorized to enter into contracts or agreements with the Federal Government for the eradication of noxious vegetation from the waters of this State. Programs performed under this Act may not be financed more than thirty percent (30%) by State Funds. Out of any money appropriated to the Parks and Wildlife Department from the Land and Water Recreation and Safety Fund No. 63, for the fiscal biennium ending August 31, 1969, the Department may expend the sum of \$200,000, or so much of that amount as may be needed, to carry out the purposes of this Act.

Acts 1967, 60th Leg., p. 1795, ch. 685, § 1, emerg. eff. June 17, 1967.

Title of Act:

An Act to authorize the Parks and Wildlife Department to enter into contracts or agreements with the Federal Government

for the eradication of noxious vegetation in the waters of this State; providing for financing; and declaring an emergency. Acts 1967, 60th Leg., p. 1795, ch. 685.

CHAPTER FIVE—DEPARTMENT OF PUBLIC SAFETY

Art.

4413(29c). Licensing commercial driver-training schools and instructors [New].

Art. 4413(9). Appointment, promotions, and discharges

(1) The appointment and promotion of all officers and employees, shall be made on the basis of merit, to be determined by examinations under the rules and regulations of the Commission which shall take into consideration the age, physical condition, experience and education of the

applicant. All persons who have applications on file for any position in the Department shall be given reasonable written notice of the place and time where said examinations are to be held.

(2) All applicants for positions in the Department shall be citizens of the United States of America. No applicant for a position in the Department shall be questioned at any time as to his religious faith or beliefs, or as to his political affiliations. No person in the Department shall contribute any money or other thing of value for political purposes, nor shall any person in the Department engage in political activities or campaign for or against any candidate for any public office in this state. Any person violating any provision of this subsection shall forfeit his position with the Department.

(3) No officer or employee of the Department shall be discharged without just cause. The Director shall determine whether or not the officer or the employee be discharged; and in case he is ordered discharged, he shall have the right to appeal to the Commission; during such appeal, he shall be suspended without pay.

(4) The chiefs of the several Divisions and Bureaus, after due investigation, shall once each six months make a report to the Commission of the efficiency of each employee within such Division or Bureau. These reports shall be kept in the permanent files of the Commission, and shall be given proper consideration in all matters of promotion and discharge. Amended by Acts 1967, 60th Leg., p. 61, ch. 35, § 1, emerg. eff. April 3, 1967.

Art. 4413(29c). Licensing commercial driver-training schools and instructors

Definitions of words and phrases

Section 1. The following words and phrases when used in this Act shall, for the purposes of this Act, have the meanings respectively ascribed to them in this section:

(a) "Commercial driver-training school" or "school" means any enterprise conducted by an individual, association, partnership, or corporation, for the education and training of persons, either practically or theoretically, or both, to operate or drive motor vehicles and charging a consideration or tuition for such services.

(b) "Commercial driver-training school branch office" is a training facility operated by a commercial driver-training school at a different location than the home training facility where the education and training of persons, either practically or theoretically, or both, to operate or drive motor vehicles and charging a consideration or tuition therefor is carried on.

(c) "Driver-training instructor" or "instructor" means any person who for hire or for tuition teaches, conducts classes of, gives demonstrations to, or supervises practice of persons learning to operate or drive motor vehicles.

(d) "Department" means the Department of Public Safety of this state, acting directly or through its duly authorized officers and agents.

(e) "Hearing Officer" is an officer or employee of the Department appointed by the Director, which officer or employee shall have a minimum of five years' experience as a supervisor and a thorough knowledge of this Act and the rules and regulations of the Department relative thereto.

(f) "Motor vehicle" includes every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

(g) "Supervisory driver-training instructor" or "supervisory instructor" means any person who, for hire or tuition, conducts classes of, gives

demonstration to, or supervises practice of persons learning to become driver-training instructors, and to operate or drive motor vehicles.

A license required for commercial driver-training school

Sec. 2. No person, firm, association, partnership, or corporation shall operate a commercial driver-training school after January 1, 1968, unless a license as a commercial driver-training school has been secured from the Texas Department of Public Safety, provided that training or classes conducted by colleges, universities, high schools, and junior high schools for regularly enrolled students as a part of the normal program for such institutions shall be exempt.

Application for commercial driver-training school license

Sec. 3. The application for a license shall be made on forms supplied by the Texas Department of Public Safety and must state specifically the name and address of such school or training facility, and give the name and address of the person, each member of the firm or association, each member of the partnership or corporation, and of each director and officer of such corporation. The application shall also contain the following information:

(a) The name and address of each branch office of such commercial driver-training school;

(b) The name and address of each instructor;

(c) Such other information relating to the operation of such school as may be required by the Texas Department of Public Safety to insure that the public interest will be protected;

(d) An agreement that the school will be operated in conformity with the rules and regulations established by the Texas Department of Public Safety for the operation of commercial driver-training schools.

Requisites for license

Sec. 4. Before the Department of Public Safety shall issue such license, the person, firm, association, partnership, or corporation shall:

(a) Execute a bond in the sum of \$10,000, signed by a solvent guaranty company authorized to do business in the State of Texas, payable to the Texas Department of Public Safety, conditioned that the principal on said bond will:

(1) Carry out and comply with each and all contracts made or entered into by said school or branch school, acting by and through its officers or agents, with any student who desires to enter such school and to take the course in driver-training; and

(2) To pay back to such student all amounts collected for tuition and fees in case of failure on the part of the school to comply with its contracts to give the instruction contracted for, and for the period evidenced by such contract on a pro rata basis.

(b) Maintain motor vehicle liability insurance covering the school, instructors, and any person taking instruction in the amount as prescribed by the Department but in no event less than \$10,000 for bodily injury to or death of one person in any one accident, and \$20,000 for bodily injury to or death of two or more persons in any one accident, and \$5,000 for damage to property in any one accident. In the event the insurance coverage hereinabove referred to is to be cancelled, a copy of the written notice of cancellation must be furnished forthwith to the Director by either registered or certified mail.

(c) Provide adequate office, classroom, and motor vehicle facilities in compliance with the rules and regulations established by the Department of Public Safety to insure that the quality of instruction and training shall not be inimical to the public interest.

(d) Comply with such other rules and regulations as may be promulgated by the Department of Public Safety to insure adequate driver instruction.

**License required for supervisory driver-training instructor
and driver-training instructor**

Sec. 5. No person shall teach or give driver-training for hire or for tuition, either as an individual or in a commercial driver-training school, or any phase of driver-training or education after January 1, 1968, unless a license as a driver-training instructor or supervisory driver-training instructor has been secured from the Department, provided that instructors in classes conducted by colleges, universities, high schools, and junior high schools for regularly enrolled students as a part of the normal program for such institutions shall be exempt.

Application for supervisory driver-training instructor's license

Sec. 6. (a) The application for a license as a supervisory driver-training instructor shall be made on forms supplied by the Department of Public Safety. A person is qualified to receive a supervisory driver-training instructor's license who:

- (1) Is at least 21 years of age;
- (2) Is of good moral character;
- (3) Is a citizen of the United States;
- (4) Has no contagious disease;
- (5) Holds a valid Texas chauffeur's license;
- (6) Has successfully completed three semester hours in safety education and three semester hours in driver education or their equivalent;
- (7) Has passed an examination conducted by the Department of Public Safety to determine his competency to obtain a license to practice as a supervisory driver-training instructor;
- (8) Has two years' satisfactory driving experience as approved by the Department.

(b) On the effective date of this Act, any person who is actually engaged or employed as a supervisory driver-training instructor and has a minimum of one year's experience in such activity shall, upon application within 90 days after the effective date of this Act and payment of the required license fees, be issued a supervisory driver-training instructor's license effective no longer than one year from the date of issuance, provided, however, that the Department of Public Safety may require such applicant to submit satisfactory proof that he is so engaged and comply with the requirements set out in Section 6(a) above, except the requirement of Subsection (6). Such license shall be renewable annually so long as he complies with Department rules and regulations.

Application for driver-training instructor's license

Sec. 7. (a) The application for a license as a driver-training instructor shall be made on forms supplied by the Department of Public Safety. A person is qualified to receive a driver-training instructor's license who:

- (1) Is at least 21 years of age;
- (2) Is of good moral character;
- (3) Is a citizen of the United States;
- (4) Has no contagious disease;
- (5) Holds a valid Texas chauffeur's license;
- (6) Has successfully completed 40 clock hours in safety education and driver-training under the supervision of a supervisory driver-training instructor;

(7) Has passed an examination conducted by the Department of Public Safety to determine his competency to obtain a license to practice as an instructor;

(8) Has two years' satisfactory driving experience as approved by the Department.

(b) On the effective date of this Act, any person who is actually engaged or employed as a driver-training instructor and has a minimum of one year's experience in such activity shall, upon application within 90 days after the effective date of this Act and payment of the required license fees, be issued a driver-training instructor's license effective no longer than one year from the date of issuance, provided, however, that the Department of Public Safety may require such applicant to submit satisfactory proof that he is so engaged and comply with the requirements set out in Section 7(a) above, except the requirement of Subsection (6). Such license shall be renewable annually so long as he complies with Department rules and regulations.

License fees

Sec. 8. Each application for an original commercial driver-training school or branch office license shall be accompanied by a \$150 investigation fee and upon approval shall pay an annual license fee of \$200. The investigation fee shall be payable only once, at the time of the original application. The license of each commercial driver-training school or branch office may be renewed subject to the same requirements as the original license, and upon payment of the annual renewal license fee of \$200. Each application for an original supervisory instructor's or instructor's license shall be accompanied by an investigation and examination fee of \$50 and upon approval such applicant shall pay an annual license fee of \$25. The investigation and examination fee shall only be payable with the original application. No license fee shall be refunded in the event that the license is suspended or revoked.

The fee for a duplicate license shall be \$2. A duplicate license may be issued to replace an original license if the original is lost or destroyed and an affidavit of such fact is made and filed with the Department.

All licenses issued to commercial driver-training schools, branch offices, supervisory instructors, and driver-training instructors shall expire automatically on December 31 of the calendar year for which the license was issued, unless sooner suspended or revoked as provided by this Act.

All fees collected under this Act shall be deposited in the State Treasury in the Operator's and Chauffeur's License Fund.

A commercial driver-training school or branch office license must be prominently displayed at the place of business of the commercial driver-training school or branch office. The supervisory driver-training instructor and driver-training instructor license must be carried by the instructor at all times while instructing. Each license shall be signed by the Director of the Department of Public Safety and shall be issued under the seal of the Department.

Refusal, suspension, revocation grounds

Sec. 9. The Department may suspend, revoke, or refuse a license to any commercial driver-training school or branch school, supervisory instructor or driver-training instructor on any one or more of the following grounds:

(a) When the Department is satisfied that the applicant or licensee fails to meet the requirements to receive or hold a license under this Act;

(b) When the applicant or licensee permits fraud or engages in fraudulent practices either with reference to the application to the Department,

or induces or countenances fraud or fraudulent practices on the part of any applicant for a driver's license or permit, or permits or engages in any other fraudulent practice in any action between the applicant or licensee and the public;

(c) When the applicant or licensee fails to comply with the rules and regulations of the Department of Public Safety regarding the instruction of drivers in this state or fails to comply with any section of this Act.

Hearing

Sec. 10. (a) When there is cause to refuse an application or to suspend or revoke the license of any commercial driver-training school, branch office, supervisory driver-training instructor, or driver-training instructor, the Department, not less than 30 days before refusal, suspension, or revocation action is taken, shall notify such person in writing, in person, or by certified mail at the last address supplied to the Department by such person, of such impending refusal, suspension, or revocation, the reasons therefor, and of his right to an administrative hearing for the purpose of determining whether or not the evidence is sufficient to warrant the refusal, suspension, or revocation action proposed to be taken by the Department. If, within 20 days after the personal service of such notice or such notice has been deposited in the United States mail, such person has not made a written request to the Department for this administrative hearing, the Department is authorized to suspend or revoke the commercial driver-training school's, branch office's, supervisory driver-training instructor's, or driver-training instructor's license without a hearing. Upon receipt by the Department of such written request of such person within the 20-day period as set out above, an opportunity for an administrative hearing shall be afforded as early as is practical. In no case shall the hearing be held less than 10 days after written notification thereof, including a copy of the charges, shall have been given the person by personal service or by certified mail sent to the last address supplied to the Department by the applicant or licensee. Administrative hearing in such cases shall be before a qualified Hearing Officer of the Department.

(b) The Department, represented by the Hearing Officer, shall conduct the administrative hearing and the Hearing Officer is authorized to administer oaths and issue subpoenas for the attendance of witnesses and the production of relevant books, papers, documents, etc. On the basis of the evidence submitted at the hearing, the Department shall take whatever action it deems necessary in refusing the application or suspending or revoking the license.

Judicial review

Sec. 11. Any person dissatisfied with the action of the Department in refusing his application, or suspending or revoking his license, or any other action of the Department, may appeal the action of the Department by filing a petition within 30 days thereafter in the district court in the county where the person resides or in the District Court of Travis County, Texas, and the court is vested with jurisdiction, and it shall be the duty of the court, to set the matter for hearing upon 10 days' written notice to the Department and the attorney representing the Department. The court in which the petition of appeal is filed shall determine whether or not the suspension or revocation of the license shall be abated until the hearing shall have been consummated with final judgment thereon, or whether any other action of the Department shall be suspended pending hearing, and enter its order accordingly, which shall be operative when served upon the Department, and the court shall provide the attorney representing the Department with a copy of the petition and order. The Department shall be represented in such appeals by the district or county

attorney of the county, or the Attorney General, or any of their assistants. The trial on such appeal shall be de novo as in cases appealed from the justice to the county court.

Surrender of license

Sec. 12. Upon the revocation or suspension of any license, the licensee shall within five days surrender the license or licenses to the Department; failure of a licensee to do so shall be a violation of this Act and upon conviction shall be subject to the penalties hereinafter set forth. The Department may restore a suspended license to the former licensee upon full compliance with the provisions of this Act. No suspension invoked hereunder shall be for a period less than 30 days nor longer than one year.

Proceedings through the Attorney General

Sec. 13. If any person violates any of the provisions of this Act, the Director of the Department of Public Safety shall, in the name of the State of Texas through the Attorney General of the State of Texas, apply in any district court of competent jurisdiction for an order enjoining such violation or for an order enforcing compliance with this Act. Upon the filing of a verified petition to the court, if the court or any judge thereof is satisfied by affidavit or otherwise that the person has violated this Act, it may issue a temporary injunction without notice or bond enjoining such continued violation, and if after a hearing it is established that the person violated or is violating this Act the court or any judge thereof may enter a decree perpetually enjoining the violation of or enforcing compliance with this Act. In case of violation of any order or decree issued under the provisions of this section, the court or any judge thereof may try and punish the offender for contempt of court. Proceedings under this section shall be in addition to and not in lieu of all other remedies and penalties provided by this Act.

Driver-training instruction for hire in licensed school

Sec. 14. No motor vehicle driver-training instruction shall be conducted for hire or tuition unless in a licensed commercial driver-training school or one of its branch offices except as set out in Section 2 and in counties with a population of less than 25,000 where driver-training instruction may be given by a supervisory instructor or instructor not connected with or in a commercial driver-training school.

Penalties

Sec. 15. Any person who violates any provision of this Act shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than \$100 nor more than \$1,000, or by imprisonment in the county jail for a term of not to exceed six months, or both. Acts 1967, 60th Leg., p. 794, ch. 332, eff. Aug. 28, 1967.

Section 16 of Acts 1967, 60th Leg., p. 794, ch. 332 provides: "Constitutionality. If any part or parts of this Act shall be held unconstitutional, such unconstitutionality shall not affect the validity of the remaining parts of this Act. The Legislature hereby declares that it would have passed the remaining parts of this Act if it had known that such part or parts thereof would be declared unconstitutional."

Title of Act:

An Act relating to the licensing of commercial driver-training schools, supervisory driver-training instructors, and driver-training instructors by the Department of Public Safety; providing a penalty; and declaring an emergency. Acts 1967, 60th Leg., p. 794, ch. 332.

CHAPTER SIX—VETERANS' PREFERENCES

Art. 4413(31). Preference of veterans in appointment or employment

Persons entitled to preference

Section 1. From and after the effective date of this Act, in every public department, commission, board, and government agency, and upon all public works of this State, all honorably discharged soldiers, sailors, marines, members of the air corps and coast guard of the United States, nurses in military service of the United States, and all women in military service of the United States in the different auxiliary services thereof, in the Spanish-American War, Philippine Insurrection, China Relief Expedition, World War I and World War II, or in any other military conflict in which the United States of America has been a participant, or the war in Korea after June 24, 1950, or the Viet Nam conflict after July, 1953, and the widows and orphans of such personnel of the Armed Forces of the United States, who are and have been citizens of Texas for not less than five (5) years preceding the date of application in pursuance of this Act, and are competent and fully qualified, shall be entitled to preference in appointment or employment over other applicants for the same position having no greater qualification; provided, that this Act shall not apply or benefit any person who was a conscientious objector at the time of his or her discharge from any of the military services herein mentioned.

Sec. 1 amended by Acts 1967, 60th Leg., p. 712, ch. 295, eff. Aug. 28, 1967.

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CHAPTER SEVEN—INTERAGENCY COOPERATION

Art.

4413(32a). Interagency Planning Councils
 [New].

Art. 4413(32a). Interagency Planning Councils

Section 1. The imperative need to maximize the prudent use of governmental revenues being self-evident, the Legislature recognizes that planning is a governmental purpose and function of the State and its political and legal subdivisions.

Sec. 2. The Governor is hereby designated the Chief Planning Officer of the State.

Sec. 3. The Governor shall appoint Interagency Planning Councils to coordinate joint planning efforts in the various functional areas of government, and each Council shall be composed of a member of the Governor's Office and the Administrative heads of the several State agencies and departments and institutions of higher education represented on the respective Councils. The Interagency Planning Councils shall represent the areas of natural resources, health, education, and such other areas as may require coordinated planning efforts.

Sec. 4. The Governor shall establish a Division of Planning Coordination within his Office to coordinate the activities of the several Councils, and to serve as a coordinating catalyst by encouraging needed studies and planning efforts. The several Councils may participate jointly in studies providing information common to all planning efforts.
 Acts 1967, 60th Leg., p. 949, ch. 417, eff. Sept. 1, 1967.

Section 5 of the act of 1967 provided: "If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end, the provisions of this Act are declared to be severable."

Title of Act:

An Act concerning planning; designating the Governor the Chief Planning Officer of the State; providing Interagency Planning Councils; establishing a Division of Planning Coordination; providing a severability clause; and declaring an emergency. Acts 1967, 60th Leg., p. 949, ch. 417.

TITLE 71—HEALTH—PUBLIC

CHAPTER ONE—HEALTH BOARDS AND LAWS

Art. 4447f. Duty of State Department of Health to recommend policies relating to medical aspects of driver licensing, traffic safety and accident investigation [New].

Art. 4447g. Psychological and audiological tests for deaf or hard-of-hearing persons [New].

Art. 4419c. Physical restoration service for crippled children

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“Crippled child” defined; eligibility

Sec. 2. A crippled child is defined as any person under twenty-one (21) years of age, whose physical functions, movements, or sense of hearing are impaired by reason of a joint, bone, ossicular chain, or muscle defect or deformity, to the extent that the child is or may be expected to be totally or partially incapacitated for education or remunerative occupation. To be eligible for rehabilitation service under this Act, the child’s disability must be such that it is reasonable to expect that such child can be improved through hospitalization, medical or surgical care, optometric care, artificial appliances, or through a combination of these services. For the purposes of this Act, a “crippled child” includes a child whose sole or primary handicap is blindness or other substantial visual handicap, but the responsibility for rendering services to a child crippled with blindness or other substantial visual handicap is that of the Commission for the Blind.

Sec. 2 amended by Acts 1967, 60th Leg., p. 558, ch. 245, eff. Aug. 28, 1967.

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Art. 4447f. Duty of State Department of Health to recommend policies relating to medical aspects of driver licensing, traffic safety and accident investigation

Section 1. The State Department of Health shall continuously study and investigate the medical aspects of

- (1) driver licensing;
(2) enforcement of traffic safety laws, including differentiation between drivers who are ill or intoxicated; and
(3) accident investigation, including examination for alcohol and drugs in the bodies of persons killed in traffic accidents.

Sec. 2. As a result of its studies and investigations, the Department of Health periodically shall recommend policies, standards, and procedures to the Department of Public Safety relating to the medical aspects of driver licensing, enforcement of traffic safety laws, and accident investigation.

Acts 1967, 60th Leg., p. 789, ch. 330, eff. Aug. 28, 1967.

Title of Act:

An Act relating to the duty of the State Department of Health to recommend policies relating to medical aspects of driver licensing, traffic safety, and accident investigation; and declaring an emergency. Acts 1967, 60th Leg., p. 789, ch. 330.

Art. 4447g. Psychological and audiological tests for deaf or hard-of-hearing persons

Section 1. The State Department of Health shall establish and develop a state program for the testing of deaf and hard-of-hearing persons

For Annotations and Historical Notes, see V.A.T.S.

for hearing defects. The purpose of this program is to provide audiological and psychological testing services to the deaf and hard-of-hearing in areas where these services are not otherwise available.

Sec. 2. The State Department of Health may contract with physicians to provide psychological and audiological tests to deaf or hard-of-hearing persons and subject to legislative appropriation of funds may pay a reasonable fee for the services.

Sec. 3. (a) In the program the agency shall include:

(1) criteria and standards consistent with the purposes of this Act for determining the degree of hearing loss which makes a person eligible for testing under this Act; and

(2) criteria and standards for determining physicians' qualifications for administering tests under this Act.

(b) The testing service shall be made available only in areas where the service would not otherwise be available.

Sec. 4. The State Department of Health shall establish and collect fees to cover the costs of these services: provided, however, that such services shall not be denied to any resident of the State of Texas because of inability to pay such fee.

Acts 1967, 60th Leg., p. 2045, ch. 754, eff. Aug. 28, 1967.

Title of Act:

An Act directing the State Department of Health to develop and carry out a program to provide psychological and audiological tests to deaf or hard-of-hearing persons in certain areas of the state; and declaring an emergency. Acts 1967, 60th Leg., p. 2045, ch. 754.

CHAPTER THREE A—BEDDING

Art. 4476a. Bedding—Manufacture, repair, renovation and sale

Definitions

Section 1. (a) The term "bedding," as used in this Act shall mean any mattress, mattress pad, mattress protector, box spring, sofa bed, studio couch, chairbed, convertible bed, convertible lounge, pillow, bolster, quilt, quilted spread, comforter, cot pad, sleeping bag, chaise lounge pad, utility or all purpose pad, crib pad, playpen pad, crib bumper pad, car bed pad, infant carrier pad, convertible stroller pad, bassinet pad, bed rest and lounge-type cushion, and other stuffed or filled article of any description which can be used by any human being for sleeping or reclining purposes.

(b) The term "department," when used in this Act, shall mean the State Department of Health.

(c) The term "person," as used in this Act, shall include persons, partnerships, companies, corporations and associations.

(d) The term "renovate," as used in this Act, shall mean to restore to former condition or to place in good state of repair.

(e) The term "materials," as used in this Act, shall mean all articles, materials or portions thereof, used in the manufacture, repair or renovation of bedding.

(f) The term "new," as used in this Act, shall mean any article or material which has not previously been used for any purpose.

(g) The term "secondhand," as used in this Act, shall mean any article or material or portion thereof, of which former use has been made in any manner whatsoever.

(h) The term "sell," or any of its variants, as used in this Act, shall include any of, or any combinations of the following: sell, offer or expose for sale, include in a sale, barter, trade, deliver, consign, lease, possess with intent to sell or dispose of in any other commercial manner.

The possession of any article of bedding, as herein defined, by any manufacturer, renovator, wholesaler or germicidal treatment operator, in the course of business, shall be presumptive evidence of intent to sell.

(i) The term "manufacturer," as used in this Act, shall mean any person whose principal business is the manufacture, from new materials, of articles of bedding for the purpose of resale in or into the State of Texas by a distributor, jobber, wholesaler, retail outlet or subsidiary outlet where the ownership and the name are identical with the manufacturer and/or which is an exclusive sales outlet for that manufacturer.

(j) The term "wholesaler," as used in this Act shall mean any person located outside the State of Texas who on his own account, sells, distributes or jobs into the State of Texas to another for the purpose of resale any article of bedding or filling material to be used in bedding but shall not include an affiliate or subsidiary where the ownership and the name are identical with the manufacturer and which is the exclusive sales outlet of the manufacturer.

(k) The term "processor," as used in this Act, shall mean any person who manufactures, processes and sells in or into the State of Texas any felt, batting, pads, foam or other filling materials to be used or that could be used in articles of bedding, but shall not include wooden frames and/or metal springs.

(l) The term "germicidal treatment operator," as used in this Act, shall mean any person who is registered by the Department to apply an approved germicidal process to articles of bedding for the purpose of resale by said operator or as a commercial service for another person.

(m) The terms "permit," "license," "registration," or any of their respective variants, as used in this Act, shall be synonymous and may be used interchangeably.

(n) Wherever in this Act the singular is used, the plural shall be included; and where the masculine gender is used, the feminine and neuter shall be included.

Sec. 1 amended by Acts 1967, 60th Leg., p. 572, ch. 260, § 1, emerg. eff. May 22, 1967.

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Use and sale of materials from dump-grounds and junkyards

Sec. 3. No person shall manufacture, repair or renovate bedding or batting, using discarded materials obtained from dump-grounds or junkyards within or without the State of Texas nor shall any person sell or include in a sale any item of discarded bedding obtained from the sources set out in this section.

Sec. 3 amended by Acts 1967, 60th Leg., p. 573, ch. 260, § 2, emerg. eff. May 22, 1967.

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Enforcement of Act

Sec. 5. (a) The Department is hereby charged with the enforcement of this Act, for the protection of the public health and the public welfare. It is further empowered, and its duty shall be to make, amend, alter or repeal general rules and regulations of procedure for carrying into effect all the provisions of this Act, and to prescribe means, methods, and practices to make effective such provisions.

(b) No person shall interfere, obstruct, or hinder an authorized representative of the Department in the performance of his duty as set forth in the provisions of this Act.

(c) The Department, through its authorized representative, shall have the authority to enter any place or establishment where bedding is

For Annotations and Historical Notes, see V.A.T.S.

manufactured, repaired, renovated, stored, sold, offered for sale, or where materials are prepared for use in bedding, or where germicidal treatment of bedding is performed, for the purpose of ascertaining whether the requirements of this Act and the regulations of the Department have been met.

(d) The Department, through its authorized representative, is empowered to take samples of materials for inspection and analysis, and to hold for evidence, at a trial, for the violation of this Act any article of bedding or materials manufactured, repaired, renovated, sold or offered for sale, in violation of this Act.

(e) The Department, through its authorized representative, shall have authority to place "Off-Sale" any article of bedding or material which is offered for sale, or which could be offered for sale, in violation of this Act. When articles of bedding or materials are removed from sale, they shall be so tagged; and such tags shall not be removed from the article nor shall the article be disposed of in any manner whatsoever without prior approval by an authorized representative of the Department, or as the Department may direct, after satisfactory proof of compliance with all requirements of this Act and of the regulations of the Department and after a "Release for Sale" has been issued by the Department through its authorized representative.

(f) The violation of a general rule or regulation of procedure promulgated under this Act shall be a violation of this Act.

(g) If the party at interest be dissatisfied with any act, order, ruling or decision of the State Department of Health in connection with the administration of this Act, such party may file an action, naming the State Department of Health as defendant, in any of the District Courts of Travis County to set aside the particular act, order, ruling or decision. The cause shall be tried by the court without a jury in the same manner as civil actions generally and all fact issues material to the validity of such act, order, ruling or decision shall be re-determined in such trial on the preponderance of the competent evidence but no evidence shall be admissible which was not either tendered to the State Department of Health or in its file while the matter was pending before the Department for decision. The burden of proof shall be on the plaintiff and judgment shall be entered by the court declaring the action, order, ruling or decision in question either valid or invalid. Appeals from any final judgment may be taken in the manner provided for in ordinary civil actions generally. No appeal bond shall be required by the State Department of Health. All acts, orders, rulings and decisions of the State Department of Health shall be final unless an action to set aside as herein authorized is filed within thirty days after the action, ruling or decision is taken or made by the State Department of Health.

Sec. 5 amended by Acts 1967, 60th Leg., p. 573, ch. 260, § 3, emerg. eff. May 22, 1967.

Permits

Sec. 6. (a) No person shall engage in the business of manufacturing, wholesaling, renovating, and selling any article of bedding in or into the State of Texas unless he shall have first obtained a permit from the Department, nor shall any processor of filling materials to be used in articles of bedding sell such materials in or into the State of Texas unless he shall have first obtained a permit from the Department.

(b) No person shall be considered to have qualified to apply an acceptable germicidal process until such process has been registered with and approved by the Department, after which a numbered permit shall then be issued by the Department. Such permit shall expire one year from date of issue and shall thereafter be annually renewed at the option of the permit holder upon submission of proof of continued compli-

ance with the provisions of this Act and the regulations of the Department. Every person to whom a permit has been issued shall keep such permit conspicuously posted on the premises of his place of business near the treatment device. Holders of permits to apply germicidal treatment shall be required to keep an accurate record of all materials which have been subjected to germicidal treatment, including the source of material, date of treatment, and name and address of the owner of each item. Such records shall be available for inspection at any time by authorized representatives of the Department.

(c) For all initial permits issued, as required by the preceding Paragraph (a) of this Section, there shall, at the time of issuance thereof, be paid by the applicant, to the Department, a fee of Fifteen Dollars (\$15). All permits shall expire one year from date of issue and an annual renewal charge of Ten Dollars (\$10) shall be paid to the same Department in order to keep them in force.

(d) For all initial permits issued, as required by the preceding Paragraph (b) of this Section, there shall, at the time of issuance thereof, be paid by the applicant, to the Department, a fee of Fifteen Dollars (\$15). All permits shall expire one year from date of issue and an annual renewal charge of Ten Dollars (\$10) shall be paid to the same Department in order to keep them in force.

(e) Any permit issued in accordance with the provisions of this Act may be revoked by the Commissioner of Health, after a hearing and upon proof of violation of any of the provisions of this Act.
Sec. 6 amended by Acts 1967, 60th Leg., p. 575, ch. 260, § 4, emerg. eff. May 22, 1967.

Stamping, exemption and reporting

Sec. 7. (a) Stamping.

(1) No person shall manufacture, renovate, sell or lease or have in his possession with intent to sell or lease in the State of Texas, any article of bedding covered by the provisions of this Act, unless there be affixed to the tag required by this Act by the person manufacturing, renovating, selling or leasing the same, an adhesive stamp prepared and issued by the Department, except that any person desiring to do so may make application to the Department for a stamp exemption, which, if issued, will relieve the holder of the above requirement that an inspection stamp be attached to every tag.

(2) The Department shall register all applicants for stamps and assign to every such person a registry number and/or separate and different serial numbers to be printed on each stamp as a means of identifying the applicant and the stamps issued thereto, and such identification shall not be used by any other person.

(3) Adhesive stamps as provided for by this Act shall be furnished by the Department in quantities of not less than five hundred (500), for which the applicant shall pay at the rate of Five Dollars (\$5) for each five hundred (500) stamps. The Department is hereby authorized to prepare and cause to be printed, adhesive stamps which shall contain a replica of the Seal of the State of Texas, the registry number and/or serial numbers assigned by the Department, and such other matter as the Department shall direct.

(b) Exemption.

(1) The Department shall register all applicants for stamp exemptions and assign to every such person an exemption number upon receipt by the Department of a proper application on an approved form when such application is accompanied by a registration fee as specified in Paragraph (b)(2) of this Section. Such exemption shall not be transferable and shall not be used by any other person.

For Annotations and Historical Notes, see V.A.T.S.

(2) For all stamp exemptions as stated in Paragraph (b)(1) of this Section, there shall at the time of issuance thereof, be paid by the applicant to the Department a fee of Twenty-five Dollars (\$25). Such stamp exemption shall expire one year from date of issue and shall thereafter be annually renewed at the option of the exemption holder upon submission of proof of continued compliance with the provisions of this Act and the regulations of the Department and payment of the Twenty-five Dollars (\$25) annual renewal fee.

(c) Reporting.

(1) Each holder of a stamp exemption shall file with the Department a report within fifteen (15) days after the expiration of each two-month period. Such report shall be made under oath by the owner or official of the registrant that the information therein is true to his best knowledge and belief and shall show the exact number of articles of bedding sold in or into the State of Texas during the said two-month period. The registrant shall remit with said report an amount of money computed as follows: The sum of one cent (1¢) for each article of bedding sold in or into the State of Texas during said report period. The first report required by this Section shall be for the period September 1, 1967, through October 31, 1967.

(2) The requirement for reporting as set out in Paragraph (c)(1) of this Section shall apply to each holder of a stamp exemption who makes or causes to be made the initial sale of an article of bedding in or into the State of Texas.

(3) Each holder of a stamp exemption shall keep accurate records of all articles of bedding manufactured, renovated and sold in or into the State of Texas. The Department shall have the authority to verify necessary shipping records when a registrant fails to make a report as required by Paragraph (c)(1) of this Section or when such report is unsatisfactory for purposes of determining the correct payment due from said registrant.

(4) In case of default in payment, failure to report or evidence of false reporting the registrant shall automatically forfeit his stamp exemption. Any exemption which has been revoked or forfeited as the result of a failure to comply with any of the provisions of the Act or the regulations of the Department shall not be renewed or reissued unless and until the applicant for said exemption presents satisfactory evidence to the Department that he will abide by all provisions of the Act and all rules and regulations promulgated under the Act.

(d) Exceptions.

Processors of filling materials shall be excluded from the stamping, exemption and reporting requirements as set out in Paragraphs (a), (b) and (c) of this Section, but each processor shall be required to identify any shipment or delivery, however contained, of processed filling materials used for filling articles of bedding by affixing thereto in a conspicuous place a tag, label or indelible marking which clearly indicates the kind of material, whether the material is new or secondhand and the permit number of the processor.

Sec. 7 amended Acts 1967, 60th Leg., p. 575, ch. 260, § 5, emerg. eff. May 22, 1967.

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The introductory clause of Acts 1967, 60th Leg., p. 572, ch. 260, § 1 purports to amend "Section 1 of Senate Bill No. 200, General Laws of the 46th Legislature, Regular Session, page 376, 1939, as amended by Chapter 297, Acts of the 51st Legislature". The reference to "Chapter 297" probably should read "Chapter 497".

Acts 1967, 60th Leg., p. 572, ch. 260, which amended various sections of this article, provided in sections 6 and 7:

"Sec. 6. All laws or parts of laws in conflict with the provisions of this Act are hereby repealed to the extent of conflict only.

"Sec. 7. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect the remaining provisions

which can be given effect without the invalid provision or application and to this end the provisions of this Act are declared to be severable."

CHAPTER FOUR—SANITARY CODE

Art.

4477. Sanitary code.

Rule

50c. Reporting of divorces and annulments of marriage [New].

Article 4477. Sanitary code

Rule 50c. Reporting of divorces and annulments of marriage

(a) The State Bureau of Vital Statistics shall adopt a form for the reporting of divorces and annulments of marriage, which form shall provide for the following items of information:

(1) the full names of the parties, their usual residences, their ages, their places of birth, their color or race, and the number of children, date and place of marriage.

(2) the date of the granting of the divorce or annulment of marriage; the style and docket number of the case, and the court in which the divorce or annulment of marriage was granted.

(b) The State Bureau of Vital Statistics shall furnish sufficient copies of the form to each district court clerk.

(c) When a final judgment for a divorce or annulment of marriage is presented to the court for a final decree the attorney shall enter the above-listed items of information regarding the parties on the report of divorce or annulment of marriage form prescribed by the State Bureau of Vital Statistics, and such form shall be submitted to the district court clerk with the final judgment.

(d) Before the 10th of each month the district court clerk shall file with the State Bureau of Vital Statistics a completed form for each divorce or annulment of marriage granted in the district court during the preceding calendar month.

(e) For each report of divorce or annulment of marriage filed with the State Bureau of Vital Statistics, the district court clerk shall receive a fee of \$1.00 which is to be taxed as costs in each case in which a divorce or annulment of marriage is granted.

(f) The State Bureau of Vital Statistics shall establish and maintain a consolidated statewide alphabetical index of all divorce and annulment of marriage forms based upon the names of both parties.

(g) The state registrar shall, upon request, furnish to any applicant any information he has on record pertaining to any divorce or annulment of marriage, but he shall not issue certified copies of reports of divorces or annulments of marriages. The state registrar shall charge the applicant a fee of \$1.00 for searching the statewide index of divorces and annulments of marriages, and all fees collected under this section shall be deposited in the state treasury to the credit of the Vital Statistics Fund.

(h) The provisions of this section shall apply to all petitions for divorce or annulment of marriage filed on and after January 1, 1968. Rule 50c added by Acts 1967, 60th Leg., p. 560, ch. 247, § 1, eff. Jan. 1, 1968.

CHAPTER FOUR A—SANITATION AND
HEALTH PROTECTION

Art.
4477—5. Clean Air Act of Texas, 1967
[New].

Art. 4477—4. Repealed. Acts 1967, 60th Leg., p. 1952, ch. 727, § 17.
Eff. Sept. 1, 1967

See, now, art. 4477—5.

Art. 4477—5. Clean Air Act of Texas, 1967

Title; purpose of Act

Section 1. This Act may be cited as the "Clean Air Act of Texas, 1967." It is the purpose of this Act to safeguard the air resources of the state from pollution by controlling or abating air pollution consistent with the protection of health, general welfare and physical property of the people, operation of existing industries and the economic development of the state.

Definitions

Sec. 2. The following terms as used in this Act shall, unless the context otherwise requires, have the following meanings:

(A) "Air contaminant" means particulate matter, dust, fumes, gas, mist, smoke, vapor or odor, or any combination thereof produced by processes other than natural.

(B) "Source" is any and all points of origin of the items defined in Section 2(A), whether privately or publicly owned or operated.

(C) "Undesirable levels" of the items defined in Section 2(A) hereof is the presence in the atmosphere, as limited by Section 4(C) hereof, of one or more air contaminants or combinations thereof, in such concentration and of such duration as are or may tend to be injurious to or to adversely affect humans, animal life, vegetation or property, or as to interfere with the normal use and enjoyment of animal life, vegetation or property.

(D) "Air pollution" means the presence in the atmosphere of undesirable levels of air contaminants.

(E) "Board" is the Texas Air Control Board created by this Act.

(F) "Person" is any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, political subdivision, or any other legal entity or their legal representatives, agents or assigns.

Texas Air Control Board; creation and membership; vacancies; salaries; ex officio members; personal representatives; expenses; officers; consultants; appropriations; reports and records

Sec. 3. (A) There is hereby created and established a Texas Air Control Board which shall be composed of nine members. The board is directed to carry out the functions and duties conferred on it by this Act. The six members of the Texas Air Control Board appointed by the Governor under the provisions of Section 3(A), Chapter 687, Acts of the 59th Legislature, Regular Session, 1965 (Article 4477—4, Vernon's Texas Civil Statutes), upon their confirmation by the Senate, are hereby constituted members of the board created by this Act. These members shall continue to serve until the expiration of their appointive terms, and until a successor has been appointed and has qualified. As the terms of office of the members appointed under the provisions of Section 3(A), Chapter 687, Acts of the 59th Legislature, Regular Session, 1965 (Article 4477—4, Vernon's Texas Civil Statutes), expire, the Governor, with the advice and

consent of the Senate, shall appoint six members so that the Governor's appointees on the board created by this Act will consist of one appointee who is a professional engineer with at least ten years experience in the actual practice of his profession, which experience shall include work in air control; one appointee who is a physician licensed to practice in this state, currently engaged in general practice in this state, with experience in the field of industrial medicine; one appointee who has been actively engaged in the management of a private manufacturing or industrial concern for at least ten years immediately prior to his appointment; one appointee who is experienced in the field of municipal government; and two appointees who are chosen from the general public. The Governor shall make appointments for six-year terms.

(B) Vacancies occurring in any such office of the board filled by appointment by the Governor during any term shall, with the advice and consent of the Senate, be filled by appointment by the Governor, which appointment shall extend only to the end of the unexpired term.

(C) The nine members of the board shall receive no fixed salary for duties performed as members of the board but each member, excepting those representing the specified state agencies, shall be allowed, for each and every day in attendance at meetings or on authorized business of the board, the sum of \$25 including time spent in travel to and from such meetings or authorized business and all members shall be allowed traveling and other necessary expenses while in the performance of official duty, to be evidenced by vouchers approved by the executive secretary. The members of the board appointed by the Governor and confirmed by the Senate shall qualify by taking the constitutional oath of office before an officer authorized to administer an oath within this state, and, upon presentation of such oath, together with the certificate of appointment, the secretary of state shall issue commissions to them, which shall be evidence of their authority to act as such.

(D) In addition to the six members appointed by the Governor as provided herein, the board shall also consist of the following state officers, each of whom shall be an ex officio member of said board during the time that he is serving in such other official capacity, to wit: the State Commissioner of Health, the Executive Director of the Texas Industrial Commission, and the Executive Director of the Texas Animal Health Commission, each of whom shall perform the duties required of a member of the board by this Act, as additional duties of his other office.

(E) Each ex officio member of the board listed in Paragraph (D) above is authorized to delegate to a personal representative from his office the authority and duty to represent him on the board. Said personal representative shall serve at the will of said ex officio member of the board, but by such delegation a member shall not be relieved of responsibility for the acts and decisions of his representative. The designated personal representative, while engaged in the discharge of official board duties on behalf of and as authorized by such member, stands in the place and stead of such member for purposes of attending board meetings, and for purposes of participating in and voting on matters arising at board meetings and hearings. The designated personal representative may exercise all of the powers, duties and responsibilities of the ex officio member, including the taking of testimony in any hearing called by the board under the provisions of Section 4(A), Paragraph (4); may receive reimbursement for traveling and other necessary expenses, while engaged in the performance of official board business in the same manner as the one he represents, under the provisions of Paragraph (D) above; and may serve as either chairman or vice chairman of the board under the provisions of Section 3(G), subject to the provision above.

(F) Actual and necessary travel and other expenses incurred by the three ex officio members, or their designated personal representatives,

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in the discharge of their official duties as members of the board shall be paid out of any funds made available to the agency of such ex officio member or his designated personal representative for the purposes of this Act. Employees of the board shall receive such traveling expenses as may be authorized by the Legislature.

(G) The board shall elect a chairman and a vice chairman from its members whose terms of office shall be for two years commencing on February 1st of each odd-numbered year hereafter. At the first meeting of the board, the chairman and vice chairman shall be elected to serve until February 1, 1969. The chairman, or in his absence, the vice chairman, shall preside at all meetings of the board and perform the other duties hereinafter prescribed. The board shall meet at regular intervals as may be decided upon by majority vote of the board. Special meetings may be called by the chairman upon his own motion and must be called by him upon receipt of a written request therefor signed by two or more members of the board. Five members of said board shall constitute a quorum to transact business. The board shall have the power to make all necessary rules for its procedure and shall have a seal, the form of which it shall prescribe.

(H) The executive secretary of the board shall be an employee of the State Health Department and the State Commissioner of Health shall designate such employee as executive secretary following consultation with the board. The executive secretary shall keep full and accurate minutes of all transactions and proceedings of said board and perform such duties as may be required by the board, and he shall be the custodian of all files and records of the board. The executive secretary shall be the administrator of air control activities for the board.

(I) Technical, scientific, legal or other services shall be performed by personnel of other state agencies when requested by the board, but the board may employ and compensate with funds available therefor professional consultants, assistants and employees that may be necessary to carry out the provisions hereof and prescribe their powers and duties. The board may request and shall receive the assistance of any state educational institution, experimental station, or other state agency.

(J) To carry out the provisions of this Act, any agency of this state with responsibilities under the laws of this state for air control, and for which appropriations are made in the Biennial Appropriations Act, is hereby authorized to transfer to the board out of such appropriations such annual amounts as may be mutually agreed upon by such an agency and by the board, subject only to the concurrence of the Governor. In the event such transfers are insufficient to finance adequately the necessary activities of the board, the Governor is authorized to transfer to the board from the appropriations made to the Governor such amounts as he determines. It is further provided that said board is authorized to request, solicit, contract for, receive or accept money from any federal agency, state agency, political subdivision, private source, or other legal entity to carry out the duties required of it by this Act. Such moneys as may be transferred under the provisions of this subsection, and such gifts and grants as may be received by said board, shall be deposited in the state treasury in a special fund. Such moneys shall be appropriated to said board for any of the purposes set forth in this Act, including salaries, professional fees, wages, travel expenses, equipment, and other necessary expenses.

(K) The board shall make biennial reports in writing to the Governor and the Legislature, in which shall be included statements of its activities. All data collected by the board shall be the property of the State of Texas. Subject to the restrictions of Section 8 of this Act, all records of the board are public records open to inspection by any person during regular office hours. Such records shall show, among other things, the source of all moneys or other things of value, received by the board under Section 3(J) above from sources other than public sources.

(L) Upon application of any person and upon payment of the fees, if any, prescribed therefor in the rules and regulations of the board, the board shall furnish copies, certified or otherwise, of any of its proceedings or other official acts of record, or of any paper, map or document filed in the office of the board. Certified copies over the hand of the chairman or the executive secretary and the seal of the board shall be admissible in evidence in any court or administrative proceeding, in the same manner and with like effect as the original would be. Provided, however, nothing contained in this Section shall be so construed as to in any way violate the provisions contained in Section 8 of this Act.

Powers and duties of board

Sec. 4. The board shall seek the accomplishment of the purposes of this Act through the control of the items defined in Section 2(A) by all practical and economically feasible methods consistent with its powers and duties as hereinafter set forth.

(A) The board shall have the power:

(1) To prepare and develop a general plan for the proper control of the air resources of Texas.

(2) (a) To adopt and promulgate rules and regulations consistent with the general intent and purposes of this Act in accordance with the provisions of Section 6 hereof. Except as provided in Paragraphs (b) and (c) of this subdivision, such rules and regulations may not specify any particular method to be used to reduce undesirable levels as defined in Section 2(C) hereof, nor the type, design, or method of installation of any equipment to be used to reduce undesirable levels as defined in Section 2(C), nor the type, design, or method of installation or type of construction of any manufacturing processes or other kinds of equipment.

(b) Subject to the provisions of Section 4(C), the board may include in said rules and regulations requirements as to the particular method to be used to reduce undesirable levels as defined in Section 2(C), which arise from the outdoor burning of waste material or refuse.

(c) Subject to the provisions of Section 4(C), the board may include in said rules and regulations requirements as to the particular method to be used to control and reduce emission from motors and engines used in propelling land vehicles. Any rules or regulations pursuant to this paragraph shall be consistent with provisions of federal law, if any, relating to control of emissions from the vehicles concerned. The board shall not require, as a condition precedent to the initial sale of a vehicle or vehicular equipment, the inspection, certification or other approval of any feature or equipment designed for the control of emissions from motor vehicles, if such feature or equipment has been certified, approved or otherwise authorized pursuant to federal law.

(3) To develop such facts and make such investigations as are consistent with the purposes of this Act, and in connection therewith the board or its duly authorized agents or employees shall have the right to enter at all reasonable times in or upon any public or private property, other than property designed for and used exclusively as a private residence housing not more than three families, for the purpose of inspecting and investigating conditions relating to emissions of air contaminants to or the concentration of air contaminants in the atmosphere. Agents and employees may not enter private property having management in residence without notifying the management, or the person in charge at the time, of their presence and exhibiting proper credentials. Such agents or employees shall observe rules and regulations of the establishment being inspected concerning safety, internal security, and fire protection. Should the board or its duly authorized agents or employees be refused the right to enter in or upon such public or private property, the board may have the remedies authorized in Section 12(B) of this Act.

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(4) (a) To hold hearings, receive pertinent and relevant evidence from any party in interest who appears, issue subpoenas to compel the attendance of witnesses and the production of such papers and documents as are related to such hearing, and make findings of fact and determinations, all with respect to administering the provisions of this Act or of any orders, determinations, rules or regulations of the board. At any hearing, all testimony shall be given under oath and recorded stenographically. The transcript so recorded shall be made available to any member of the public or to the respondent or party to a hearing on a complaint upon payment of the usual charges therefor.

(b) To delegate to one or more of its members or his personal representative or to one or more of its employees the authority to take testimony in any hearing called by the board or authorized by the board to be held, with power to administer oaths; but all orders entered shall be made by and in the name of the board after its official action and attested to by the executive secretary.

(5) (a) To enter such orders or determinations as may be necessary to effectuate the purposes of this Act. If the board shall determine that a condition as defined in Section 2(C) hereof exists, it may order such action as is indicated by the circumstances to control the condition. The board shall grant such time for the owner or operator of a source to comply with its order as is provided for in the rules and regulations it shall adopt pursuant to the provisions of Section 4(A) (2) which shall make provision for such time gauged to such general situations as hearings on such proposed rules and regulations may indicate are necessary.

(b) In making its orders and determinations hereunder, the board shall take into consideration all the facts and circumstances bearing upon the reasonableness of the emissions involved including, but not limited to:

(i) The character and degree of injury to, or interference with, the health and physical property of the people;

(ii) The social and economic value of the source of the undesirable levels as defined in Section 2(C);

(iii) The question of priority of location in the area involved; and

(iv) The technical practicability and economic reasonableness of reducing or eliminating the emissions resulting from such source.

(6) To cause to be instituted in a court of competent jurisdiction legal proceedings to compel compliance with the provisions of this Act or with any rules, regulations, orders or determinations made by the board.

(7) To request and be entitled to receive the assistance of any state educational institution, experiment station, board, department or other state agency and the officials and employees thereof when it is deemed necessary or beneficial by the board to carry out the provisions of this Act.

(B) The board shall have the following duties with respect to the control of the conditions defined in Section 2(C):

(1) Encourage voluntary cooperation by persons, or affected groups in restoration and preservation of a reasonable degree of purity of air within this state.

(2) Encourage and conduct studies, investigations and research concerning air control.

(3) Collect and disseminate information on air control.

(4) Advise, consult and cooperate with other agencies of the state, political subdivisions of the state, industries, other states and federal government, and with interested persons or groups in regard to matters of common interest in air control.

(5) Represent the State of Texas in any and all matters pertaining to plans, procedures, or negotiations for interstate compacts.

(6) The basic personnel and necessary laboratory and other facilities as may be required to carry out the provisions of this Act shall

be personnel, laboratory, and other facilities of the Texas State Department of Health; provided, however, that the board, through the department of health acting as the agent of the board, may by agreement secure such services as it may deem necessary from any other departments and agencies of the state government and may arrange for compensation for such services, and may employ and compensate, within appropriations available therefor such consultant and technical assistants on a full or part-time basis as may be necessary to carry out the provisions of this Act and to prescribe their powers and duties.

(C) Nothing contained in this Act shall be deemed to grant to the board any jurisdiction or authority to make any rule, regulation, recommendation or determination or to enter any order with respect to air conditions existing solely within the property boundaries of commercial and industrial plants, works or shops or to affect the relations between employers and employees with respect to or arising out of any air condition. Provided further that nothing contained in this Act shall vest in the board any power with respect to any matter subject to the jurisdiction of the Texas Radiation Control Agency as defined in Article 4590F, Revised Civil Statutes of Texas, as amended, or over any source licensed by the Atomic Energy Commission under the Atomic Energy Act of 1954, Title 42 USC 2011-2281, Incl.

Executive secretary; powers and duties

Sec. 5. The executive secretary of the board shall have the following powers and duties:

(A) The executive secretary shall prepare and recommend to the board plans and procedures necessary to effectuate the aims and objects of this Act, including but not limited to rules and regulations, and proposals of administrative procedures not inconsistent with this Act.

(B) The executive secretary, or his authorized representative, shall attend all meetings of the board but shall not be entitled to a vote.

(C) The executive secretary, or his authorized representative, shall handle such correspondence, make or arrange for such inspections and investigations, and obtain, assemble or prepare such reports and data as the board may direct or authorize.

(D) The executive secretary shall exercise general supervision over all persons employed by the board. He shall be responsible for the investigation of complaints, the recommendation to the board of the issuance of formal complaints by the board and for the presentation of such complaints before the board, and shall have such other duties as the board may prescribe.

Rules and regulations; adoption, amendment or repeal

Sec. 6. (A) Any rule or regulation or amendment or repeal thereof shall not be deemed adopted or in force and effect until it shall have been approved in writing by at least five members of the board. A rule or regulation or any amendment or repeal thereof shall not be adopted until after a public hearing. Notice of such hearing shall be given at least thirty days prior to the scheduled date of the hearing by public advertisement in at least three newspapers with state-wide circulation of the date, time, place and purpose of such hearing as required for public notice in Article 29a, Revised Civil Statutes of Texas, as amended. At such hearing, opportunity to be heard by the board with respect to the subject thereof shall be given to any person. A record of the names and addresses of such persons shall be made by the executive secretary. A rule or regulation or an amendment or repeal thereof shall not become effective until a certified copy thereof has been filed with the secretary of state. Any person heard or represented at such hearing or requesting notice shall be given written notice by registered or certified mail of the action of the board with respect to the subject thereof.

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(B) A rule or regulation or any amendment thereof which shall be adopted by the board may differ in its terms and provisions as between particular conditions, as between particular sources and as between particular areas of the state. In exercising the power granted it by Section 4 to adopt and promulgate rules and regulations for air control, the board shall give due recognition to the fact that the quantity or characteristics of air contaminants or the duration of their presence in the atmosphere, which may cause a need for air control in one area of the state may not cause need for air control in another area of the state, and it shall take into consideration in this connection such factors, among others found by it to be proper and just, as existing physical conditions, topography, population, and prevailing wind directions and velocities and also the fact that a rule or regulation and the degrees of conformance therewith which may be proper as to an essentially residential area of the state may not be proper either as to a highly developed industrial area of the state or as to a relatively unpopulated area of the state.

(C) The board shall establish its rules and regulations concerning the emission of particulate matter from plants processing agricultural products in their natural state according to a formula derived from the process weight of the materials entering the process. The board may not require in its rules and regulations that such plants meet a standard which requires an emission of less than eight percent of the process weight of the materials entering the process.

Investigations; complaints and answers; hearing and determination

Sec. 7. (A) The executive secretary may cause investigations to be made as he may deem advisable in administering the provisions of this Act and the rules, regulations, orders and determinations of the board, including without limitation investigations of violations and general air pollution problems or conditions. The executive secretary shall cause such investigations to be made as may be requested or directed by the board.

(B) If an investigation discloses, in the opinion of the board or the executive secretary, that a violation does exist, the board may proceed under Section 12 of this Act or it may hold a public hearing. If the board decides to hold a public hearing thereon, the executive secretary shall prepare and submit to the board a formal complaint. The complaint shall specify the provision of this Act or the rule, regulation, order or determination of the board which is said to have been violated, the person alleged to have violated the same, and the manner in which the same is said to have been violated.

The board shall transmit to the person complained against a copy of the formal complaint together with a notice of hearing. The notice shall state the date, place and purpose of the hearing and shall be sent with the copy of the formal complaint by certified mail not less than thirty days before the date of the hearing. Notice shall also be sent by mail not less than thirty days before the hearing to such other interested persons as the board may designate.

(C) The respondent to such formal complaint may file a written answer thereto at any time not less than two days before the hearing and may appear at such hearing in person or by representative, with or without counsel, and may offer testimony and evidence, cross-examine any witnesses, make oral arguments or take any combination of such actions. The executive secretary, on behalf of the board, at the request of any respondent to a formal complaint made pursuant thereto, shall subpoena and compel the attendance of such witnesses as the respondent may reasonably designate and shall require the production for examination of any book or paper relating to the matter un-

der investigation at any such hearing as the respondent may reasonably designate.

(D) After due consideration of the written and oral statements, the testimony and arguments that shall be submitted at the hearing on the complaint, or upon default of the appearance of the respondent on the return day specified in the notice of the hearing, the board shall make such final determination and enter such order as is provided for in Section 4(A) (5) (a) as it shall deem appropriate under the circumstances, giving due regard to the matters required to be considered under Section 4 of this Act, and it shall immediately notify the respondent thereof in writing by certified mail. Any such order shall not be deemed finally made and entered until it shall have been approved in writing by at least five members of the board.

(E) Upon the failure of the board to enter a final order or determination within sixty days after the final argument in the hearing held on the complaint, interested parties shall be entitled to treat such failure to act as a determination that no violation, as alleged in the complaint, was found to have occurred.

Confidential information; disclosure

Sec. 8. No information identified as confidential when submitted relating to secret processes or methods of manufacture or production shall be disclosed at any public hearing or otherwise.

Variances

Sec. 9. (A) The board may grant individual variance beyond the limitations prescribed in this Act, whenever it is found, upon presentation of adequate proof, that compliance with any provision of this Act, or any rule or regulation, order or determination of the board, will result in an arbitrary and unreasonable taking of property or in the practical closing and elimination of any lawful business, occupation or activity, in either case without sufficient corresponding benefit or advantage to the people.

(B) In determining under what conditions and to what extent a variance from this Act or rule or regulation hereunder may be granted, the board shall give due recognition to the progress which the person requesting such variance shall have made in controlling or preventing any condition which may have existed as defined by Section 2(C). In such a case, the board shall grant such variance conditioned upon such person effecting a partial abatement over a period of time which the board shall consider reasonable under the circumstances; or the board, in conformity with the intent and purpose of this Act to protect health and property, may prescribe other and different requirements with which the person who receives such variance shall comply.

(C) Any variance granted pursuant to the provisions of this Section shall be granted for such period of time as shall be specified by the board at the time of the grant of such variance. Any variance may be granted by the board upon the condition that the person who received it shall make such periodic reports to the board as the board shall specify as to the progress which such person shall have made toward compliance with any rule or regulation as to which a variance has been granted. Such variance may be extended by affirmative action of the board upon recommendation of the executive secretary.

(D) Any person seeking a variance shall do so by filing a petition for variance with the executive secretary. The executive secretary shall send a copy of the petition or a summary of its contents to the mayor and health authorities of the city or town, and the county judge and health authorities of the county in which the source or sources are or will be located and to such officials of other counties, cities and

towns which, in the judgment of the executive secretary or the board, may be affected. The information shall be sent not less than thirty days before the date on which the petition is to be considered by the board. Any person may file comments or recommendations on the requested variance with the board. The executive secretary shall also proceed promptly to investigate such petition and to make a recommendation to the board as to the disposition thereof. Upon receiving the recommendation of the executive secretary, the board may, if such recommendation is for the granting of a variance, do so without hearing. If the recommendation of the executive secretary is against the granting of a variance, if a local government as defined in Section 13(A) of this Act requests a hearing, or if the board in its discretion concludes that a hearing would be advisable, then a hearing shall be held before the board acts on the petition for variance.

(E) Upon the failure of the board to take action within one hundred twenty days after receipt of a petition for variance, the petitioner shall be entitled to treat for all purposes such failure to act as a denial of the variance.

Fees

Sec. 10. Except as specifically authorized in this Act, no fees shall be charged by the executive secretary or the board for the performance of any of their respective functions under this Act.

Review

Sec. 11. Any person affected by any order, decision, determination or other act of the board, may, within thirty days after the date on which such act is performed, or in case of an order, decision or determination, within thirty days after the effective date thereof, file a petition in an action to review, set aside, or suspend such order, decision, determination or other act upon the ground or grounds that the same is invalid, arbitrary or unreasonable. The venue in any or all such actions is hereby fixed exclusively in the District Court of Travis County, Texas. In a suit brought to review, suspend, or set aside any act of the board, the trial shall be de novo, as that term is used and understood in an appeal from a justice of the peace court to the county court, and no presumption of validity, reasonableness or presumption of any character shall be indulged in favor of the act that is involved, but evidence as to the validity or reasonableness thereof shall be heard and the determination in respect thereto shall be made upon facts found by the court, as in other civil cases, and the procedure for such trials and the determination of the issues and the character of the judgment to be entered therein shall be governed solely by the rules of law, evidence and procedure prescribed for the district courts of this state by its Constitution, statutes and rules of procedure applicable to the trial of civil action.

Emission of air contaminants; violations; injunction; liabilities

Sec. 12. (A) It is unlawful for any person to cause, suffer, allow or permit the emission of air contaminants which cause or contribute to or which will cause or contribute to a condition of air pollution as defined in Section 2(D) of this Act.

(B) In the event the board determines that any provision of this Act or any rule, regulation, determination or order of the board is being violated, the board may cause to have instituted a civil action in the district court for any county in which the violation occurs for injunctive relief to prevent any further violation or for the assessment of a penalty of not less than \$50 nor more than \$1,000 per day for each day such violation continues as the court may deem proper, or for both injunctive relief and penalty. Upon application for an injunction and

a finding that Section 12(A) is being violated, the district court shall grant such injunction. It shall be the duty of the attorney general to bring such action, at the request of the board, in the name of the State of Texas.

(C) The liabilities which shall be imposed pursuant to any provision of this Act upon persons violating the provisions of this Act or any rule, regulation, determination or order hereunder shall not be imposed due to any violation caused solely by an act of God, war, strike, riot, or other catastrophe.

Local government; definition and inspection of air; cooperative agreements; recommendations to the board

Sec. 13. (A) In this Section "local government" means an incorporated city or town whether or not it has a home rule charter or a county whether or not it has a home rule charter.

(B) A local government may inspect the air and may go in and on public or private property within its boundaries and jurisdiction to determine whether or not the level of air contaminants in any area within its boundaries and jurisdiction meets the level set by the board, or in the case of a city or town its own governing body, and may make inspections in the same manner and under the same provisions and restrictions as are applicable to the board to determine whether or not the emissions from any source meet the level set by the board or its governing body for such source and whether or not a person is complying with an order, rule or regulation of the board issued under the provisions of this Act.

(C) A local government shall transmit the results of its inspections to the board as prescribed by the board in its rules.

(D) In the same manner as the board, a local government, upon formal resolution of its governing body, may enforce through its own attorney the provisions of Section 12 of this Act. However, a local government may not bring an action against a state agency or department, another local government or any other political subdivision of the state for the assessment of the penalty specified in Section 12. In any suit instituted by a local government under this subsection, the board is authorized to be and must be a necessary party to the local government's suit.

(E) A local government may enter into cooperative agreements with other local governments to perform air pollution inspections and enforcement; to give or receive technical aid and educational services; and to transfer money from one local government to another which may be a party to the cooperative agreement for the purpose of air quality management, inspection, and enforcement.

(F) A local government may make recommendations to the board concerning any rule, regulation, order, or determination of the board that affects any area within its boundaries or jurisdictions. The board shall give maximum consideration to recommendations of a local government.

Common law remedies; abatement of nuisances

Sec. 14. This Act shall not in any way affect the right of any private person, as defined herein, to pursue all common law remedies available to abate a condition of pollution or other nuisance or recover damages therefor, or both. Nor shall this Act diminish such rights and powers as are otherwise vested by law in any incorporated city or town to abate a nuisance or to enforce any ordinance for the control or abatement of air pollution, subject only to the provisions of Section 15 hereof.

Board as principal authority for setting standards; ordinances

Sec. 15. (A) The board is the principal authority in the state for setting standards, criteria, levels and emission limits for air content and pollution control.

(B) Subject to the provisions of Section 15(A), an incorporated city or town may enact and enforce any ordinance not inconsistent with the provisions of this Act or the rules, regulations, or orders of the board.

(C) Any ordinance adopted or enforced by an incorporated city or town shall be consistent with the provisions of this Act and the rules, regulations, or orders of the board, and shall not make unlawful any condition or act permitted, approved or otherwise authorized pursuant to this Act or the rules, regulations or orders of the board.

Orders, rules and regulations; validation

Sec. 16. All orders, determinations, rules, regulations and other actions issued, taken and performed by the Texas Air Control Board under the authority of Chapter 687, Acts of the 59th Legislature, Regular Session, 1965 (Article 4477—4, Vernon's Texas Civil Statutes), are hereby validated. All such actions shall be administered by and shall be under the jurisdiction of the board created by this Act, the same as if originally performed by this board, and they shall remain in full force and effect unless and until changed and amended by order of this board.

Repealer

Sec. 17. Chapter 687, Acts of the 59th Legislature, Regular Session, 1965 (Article 4477—4, Vernon's Texas Civil Statutes), is repealed.²⁴

Severability

Sec. 18. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

Effective date

Sec. 19. This Act takes effect on September 1, 1967.
 Acts 1967, 60th Leg., p. 1941, ch. 727, eff. Sept. 1, 1967.

Title of Act:

An Act to establish the Texas Air Control Board, prescribe its powers, duties, functions, and procedures, and to provide for the establishment of standards of air quality and the control, prevention, and abatement of air pollution; validating actions of the Texas Air Control Board created by

Chapter 687, Acts of the 59th Legislature, Regular Session, 1965 (Article 4477—4, Vernon's Texas Civil Statutes); providing penalties; repealing Chapter 687, Acts of the 59th Legislature, Regular Session, 1965 (Article 4477—4, Vernon's Texas Civil Statutes); and declaring an emergency. Acts 1967, 60th Leg., p. 1941, ch. 727.

CHAPTER FIVE—COUNTY HOSPITAL

Art.

4494r—1. Issuing and refunding revenue bonds [New].

Art. 4494n. County hospital districts; counties of 190,000 or more and Galveston County

* * * * *

**Hospital Districts in Counties of 650,000 or More;
 Assessment of Taxes; Rate**

Sec. 2b. In Hospital Districts created under this Act located in counties containing a population of 650,000 or more according to the last pre-

ceding Federal Census and having teaching hospital facilities that are affiliated with a state-supported medical school, the Commissioners Court, on its own motion or on the approval of the qualified property taxpaying electors at an election held pursuant to the provisions of Section 2a of this Act, may order the Assessor and Collector of Taxes to assess the property in the Hospital District at a greater percentage of its fair cash market value than that used in assessing the property for state and county purposes, but in no instance shall that amount exceed fifty (50) per cent of fair cash market value. Such order to the assessor and collector of taxes spread upon the minutes of Commissioners Court shall constitute notice for all purposes to the taxpayers of said Hospital District of the intention to increase assessments.

Sec. 2b added by Acts 1967, 60th Leg., p. 34, ch. 15, § 1, emerg. eff. March 13, 1967.

* * * * *

Board of Hospital Managers

Sec. 5. The Commissioners Court shall appoint a Board of Hospital Managers, consisting of not less than five (5) nor more than seven (7) members, who shall serve for a term of two (2) years, with overlapping terms if desired, and with initial appointments to terms of office arranged accordingly, without pay, and whose duties shall be to manage, control and administer the hospital or hospital system of the Hospital District. The Board of Managers shall have the power and authority to sue and be sued and to promulgate rules and regulations for the operation of the hospital or hospital system.

The Board shall appoint a general manager, to be known as the Administrator of the Hospital District. The Administrator shall hold office for a term not exceeding two (2) years, and shall receive such compensation as may be fixed by the Board. The Administrator shall be subject to removal at any time by the Board. The Administrator shall, before entering into the discharge of his duties, execute a bond payable to the District, in the amount of not less than Ten Thousand Dollars (\$10,000), conditioned that he shall well and faithfully perform the duties required of him, and containing such other conditions as the Board may require. The administrator shall perform all duties which may be required of him by the Board, and shall supervise all of the work and activities of the District, and have general direction of the affairs of the District, within such limitations as may be prescribed by the Board. He shall be a person qualified by training and experience for the position of Administrator.

The Board of Managers shall have the authority to appoint to the staff such doctors and to employ such technicians, nurses and other employees of every kind and character as may be deemed advisable for the efficient operation of the hospital or hospital system; provided that no contract or term of employment shall exceed the period of two (2) years.

The Board of Managers, with the approval of the Commissioners Court shall be authorized to contract with any county for care and treatment of such county's sick, diseased and injured persons, and with the State and agencies of the Federal Government for the care and treatment of such persons for whom the State and such agencies of the Federal Government are responsible. Further, under the same conditions, the Board of Managers may enter into such contracts with the State and Federal Government as may be necessary to establish or continue a retirement program for the benefit of its employees.

If care or treatment is given to a resident of a county outside the Hospital District which has not contracted with the Board of Managers for such services, and said non-resident is wholly without financial means except such as are derived from charity, that County shall, upon presen-

For Annotations and Historical Notes, see V.A.T.S.

tation of a certified statement that care or treatment was necessary for the preservation of human life and was actually performed, be obligated to reimburse the Hospital District in an amount not to exceed the actual cost of the service rendered.

A majority of the Board of Hospital Managers shall constitute a quorum for the transaction of any business. From among its members, the Board shall choose a Chairman, who shall preside; or in his absence a Chairman pro tempore shall preside; and the Administrator or any member of the Board may be appointed Secretary. The Board shall require the Secretary to keep suitable records of all proceedings of each meeting of the Board. Such record shall be read and signed after each meeting by the Chairman or the member presiding, and attested by the Secretary. The Board shall have a seal, on which shall be engraved the name of the Hospital District; and said seal shall be kept by the Secretary and used in authentication of all acts of the Board.

Sec. 5 amended by Acts 1967, 60th Leg., p. 1087, ch. 477, eff. Aug. 28, 1967.

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Acts 1967, 60th Leg., p. 34, ch. 15, § 2.
repealed conflicting laws to the extent of
conflict and contained a savings clause.

Art. 4494r—1. Issuing and refunding revenue bonds

Section 1. All hospital districts heretofore or hereafter created pursuant to Article IX, Section 9, of the Constitution are hereby authorized to issue, and to refund any previously issued, revenue bonds for purchasing, constructing, acquiring, repairing, equipping or renovating buildings and improvements for hospital purposes, and for acquiring sites therefor, such bonds to be payable from and secured by a pledge of all or any part of the revenues of the district to be derived from the operation of its hospital or hospitals, and such bonds may be additionally secured by a mortgage or deed of trust lien on any part or all of its properties.

Sec. 2. Such bonds shall be issued in the manner and in accordance with the procedures and requirements specified for the issuance of revenue bonds by County Hospital Authorities in Sections 8 to 13, both inclusive, and with effect specified in Section 20, of the County Hospital Authority Act, Chapter 122, Acts 1963, 58th Legislature (compiled as Article 4494r, Vernon's Texas Civil Statutes).

Acts 1967, 60th Leg., p. 681, ch. 285, emerg. eff. May 25, 1967.

County and municipal bonds, general provisions, see art. 701 et seq.

Title of Act:

An Act authorizing all hospital districts created pursuant to Article IX, Section 9, of the Constitution to issue and refund revenue bonds for hospital purposes in accordance with the procedures prescribed for

the issuance of similar bonds by County Hospital Authorities under the County Hospital Authority Act, Chapter 122, Acts 1963, 58th Legislature (compiled as Article 4494r, Vernon's Texas Civil Statutes); enacting other provisions relating to the subject; and declaring an emergency. Acts 1967, 60th Leg., p. 681, ch. 285.

CHAPTER SIX—MEDICINE

Article 4495. [5733] Medical board

The Texas State Board of Medical Examiners shall consist of twelve men, learned in medicine, legal and active practitioners in the State of Texas, who shall have resided and practiced medicine in this state, under a diploma from a legal and reputable college of medicine of the school to which said practitioners shall belong, for more than three years prior to their appointment on said Board. Each of the present members of the Texas State Board of Medical Examiners shall remain in office and serve the full term of his present appointment under Article 4495, Revised Civil

Statutes of 1925, as heretofore amended, or until his successor shall be appointed and qualified. Thereafter, at the expiration of the term of each member of the Board first appointed, his successor shall be appointed by the Governor of the State and confirmed by the Senate, and shall serve a term of six years, or until his successor shall be appointed and qualified. No member of the Texas State Board of Medical Examiners shall be a stockholder or a member of the faculty or a member of a board of trustees of any medical school. Vacancies occurring in the Board shall be filled by the Governor. The word "medicine," as used in this Article, shall have the same meaning and scope as is given to it in Article 4510, Revised Civil Statutes of 1925.

Amended by Acts 1967, 60th Leg., p. 1762, ch. 666, § 1, emerg. eff. June 17, 1967.

Acts 1967, 60th Leg., p. 1763, ch. 666, § 2 conflict with the provisions of this Act are amended article 4506; section 3 of the act hereby repealed to the extent of conflict provided: "All laws, or parts of laws, in only."

Art. 4506. [5744] Revocation, cancellation or suspension of license

The Texas State Board of Medical Examiners shall have the right to cancel, revoke, or suspend the license of any practitioner of medicine upon proof of the violation of the law in any respect with regard thereto, or for any cause for which the Board shall be authorized to refuse to admit persons to its examination, as provided in Article 4505 of the Revised Civil Statutes of Texas, 1925, as amended.

Proceedings under this Article shall be begun by filing charges with the Texas State Board of Medical Examiners in writing and under oath. Said charges may be made by any person or persons. The President of the Texas State Board of Medical Examiners shall set a time and place for hearing, and shall cause a copy of the charges, together with a notice of the time and place fixed for hearing, to be served on the respondent or his counsel at least ten (10) days prior thereto. When personal service is impossible, or cannot be effected, the Board shall cause to be published once a week for two (2) successive weeks a notice of the hearing in a newspaper published in the county wherein the respondent was last known to practice, and shall mail a copy of the charges and of such notice to the respondent at his last known address. When publication of the notice is necessary, the date of hearing shall not be less than ten (10) days after the date of the last publication of the notice. At said hearing the respondent shall have the right to appear either personally or by counsel, or both, to produce witnesses or evidence in his behalf, to cross-examine witnesses, and to have subpoenas issued by the Board. The Board shall thereupon determine the charges upon their merits. All charges, complaints, notices, orders, records and publications authorized or required by the terms of this Act shall be privileged.

Any person whose license to practice medicine has been cancelled, revoked or suspended by the Board may, within twenty (20) days after the making and entering of such order, take an appeal to any of the district courts in the county of his residence, but the decision of the Board shall not be enjoined or stayed except on application to such district court after notice to the Board. The proceeding on appeal shall be under the substantial evidence rule, and which appeal shall be taken in any District Court of the county in which the person whose certificate of registration or license is involved, resides. Upon application, the Board may reissue a license to practice medicine to a person whose license has been cancelled or suspended, but such application, in the case of cancellation or revocation, shall not be made prior to one (1) year after the cancellation or revocation, and shall be made in such manner and form as the Board may require.

Provided, however, that the Board shall have the right and may, upon majority vote, rule that the order revoking, cancelling, or suspending the

For Annotations and Historical Notes, see V.A.T.S.

practitioner's license be probated so long as the probationer conforms to such orders and rules as the Board may set out as the terms of probation. The Board, at the time of probation, shall set out the period of time which shall constitute the probationary period. Provided further, that the Board may at any time while the probationer remains on probation hold a hearing, and upon majority vote, rescind the probation and enforce the Board's original action in revoking, cancelling, or suspending the practitioner's license, the said hearing to rescind the probation shall be called by the President of the Texas State Board of Medical Examiners who shall cause to be issued a notice setting a time and place for the hearing and containing the charges or complaints against the probationer, said notice to be served on the probationer or his counsel at least ten (10) days prior to the time set for the hearing. When personal service is impossible, or cannot be effected, the same provisions for service in lieu of personal service as heretofore set out in this Act shall apply. At said hearing the respondent shall have the right to appear either personally or by counsel, or both, to produce witnesses or evidence in his behalf, to cross-examine witnesses, and to have subpoenas issued by the Board. The Board shall thereupon determine the charges upon their merits. All charges, complaints, notices, orders, records and publications authorized or required by the terms of this Act shall be privileged. The order revoking or rescinding the probation shall not be subject to review or appeal. Amended by Acts 1967, 60th Leg., p. 1763, ch. 666, § 2, emerg. eff. June 17, 1967.

Acts 1967, 60th Leg., p. 1762, ch. 666, § 1 repealed conflicting laws and is set out as amended article 4495; section 3 of the act a note under article 4495.

CHAPTER SIX A—CHIROPRACTORS

Art. 4512b. Practice of chiropractic

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Registration With Board; Fee

Sec. 8. It shall be unlawful for any person who shall be licensed for the practice of chiropractic by the Texas Board of Chiropractic Examiners as created by this Act, unless such person be registered as such practitioner with the Texas Board of Chiropractic Examiners on or before the first day of January A.D. 1950, or thereafter registered in like manner annually as provided by this Act on or before the first day of January each year to practice chiropractic in this State. Each person so licensed and registered shall be deemed to have complied with the requirements and prerequisites of the laws governing the practice of chiropractic in this State. Each person so registered with the Texas Board of Chiropractic Examiners shall pay in connection with each annual registration and for the receipt hereafter provided for, a fee fixed by the Texas Board of Chiropractic Examiners not to exceed Twenty-five Dollars (\$25), which fee shall accompany the application of every such person for registration. Such payment shall be made to the Texas Board of Chiropractic Examiners. Every person so registered shall file with said Board a written application for annual registration, setting forth his full name, his age, post office address, his place of residence, the county or counties in which his certificate entitling him to practice chiropractic has been registered, and the place or places where he is engaged in the practice of chiropractic, as well as the college of chiropractic from which he graduated, and the number and date of his license certificate. Upon receipt of such application, accompanied by the registration fee, the Texas Board of Chiropractic Examiners, after ascertaining either from the records of the Board or from other sources deemed by it to be reliable, that the applicant is a licensed practitioner of chiropractic in this State, shall issue to the applicant an annual registration receipt certifying that the applicant has filed such

application and has paid the registration fee mentioned for the year in question; provided, that the filing of such application, the payment of the registration fee and the issuance of such receipt shall not entitle the holder thereof to lawfully practice chiropractic within the State of Texas unless he has, in fact, been previously licensed as such chiropractor by the Texas Board of Chiropractic Examiners, as prescribed by law, and has recorded his license certificate entitling him to practice, as issued by said Board, in the district clerk's office of the several counties in which same may be required by law to be recorded, and unless his license to practice chiropractic is in full force and effect; and providing further that, in any prosecution for the unlawful practice of chiropractic as denounced in Section 6 hereof, such receipt showing payment of the annual registration fee required by this Section shall not be treated as evidence that the holder thereof is lawfully entitled to practice chiropractic.

Sec. 8 amended by Acts 1967, 60th Leg., p. 110, ch. 55, § 1, emerg. eff. April 17, 1967.

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CHAPTER SEVEN—NURSES

Art.
4527a. Prohibited practices [New].
4527b. Penalty [New].

Art. 4518. Accreditation of schools of nursing and educational programs; certification of graduates; examination by Board of Nurse Examiners and requirement of registration

* * * * *

Sec. 5. "Professional Nursing" shall be defined for the purposes of this Act as the performance for compensation of any nursing act (a) in the observation, care and counsel of the ill, injured or infirm; (b) in the maintenance of health or prevention of illness of others; (c) in the administration of medications or treatments as prescribed by a licensed physician or dentist; (d) in the supervision or teaching of nursing, insofar as any of the above acts require substantial specialized judgment and skill and insofar as the proper performance of any of the above acts is based upon knowledge and application of the principles of biological, physical and social science as acquired by a completed course in an approved school of professional nursing. The foregoing shall not be deemed to include acts of medical diagnosis or prescription of therapeutic or corrective measures.

Sec. 5 added by Acts 1967, 60th Leg., p. 1759, ch. 665, § 1, eff. Aug. 28, 1967.

Sec. 6. Nothing in this chapter permits the practice of medicine as defined by the Acts of 1907, page 224, being Article 4510, Revised Civil Statutes of Texas, 1925, as amended by Chapter 94, Acts of the 51st Legislature, Regular Session, 1949; Chapter 426, Acts of the 53rd Legislature, Regular Session, 1953; and nothing in this chapter shall be construed to amend, modify, or repeal Chapter 118, Acts of the 52nd Legislature, Regular Session, 1951, known as Article 4528c, Revised Civil Statutes of Texas, 1925, as amended by Chapter 28, Acts of the 53rd Legislature, First Called Session, 1954; Chapter 47, Acts of the 55th Legislature, Regular Session, 1957, and Chapter 449, Acts of the 55th Legislature, Regular Session, 1957.

Sec. 6 added by Acts 1967, 60th Leg., p. 1759, ch. 665, § 1, eff. Jan. 1, 1968.

Acts 1967, 60th Leg., p. 1759, ch. 665 amended and added various articles relating to the practice of professional nursing; section 4 of the act repealed Vernon's Ann.

P.C. arts. 776 and 777; section 5 thereof provided: "This Act takes effect on January 1, 1968."

Art. 4525. Disciplinary Proceedings

(a) The board of nurse examiners may refuse to admit persons to its examinations, or may refuse to issue a license or certificate of registration or to issue a certificate of re-registration, or may suspend for any period up to a year, or may revoke the license or certificate of registration or certificate of re-registration of any practitioner of professional nursing, for any of the following reasons:

(1) the violation, or attempted violation, of any of the provisions of this law, either as a principal or accomplice;

(2) conviction of a crime of the grade of felony, or a crime of lesser grade which involves moral turpitude;

(3) the use of any nursing license, certificate or diploma, or transcript of such license, certificate or diploma, which has been fraudulently purchased, issued, counterfeited, or materially altered;

(4) the impersonation of, or the acting as proxy for, another in any examination required by this law to obtain a license as a registered nurse;

(5) intemperate use of alcohol or drugs which, in the opinion of the board, endangers patients;

(6) unprofessional or dishonorable conduct which, in the opinion of the board, is likely to injure the public; or

(7) judgment by a court of competent jurisdiction that a person licensed to practice professional nursing is of unsound mind.

(b) Proceedings under this Article shall be begun by filing charges with the board of nurse examiners in writing and under oath. Such charges may be made by any person or persons. The board shall make such preliminary investigation of the charges as it deems necessary and may issue a warning or reprimand to the person charged. If the disciplinary proceedings under Subsection (a) of this Article are contemplated or, in any event, if the person charged so requests, a hearing shall follow. The president of the board shall set a time and place for hearing and shall cause a copy of the charges together with a notice of time and place fixed for the hearing to be served on the person charged at least 10 days prior thereto. Notice shall be sufficient if sent by registered or certified mail to the person charged at the address shown on his or her most recent application for certificate of registration or re-registration. When no such address is available, the board shall cause to be published once a week for two consecutive weeks a notice of the hearing in a newspaper published in the county wherein the person charged was last known to practice, and shall mail a copy of such charges and of such notice to the respondent's last known address. When publication of the notice is necessary, the date of the hearing shall not be less than 10 days after the date of the last publication of the notice. At the hearing the person charged shall have the right to appear personally, or to be represented by counsel, or both; to produce witnesses or evidence in his own behalf; to cross-examine witnesses; and to have subpoenas issued by the board. The board shall thereupon determine the charges upon their merits. If requested by the person who is the subject of disciplinary proceedings, the board shall give in writing the reason for its decision.

(c) Any person whose license or certificate to practice professional nursing has been revoked or suspended by the board or who has been otherwise disciplined by the board may, within 20 days after the making and entering of such order, take an appeal to any of the district courts in the county of his residence, but the decision of the board shall not be enjoined or stayed except on application to such district courts after notice to the board. Upon application the board may reissue a license or certificate to practice professional nursing to a person whose license has been revoked or suspended but such application, in case of revocation,

shall not be made prior to one year after the revocation was issued and shall be made in such manner and form as the board may require.

(d) The board of nurse examiners is charged with the duty of aiding in the enforcement of the provisions of this chapter, and shall retain legal counsel to represent the board. The board shall have power to issue subpoenas, compel the attendance of witnesses, administer oaths to persons giving testimony at hearings, and cause the prosecution of all persons violating any provisions of this chapter. It shall keep a record of all its proceedings and make an annual report to the Governor. Any member of the board may present to a prosecuting officer complaints relating to violations of any of the provisions of this chapter, and the board through its members, officers, counsel, or agents shall assist in the trial of any cases involving alleged violation of this chapter, subject to the control of the prosecuting officers. The Attorney General is directed to render such legal assistance as may be necessary in enforcing and making effective the provisions of this chapter; provided that this shall not relieve the local prosecuting officers of any of their duties under the law as such. Amended by Acts 1967, 60th Leg., p. 1760, ch. 665, eff. Jan. 1, 1968.

Acts 1967, 60th Leg., p. 1759, ch. 665, amended and added various articles relating to the practice of professional nursing; section 4 of the act repealed Vernon's

Ann.P.C. arts. 776 and 777; section 5 thereof, an effective date provision, is set out as a note under article 4518.

Art. 4527a. Prohibited practices

Section 1. No person may sell, fraudulently obtain, or fraudulently furnish any nursing diploma, license, renewal license, or record, or assist another to do so.

Sec. 2. No person may practice professional nursing under cover of any diploma, license, or record

- (1) obtained unlawfully or fraudulently; or
(2) signed or issued unlawfully or under false representation.

Sec. 3. No person, unless he is licensed under this chapter, may use in connection with his name the abbreviation "R. N." or any designation tending to imply that he is a licensed registered nurse.

Sec. 4. No person may practice professional nursing during the time his license is suspended or revoked.

Added by Acts 1967, 60th Leg., p. 1761, ch. 665, § 3, eff. Jan. 1, 1968.

Acts 1967, 60th Leg., p. 1759, ch. 665, § 4 provided: "Articles 776 and 777, Penal Code of Texas, 1925, are repealed."

ing to the practice of professional nursing; section 4 of the act repealed Vernon's Ann. P.C. arts. 776 and 777; section 5 thereof, an effective date provision, is set out as a note under article 4518.

Art. 4527b. Penalty

A person who violates any provision of this chapter is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$25 nor more than \$250.

Added by Acts 1967, 60th Leg., p. 1762, ch. 665, § 3, eff. Jan. 1, 1968. 1968.

Repeal of Vernon's Ann.P.C. arts. 776 and 777 by Acts 1967, 60th Leg., p. 1759, ch. 665, § 4, see note under art. 4527a.

ing to the practice of professional nursing; section 4 of the act repealed Vernon's Ann. P.C. arts. 776 and 777; section 5 thereof, an effective date provision, is set out as a note under article 4518.

Art. 4528c. Licensed vocational nurses

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Fees

Sec. 9. The following shall be the fees charged by the Board under this Act: application and examination fee, Fifteen Dollars (\$15);

For Annotations and Historical Notes, see V.A.T.S.

fee of Ten Dollars (\$10) for licensing existing Vocational Nurses in accordance with Section 6 hereof; annual renewal fee, Two Dollars (\$2); penalty for late annual renewal fee, Two Dollars (\$2); fee for license by reciprocity, Ten Dollars (\$10); fee for accrediting training programs, Twenty-five Dollars (\$25).

All expenses under this Act shall be paid from fees collected by the Board under this Act, and no expense incurred under this Act shall ever be charged against the funds of the State of Texas.

Sec. 9 amended by Acts 1967, 60th Leg., p. 541, ch. 237, § 1, emerg. eff. May 19, 1967.

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CHAPTER EIGHT—PHARMACY

Art. 4542a. State Board of Pharmacy to regulate practice of Pharmacy; exclusion of Communists, etc.

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Annual renewal fee; practicing without renewal certificate; duplicates

Sec. 14. (a) On or before the first day of each year every licensed pharmacist in this state shall pay to the Secretary of State Board of Pharmacy an annual renewal fee not to exceed Fifteen Dollars (\$15.00) for the renewal of his license to practice pharmacy for the current year. On receipt of said renewal fee, the Board shall issue an annual renewal certificate bearing the number of the license, the year for which renewed and other information for the records of the Board which said Board may deem necessary. When a pharmacist shall have failed to pay his annual renewal fee before March 1st of each year, said license shall be suspended, and such person in order to be reinstated shall be required to pay one (1) annual renewal fee as a penalty, in addition to the sum of all fees such person may be in arrears. Said renewal fee shall be due on January 1st of each year, and shall become delinquent on March 1st of each year.

(b) Practicing pharmacy without an annual renewal certificate for the current year, as provided herein, shall have the same force and effect, and be subject to all penalties of practicing pharmacy without a license.

(c) No license to practice pharmacy or annual renewal certificate issued by the Board shall be duplicated in any manner except as expressly set forth hereafter. The Board may in its discretion issue duplicate copies of either the license to practice pharmacy or the annual renewal certificate upon request from the holder of same.

Sec. 14 amended by Acts 1967, 60th Leg., p. 1006, ch. 436, § 1, eff. Aug. 28, 1967.

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CHAPTER ELEVEN—PODIATRY

- Art. 4567a. Change of name to podiatry [New].
- 4575a. Enjoining violation of chapter [New].

Art. 4567a. Change of name to podiatry

Section 1. The name of the Texas State Board of Chiropody Examiners, created by the provisions of Article 4568, Revised Civil Statutes of Texas, 1925, as amended, is changed to the Texas State Board of Podiatry

Examiners. The Texas State Board of Podiatry Examiners has the powers heretofore conferred on the Texas State Board of Chiropody Examiners.

Sec. 2. The word chiropody, wherever used in the laws of the State of Texas, shall hereafter be construed to mean podiatry. The definition of the practice of podiatry is the same as the definition heretofore of the practice of chiropody, as defined in Article 4567, Revised Civil Statutes of Texas, 1925, as amended.

Sec. 3. The word chiropodist, wherever used in the laws of the State of Texas, shall hereafter be construed to mean podiatrist, and any person heretofore licensed as a chiropodist shall be referred to as a licensed podiatrist.

Acts 1967, 60th Leg., p. 181, ch. 96, eff. Aug. 28, 1967.

Acts 1967, 60th Leg., p. 181, ch. 96, § 4 increased the annual license renewal fee and is set out as a note under article 4571; section 5 thereof increased the per diem allowance for members of the Board of Podiatry Examiners and is set out as a note under article 4574; and section 6 thereof authorized the Board of Podiatry Examiners to enjoin violations of this chapter and is codified as article 4575a.

Title of Act:

An Act changing the name of the State Board of Chiropody Examiners to the Texas State Board of Podiatry Examiners; construing the word chiropody or chiropodist to mean podiatry or podiatrist whenever the word chiropody or chiropodist is used in the laws of the State of Texas, including Chapter 11, Title 71 of the Revised

Civil Statutes of Texas, 1925, as amended, consisting of Article 4567 through Article 4575, inclusive, Revised Civil Statutes of Texas, 1925, as amended; increasing the annual renewal fee for a licensed podiatrist (heretofore chiropodist); increasing the per diem for members of the Texas State Board of Podiatry Examiners; authorizing the Texas State Board of Podiatry Examiners to institute an action in its own name to enjoin violation of any of the provisions of Chapter 11, Title 71 of the Revised Civil Statutes of Texas, 1925, as amended, consisting of Article 4567 through Article 4575, inclusive, Revised Civil Statutes of Texas, 1925, as amended; making other provisions relating thereto; and declaring an emergency. Acts 1967, 60th Leg., p. 181, ch. 96.

Art. 4568. State Board of Podiatry Examiners; appointment; terms of members; oath; bond of secretary-treasurer; meetings; regulations and by-laws; powers; records

The name "State Board of Chiropody Examiners" and the words "chiropody" and "chiropodist" were changed to "State

Board of Podiatry Examiners", "podiatry" and "podiatrist" by Acts 1967, 60th Leg., p. 181, ch. 96. See article 4567a.

Art. 4569. Examination grades; fee; subjects; re-examination

The name "State Board of Chiropody Examiners" and the words "chiropody" and "chiropodists" were changed to "State

Board of Podiatry Examiners", "podiatry" and "podiatrists" by Acts 1967, 60th Leg., p. 181, ch. 96. See article 4567a.

Art. 4570. Application for License

The name "State Board of Chiropody Examiners" and the words "chiropody" and "chiropodists" were changed to "State

Board of Podiatry Examiners", "podiatry" and "podiatrists" by Acts 1967, 60th Leg., p. 181, ch. 96. See art. 4567a.

Art. 4571. Annual renewal fee; lost or destroyed license; display of license and certificate

Renewal Fee

Acts 1967, 60th Leg., p. 181, ch. 96, § 4 provides: "The annual license renewal fee for all registered podiatrists (heretofore chiropodists), prescribed by the provisions of Article 4571, Revised Civil Statutes of Texas, 1925, as amended, is \$25."

Acts 1967, 60th Leg., p. 181, ch. 96, §§ 1-3 changed the name of chiropody to podiatry and are codified as article 4567a; section 5 thereof increased the per diem allowance of the members of the Board of Podiatry Examiners and is set out as a note under article 4574; and section 6 thereof authorized the Board of Podiatry Examiners to

enjoin violations of this chapter and is codified as article 4575a.

The name "State Board of Chiropody Examiners" and the words "chiropody" and "chiropodists" were changed to "State Board of Podiatry Examiners", "podiatry" and "podiatrists" by Acts 1967, 60th Leg., p. 181, ch. 96. See art. 4567a.

For Annotations and Historical Notes, see V.A.T.S.

Art. 4573. Revoking license

The name "State Board of Chiropody Examiners" and the words "chiropody" and "chiropodists" were changed to "State

Board of Podiatry Examiners", "podiatry" and "podiatrists" by Acts 1967, 60th Leg., p. 181, ch. 96. See art. 4567a.

Art. 4574. Compensation and expenses

Per Diem Allowance

Acts 1967, 60th Leg., p. 181, ch. 96, § 5 provides: "The per diem for members of the Texas State Board of Podiatry Examiners is \$25 for each day engaged in the performance of their official duties."

Acts 1967, 60th Leg., p. 181, ch. 96, §§ 1-3 changed the name of chiropody to podiatry and are codified as article 4567a; section 4 thereof increased the annual license renewal fee and is set out as a note under article 4571; section 6 thereof authorized the Board of Podiatry Examiners to enjoin violations of this chapter and is codified as article 4575a.

The name "State Board of Chiropody Examiners" and the words "chiropody" and "chiropodists" were changed to "State Board of Podiatry Examiners", "podiatry" and "podiatrists" by Acts 1967, 60th Leg., p. 181, ch. 96. See art. 4567a.

Art. 4575. Exceptions

The name "State Board of Chiropody Examiners" and the words "chiropody" and "chiropodists" were changed to "State

Board of Podiatry Examiners", "podiatry" and "podiatrists" by Acts 1967, 60th Leg., p. 181, ch. 96. See art. 4567a.

Art. 4575a. Enjoining violation of chapter

The Texas State Board of Podiatry Examiners may institute actions in its own name to enjoin a violation of any of the provisions of Chapter 11, Title 71 of the Revised Civil Statutes of Texas, 1925, as amended, consisting of Article 4567 through Article 4575, inclusive, Revised Civil Statutes of Texas, 1925, as amended, and to enjoin any person from performing an act constituting the practice of podiatry unless authorized by law. The Attorney General or any district or county attorney shall represent the Texas State Board of Podiatry Examiners in such court action. Acts 1967, 60th Leg., p. 182, ch. 96, § 6, eff. Aug. 28, 1967.

Acts 1967, 60th Leg., p. 181, ch. 96, §§ 1-3 changed the name chiropody to podiatry and are codified as article 4567a; section 4 thereof increased the annual license renewal fee and is set out as a note under

article 4571; and section 5 thereof increased the per diem allowance of the members of the Board of Podiatry Examiners and is set out as a note under article 4574.

CHAPTER SIXTEEN—BASIC SCIENCES

Art. 4590c. Basic science law

* * * * *

Executive Secretary

Sec. 4a. The State Board of Examiners in the Basic Sciences shall employ an Executive Secretary who shall not be a member of the Board. The Executive Secretary is entitled to compensation and is entitled to reimbursement for necessary expenses while traveling on official business for the Board, as provided by legislative appropriation. Said Executive Secretary, before entering upon duties of his position, shall give a good and sufficient bond executed by a surety company authorized to do business in the State of Texas, in the sum of Ten Thousand Dollars (\$10,000), payable to the State of Texas, conditioned on the faithful performance of his duties, such bond to be approved by the Attorney General and filed in the office of the Secretary of State. The bond premium shall be paid by the Board as provided by law. The Executive Secretary shall serve at

the pleasure of the Board and shall perform duties and responsibilities as may be assigned to him by the Board.

Sec. 4a added by Acts 1967, 60th Leg., p. 1834, ch. 711, § 1, eff. Aug. 28, 1967.

* * * * *

TITLE 72—HOLIDAYS—LEGAL

Art.
4591d. Transferred to art. 342—910a.

Art. 4591. [4606] [2939] Enumeration

The first day of January, the 19th day of January, the 22nd day of February, the second day of March, the 21st day of April, the 30th day of May, the third day of June, the fourth day of July, the first Monday in September, the 12th day of October, the 11th day of November, the fourth Thursday in November, and the 25th day of December, of each year, and every day on which an election is held throughout the state, are declared legal holidays, on which all the public offices of the state may be closed and shall be considered and treated as Sunday for all purposes regarding the presenting for the payment or acceptance and of protesting for and giving notice of the dishonor of bills of exchange, bank checks and promissory notes placed by the law upon the footing of bills of exchange.

Amended by Acts 1967, 60th Leg., p. 948, ch. 416, § 1, eff. Aug. 28, 1967.

Art. 4591d. Transferred to art. 342—910a

Acts 1967, 60th Leg., p. 1853, ch. 722, § 7 provided: "Acts 1955, 54th Legislature, Chapter 16, page 16, as amended, codified as Article 4591d, Vernon's Texas Civil Statutes, is in its entirety and as amended by this Act, hereby transferred to and made a part of Chapter IX of the Texas Banking Code of 1943 and designated as Article 10a of said Chapter IX."

TITLE 75—HUSBAND AND WIFE**CHAPTER TWO—MATRIMONIAL PROPERTY AGREEMENTS**

Chapter 2, Title 75, Revised Civil Statutes of Texas, 1925, Marriage Contracts, consisting of articles 4610-4612, was revised and amended by Acts 1967, 60th Leg., p. 735, ch. 309, § 1.

Chapter 2, Matrimonial Property Agreements, as herein set out, consisting of article 4610, was enacted by Acts 1967, 60th Leg., p. 735, ch. 309, § 1, effective January 1, 1968.

Art. 4610. Matrimonial property agreements

Without prejudice to preexisting creditors, before marriage persons intending to marry may by a subscribed, written instrument enter into a matrimonial property agreement as they may desire. Any minor capable of marrying but not otherwise capable of entering into a binding agreement may enter into a matrimonial property agreement with the subscribed, written consent of the guardian of the estate of the minor with the approval of the probate court after application, notice and hearing as required in the Probate Code for the sale of real estate of a minor. Such an agreement shall be void as against a purchaser in good faith without notice thereof and for a valid consideration and as against creditors without notice unless the subscribed, written instrument evidencing it is acknowledged and filed for record (1) as to realty in the deed records of the county in which the property or interest in property is situated or (2) as to personalty in the office of the Secretary of State.

Amended by Acts 1967, 60th Leg., p. 735, ch. 309, § 1, eff. Jan. 1, 1968.

Section 2 of Acts 1967, 60th Leg., p. 735, ch. 309 amended articles 6632 and 6647; section 3 of the act amended articles 1064, 5518, 5519 and 5535; section 4 of the act added V.A.T.S. Insurance Code, art. 3.49-3; section 5 of the act amended article 5460; and sections 6-8 provided:

"Sec. 6. The following Articles of the Revised Civil Statutes of Texas, 1925, are repealed: Articles 1300, 1983, 1985, 4611, 4612, 4616, 6605, 6608, 6648, 6649, 6650, and 6651.

"Sec. 7. All acknowledgements of married women taken since the effective date of H.B. 403, Chapter 472, 58th Legislature

[see, Articles 4614, 4618, 4621, 4623 (repealed), 4624, 4626; eff. Aug. 23, 1963] and H.B. 404, Chapter 473, 58th Legislature [see, Article 1299 (repealed); eff. Aug. 23, 1963] in substantial compliance with Article 6607 of the Revised Civil Statutes of Texas, 1925, shall be and the same are hereby validated; PROVIDED, however, that this Act does not apply to litigation pending before the effective date of this Act.

"Sec. 8. This Act takes effect January 1, 1968."

The provisions of this article were formerly covered by articles 4610-4612.

Arts. 4611, 4612. Repealed. Acts 1967, 60th Leg., p. 741, ch. 309, § 6.
Eff. Jan. 1, 1968

Section 1 of Acts 1967, 60th Leg., p. 735, ch. 309 revised and amended chapters 2 and 3 of Title 75; section 2 of the act amended articles 6632 and 6647; section 3 of the act amended articles 1064, 5518, 5519 and 5535; section 4 of the act added article 3.49-3 to V.A.T.S. Insurance Code; section 5 of the

act amended article 5460; and sections 6-8, which also repealed articles 1300, 1983, 1985, 4616, 6605, 6608 and 6648-6651, validated certain acknowledgements of married women and provided an effective date, are set out as notes under article 4610.

See, now, art. 4610.

CHAPTER THREE—RIGHTS OF SPOUSES

- | | |
|---|---|
| <p>Art.
4613. Separate and community property of spouses.
4614. Duty to support.
4615. Recovery for personal injuries.
4616. Repealed.
4617. Unusual circumstances.
4618. Homestead of spouses.
4619. Presumption of community property.
4620. Liability of community property.</p> | <p>4621. Powers of management, control and disposition.
4622. Dealings with third persons.
4624. Judgment and execution.
4624a. Partition or exchange of community property between spouses.
4625. Capacity of spouses.
4626. Suits.
4627. Persons married elsewhere.</p> |
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Chapter 3, Title 75, Revised Statutes of Texas, 1925, Rights of Married Women, consisting of articles 4613-4627, as amended, was revised and amended by Acts 1967, 60th Leg., p. 735, ch. 309, § 1.

Chapter 3, Rights of Spouses, as herein set out, consisting of articles 4613-4627, was enacted by Acts 1967, 60th Leg., p. 735, ch. 309, § 1, effective January 1, 1968.

DISPOSITION TABLE

Showing where subject matter of prior law included within former Chapter Three, Rights of Married Women, is now covered in Chapter Three, Rights of Spouses, as enacted by Acts 1967, 60th Leg., p. 735, ch. 309.

Former Articles	New Articles	Former Articles	New Articles	Former Articles	New Articles
4613	4613	4619	4619, 4621	4624	4624
4614	4613	4620	4620	4624a	4624a
4615	4615	4621	4620	4625	4625
4616	4613	4622	4622	4626	4625, 4626
4617	4617	4623 (Rep. in 1963)	4613, 4614, 4620	4627	4627
4619	4618, 4621				

Section 2 Acts 1967, 60th Leg., p. 735, ch. 309 amended articles 6632 and 6647; section 3 of the act amended articles 1064, 5518, 5519 and 5535; section 4 of the act added V.A.T.S. Insurance Code, art. 3.49-3; section 5 of the act amended article

5460; and sections 6-8, which repealed various articles, validated certain acknowledgements of married women and provided for an effective date, are set out as notes under article 4610.

Art. 4613. Separate and community property of spouses

All property owned or claimed by either spouse before marriage and that acquired during marriage by gift, devise or descent and the increase of property thus acquired is a spouse's separate property. Each spouse shall have sole management, control and disposition of his or her separate property. The separate property of a spouse is not subject to liabilities of the other spouse unless both spouses are liable by other rules of law. All property acquired by either spouse during marriage, other than separate property, is community property.

Amended by Acts 1967, 60th Leg., p. 735, ch. 309, § 1, eff. Jan. 1, 1968.

Art. 4614. Duty to support

Each spouse has the duty to support his or her children; the husband has the duty to support the wife; and the wife has the duty to support the husband when he is unable to support himself. A spouse who fails to discharge a duty of support is liable to any person who provides necessities to those to whom support is owed.

Amended by Acts 1967, 60th Leg., p. 736, ch. 309, § 1, eff. Jan. 1, 1968.

For Annotations and Historical Notes, see V.A.T.S.

Art. 4615. Recovery for personal injuries

The recovery awarded for personal injuries sustained by either spouse during marriage shall be the separate property of that spouse except for any recovery for loss of earning capacity during marriage. Amended by Acts 1967, 60th Leg., p. 736, ch. 309, § 1, eff. Jan. 1, 1968.

Art. 4616. Repealed. Acts 1967, 60th Leg., p. 741, ch. 309, § 6. Eff. Jan. 1, 1968

Section 1 of Acts 1967, 60th Leg., p. 735, ch. 309 revised and amended chapters 2 and 3 of Title 75; section 2 of the act amended articles 6632 and 6647; section 3 of the act amended articles 1064, 5518, 5519 and 5535; section 4 of the act added article 3.49—3 to V.A.T.S. Insurance Code;

section 5 of the act amended article 5460; and sections 6-8, which also repealed articles 1300, 1983, 1985, 4611, 4612, 6605, 6608 and 6648-6651, validated certain acknowledgements of married women and provided an effective date, are set out as notes under article 4610.

Art. 4617. Unusual circumstances

If one spouse is unable to manage, control or dispose of the community property subject to his or her sole management, control and disposition, or if a spouse disappears and his or her whereabouts remain unknown to the other spouse, or if one spouse permanently abandons the other, or if the spouses are permanently separated, then not less than sixty days thereafter the capable spouse, or the remaining spouse, or the abandoned spouse, or either spouse in the case of permanent separation, may file a sworn petition (in the district court of the county in which the petitioning spouse resided at the time of such incapacity, disappearance, abandonment or permanent separation) stating the facts that make it desirable for the petitioning spouse to manage, control and dispose of community property (described or defined in the petition) which would otherwise be subject to the sole management, control and disposition of the other. If both spouses are nonresidents of the state at the time of such incapacity, disappearance, abandonment or permanent separation, the petition shall be filed in the district court of any county in which any part of the described or defined community property is situated. A notice of filing of the petition and the date set for hearing with a copy of the petition shall be issued by the clerk and served on the respondent spouse as in other cases, provided that, if the residence of the respondent is unknown, the notice shall be published in some newspaper of general circulation published in that county, but if none, then in an adjacent or nearest county where a newspaper of general circulation is published, once a week for two consecutive weeks prior to the hearing. The first publication shall not be less than ten days before the date set for the hearing. After hearing the evidence, the court shall enter an order describing or defining the community property in issue that shall be (during the marriage) subject to the management, control and disposition of each spouse on such terms as the court shall deem just and equitable. The jurisdiction of the court is continuing and upon restoration of capacity of the incapable spouse, or upon reappearance of the spouse who disappeared, or upon the termination of the abandonment or the permanent separation, the court shall on motion of either spouse, and with notice as provided above, amend or vacate the original order. Any order provided for herein effecting changes in the management, control and disposition of described or defined community property shall be void as against a purchaser in good faith without notice thereof and for a valid consideration and as against creditors without notice unless the order is filed for record (1) as to realty in the deed records of the county in which the property or interest in property is situated or (2) as to personalty in the office of the Secretary of State.

In the exercise of its equity powers the court may impose such conditions and restrictions as it deems necessary to protect the rights of the

other spouse; the court may require a bond conditioned on faithful administration of the proceeds or may require that all or a portion of the proceeds be paid into the registry of the court, to be disbursed in accordance with the court's further directions.

Amended by Acts 1967, 60th Leg., p. 736, ch. 309, § 1, eff. Jan. 1, 1968.

Art. 4618. Homestead of spouses

Section 1. The homestead, whether the separate property of either spouse or community property, shall not be sold, conveyed or encumbered without the joinder of the spouses, except as provided herein or by other rules of law.

Sec. 2. If the homestead is the separate property of a spouse and the other spouse has been judicially declared to be incompetent, the homestead may be sold, conveyed or encumbered by its owner without the joinder of the other spouse. If the homestead is the separate property of a spouse and the other spouse is incompetent (whether so adjudicated or not), or disappears and his or her whereabouts remain unknown to the owner, or the other spouse permanently abandons the homestead and the owner, or the other spouse permanently abandons the homestead and the spouses are permanently separated, then not less than sixty days thereafter the owner may file a sworn petition (in the district court of the county in which any portion of the property is situated) giving a description of the property and stating the facts that make it desirable for the owner to sell, convey or encumber the homestead without the joinder of the other spouse. Notice shall be given in the manner provided in Article 4617. After hearing the evidence, the court shall enter an order with respect to sale, conveyance or encumbrance of the homestead as it shall deem just and equitable.

Sec. 3. If the homestead is the community property of the spouses and one spouse has been judicially declared to be incompetent, the homestead may be sold, conveyed or encumbered by the competent spouse without the joinder of the other spouse. If the homestead is the community property of the spouses and if one spouse is incompetent (whether so adjudicated or not), or if a spouse disappears and his or her whereabouts remain unknown to the other spouse, or if one spouse permanently abandons the homestead and the other spouse, or if one spouse permanently abandons the homestead and the spouses are permanently separated, then not less than sixty days thereafter the competent spouse, the remaining spouse, the abandoned spouse or the spouse who has not abandoned the homestead in a case of permanent separation, who desires to sell, convey or encumber the community homestead of the spouses, may file a sworn petition in the district court of the county in which any portion of the property is situated, giving a description of the property and stating the facts that make it desirable for the petitioning spouse to sell, convey or encumber the homestead without the joinder of the other spouse. Notice shall be given in the manner provided in Article 4617. After hearing the evidence, the court shall enter an order granting relief when it appears necessary or advisable and on such terms as the court shall deem advisable.

In the exercise of its equity powers the court may impose such conditions and restrictions as it deems necessary to protect the rights of the other spouse; the court may require a bond conditioned on faithful administration of the proceeds or may require that all or a portion of the proceeds be paid into the registry of the court, to be disbursed in accordance with the court's further directions.

Amended by Acts 1967, 60th Leg., p. 737, ch. 309, § 1, eff. Jan. 1, 1968.

For Annotations and Historical Notes, see V.A.T.S.

Art. 4619. Presumption of community property

All property possessed by either spouse during or on dissolution of marriage is presumed to be community property.

Amended by Acts 1967, 60th Leg., p. 738, ch. 309, § 1, eff. Jan. 1, 1968.

Art. 4620. Liability of community property

The community property subject to sole or joint management, control and disposition of a spouse shall be subject to the liabilities of that spouse incurred before or during marriage. The community property subject to the sole management, control and disposition of a spouse shall not be subject to any liabilities of the other spouse incurred before marriage or nontortious liabilities incurred by the other spouse during marriage unless both spouses are liable by other rules of law. All the spouses' community property is subject to liability for all torts committed by either spouse during marriage.

Amended by Acts 1967, 60th Leg., p. 738, ch. 309, § 1, eff. Jan. 1, 1968.

Art. 4621. Powers of management, control and disposition

During marriage each spouse shall have sole management, control and disposition of that community property which he or she would have owned if a single person, including (but not limited to) his or her personal earnings, the revenues from his or her separate property, the recoveries for personal injuries awarded to him or her, and the increase, mutations and revenues of all property subject to his or her sole management, control and disposition; the earnings of an unemancipated minor are subject to the management, control and disposition of the parents or parent having custody of the minor; if community property subject to the sole management, control and disposition of one spouse is mixed or combined with community property subject to the sole management, control and disposition of the other spouse, the mixed or combined community property is subject to the joint management, control and disposition of the spouses unless the spouses otherwise provide; any other community property is subject to the joint management, control and disposition of the husband and wife.

Amended by Acts 1967, 60th Leg., p. 738, ch. 309, § 1, eff. Jan. 1, 1968.

Art. 4622. Dealings with third persons

During marriage property held in a spouse's name (whether evidenced by muniment, contract, deposit of funds, or otherwise) or property possessed by a spouse (not subject to such evidence of ownership) is presumed to be property subject to his or her sole management, control and disposition, and any person dealing with a spouse during marriage without notice to the contrary or being a party to a fraud upon the other spouse or another, is entitled to rely (as against the other spouse or anyone claiming from that spouse) upon the authority of that spouse to deal with that property.

Amended by Acts 1967, 60th Leg., p. 738, ch. 309, § 1, eff. Jan. 1, 1968.

Art. 4624. Judgment and execution

When any combination of (1) separate property of a spouse, (2) community property subject to a spouse's sole management, control and disposition, (3) community property subject to the other spouse's sole management, control and disposition, and (4) community property subject to the joint management, control and disposition of the spouses, are subject to liability for a judgment, the judge may, as he shall deem just and equitable, fix the order in which particular community and separate property shall be subject to execution and sale on the basis of the facts surrounding the transaction or occurrence upon which the suit is based.

Amended by Acts 1967, 60th Leg., p. 738, ch. 309, § 1, eff. Jan. 1, 1968.

Art. 4624a. Partition or exchange of community property between spouses

Without prejudice to preexisting creditors the spouses may from time to time by a subscribed, written instrument partition between themselves in severalty or into equal undivided interests all or any part of their community property or exchange between themselves the community interest of one spouse in any property for the community interest of the other spouse in other community property; whereupon the portion or interest set aside to each spouse shall be the separate property of such spouse; provided, however, such partition or exchange shall be void as against a purchaser in good faith without notice thereof and for a valid consideration and as against creditors without notice unless the subscribed written instrument evidencing it is acknowledged and filed for record (1) as to realty in the deed records of the county in which the property or interest in property is situated, or (2) as to personalty in the office of the Secretary of State.

As amended by Acts 1967, 60th Leg., p. 738, ch. 309, § 1, eff. Jan. 1, 1968.

Art. 4625. Capacity of spouses

All persons of whatever age married in accordance with the laws of this state shall have the power and capacity of a single person of full age, including the capacity to contract, except as to the right to vote or as provided by other rules of law.

Amended by Acts 1967, 60th Leg., p. 739, ch. 309, § 1, eff. Jan. 1, 1968.

Art. 4626. Suits

A spouse may sue and be sued without the joinder of the other spouse. When claims or liabilities are joint and several, the spouses may be joined under the rules relating to joinder of parties generally.

Amended by Acts 1967, 60th Leg., p. 739, ch. 309, § 1, eff. Jan. 1, 1968.

Art. 4627. Persons married elsewhere

The law of this state shall apply to persons married elsewhere who are domiciled in this state.

Amended by Acts 1967, 60th Leg., p. 739, ch. 309, § 1, eff. Jan. 1, 1968.

CHAPTER FOUR—DIVORCE**Art. 4629. [4631—2] Grounds for divorce**

A divorce may be decreed in the following cases in favor of either spouse when

(1) the other is guilty of excesses, cruel treatment, or outrages against the complaining spouse, if such ill-treatment is of such nature as to render their living together insupportable;

(2) the other shall have voluntarily left the complaining spouse for three years with the intention of abandonment;

(3) the other shall have committed adultery;

(4) the spouses have lived apart without cohabitation for as long as three (3) years;

(5) the other shall have been convicted, after marriage, of a felony and imprisoned in this or a sister state or in a federal penitentiary; provided that a suit for divorce shall not be sustained because of the conviction of the other spouse for felony until twelve months after final judgment of conviction, and not then if the convict shall have been pardoned;

For Annotations and Historical Notes, see V.A.T.S.

and provided that the husband has not been convicted on the testimony of the wife, nor the wife on the testimony of the husband; or

(6) when a spouse, at the time the action is commenced, has been confined in a mental hospital, state mental hospital, or private mental hospital, as these institutions are defined in Section 4, Texas Mental Health Code (Article 5547—4, Vernon's Texas Civil Statutes), as amended, in this or another state for at least five years, and it appears that the spouse's mental disorder is of a degree and nature that he is not likely to adjust, or that if he adjusts, it is probable that he will suffer relapse; but no costs may be adjudged against a spouse against whom a divorce is granted under this Subdivision.

Amended by Acts 1965, 59th Leg., p. 1634, ch. 701, § 1, eff. Aug. 30, 1965; Acts 1967, 60th Leg., p. 699, ch. 288, § 1, eff. Aug. 28, 1967.

TITLE 76—INJUNCTIONS

Art. 4646b. Repealed. Acts 1967, 60th Leg., p. 659, ch. 274, § 5. Eff. Oct. 1, 1967

INSURANCE CODE

Chap.	Art.
9. Texas Title Insurance Act	9.01

CHAPTER ONE—THE BOARD, ITS POWERS AND DUTIES

- Art.
- 1.14—1. Unauthorized Insurance [New].
- 1.14—2. Surplus Lines Insurance [New].

Art. 1.10. Duties of the board

In addition to the other duties required of the Board, it shall perform duties as follows:

* * * * *

17. (a) Voluntary Deposits.

* * * * *

(c) When two or more companies merge or consolidate or enter a total reinsurance contract by which the ceding company is dissolved and its assets acquired and liabilities assumed by the surviving company, and the companies have on deposit with the State Treasurer two or more deposits made for identical purposes under either Section 17 of Article 1.10 of the Texas Insurance Code, as amended, or Article 4739, Revised Civil Statutes of Texas (1925), as amended, and now repealed, all such deposits, except the deposit of greatest amount and value, may be withdrawn by the new surviving or reinsuring company, upon proper showing of duplication of such deposits and that the company is the owner thereof.

Sec. 17(c) added by Acts 1967, 60th Leg., p. 1825, ch. 705, § 1, eff. Aug. 28, 1967.

(d) Any company which has made a deposit or deposits under Article 1.10, Section 17, Texas Insurance Code, as amended, or Article 4739, Revised Civil Statutes of Texas (1925), as amended and now repealed, shall be entitled to a return of such deposits upon proper application therefor and a showing before the Commissioner that such deposit or deposits are no longer required under the laws of any state, country or province in which such company sought or gained admission to do business upon the strength of a certificate of such deposit by the State Board of Insurance or its predecessor.

Sec. 17(d) added by Acts 1967, 60th Leg., p. 1826, ch. 705, § 2, eff. Aug. 28, 1967.

(e) Upon being furnished a certified copy of the Commissioner's order issued under Subsection (c) or (d) above, the Treasurer of the State of Texas shall release, transfer and deliver such deposit or deposits to the owner as directed in said order.

Sec. 17(e) added by Acts 1967, 60th Leg., p. 1826, ch. 705, § 3, eff. Aug. 28, 1967.

Section 4 of the act of 1967 amended article 3.15.

Art. 1.14—1. Unauthorized Insurance

Section 1. Purpose.—The purpose of this Article is to subject certain persons and insurers to the jurisdiction of the State Board of Insurance, of proceedings before the Board, and of the courts of this state in suits by or on behalf of the state and insureds or beneficiaries under insurance contracts. The Legislature declares that it is a subject of concern that many residents of this state hold policies of insurance issued by persons and insurers not authorized to do insurance business in this state, thus presenting to such residents the often insuperable ob-

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stacle of asserting their legal rights under such policies in forums foreign to them under laws and rules of practice with which they are not familiar. The Legislature declares that it is also concerned with the protection of residents of this state against acts by persons and insurers not authorized to do an insurance business in this state by the maintenance of fair and honest insurance markets, by protecting the premium tax revenues of this state, by protecting authorized persons and insurers, which are subject to strict regulation, from unfair competition by unauthorized persons and insurers and by protecting against the evasion of the insurance regulatory laws of this state. In furtherance of such state interest, the Legislature herein provides methods for substituted service of process upon such persons or insurers in any proceeding, suit or action in any court and substitute service of any notice, order, pleading or process upon such persons or insurers in any proceeding before the State Board of Insurance to enforce or effect full compliance with the insurance and tax statutes of this state, and declares in so doing it exercises its power to protect residents of this state and to define what constitutes doing an insurance business in this state, and also exercises powers and privileges available to this state by virtue of P.L. 79-15 (1945), (Chapter 20, 1st Sess., S. 340), 59 Stats. 33, as amended,¹ which declares that the business of insurance and every person engaged therein shall be subject to the laws of the several states.

Sec. 2. Insurance Business Defined.—(a) Any of the following acts in this state effected by mail or otherwise is defined to be doing an insurance business in this state. The venue of an act committed by mail is at the point where the matter transmitted by mail is delivered and takes effect. Unless otherwise indicated, the term insurer as used in this Article includes all corporations, associations, partnerships and individuals engaged as principals in the business of insurance and also includes interinsurance exchanges and mutual benefit societies.

1. The making of or proposing to make, as an insurer, an insurance contract.

2. The making of or proposing to make, as guarantor or surety, any contract of guaranty or suretyship as a vocation and not merely incidental to any other legitimate business or activity of the guarantor or surety.

3. The taking or receiving of any application for insurance.

4. The receiving or collection of any premium, commission, membership fees, assessments, dues or other consideration for any insurance or any part thereof.

5. The issuance or delivery of contracts of insurance to residents of this state or to persons authorized to do business in this state.

6. Directly or indirectly acting as an agent for or otherwise representing or aiding on behalf of another any person or insurer in the solicitation, negotiation, procurement or effectuation of insurance or renewals thereof or in the dissemination of information as to coverage or rates, or forwarding of applications, or delivery of policies or contracts, or inspection of risks, a fixing of rates or investigation or adjustment of claims or losses or in the transaction of matters subsequent to effectuation of the contract and arising out of it, or in any other manner representing or assisting a person or insurer in the transaction of insurance with respect to subjects of insurance resident, located or to be performed in this state. The provisions of this subdivision shall not operate to prohibit full-time salaried employees of a corporate insured from acting in the capacity of an insurance manager or buyer in placing insurance in behalf of such employer.

7. The doing of any kind of insurance business specifically recognized as constituting the doing of an insurance business within the meaning of the statutes relating to insurance.

8. The doing or proposing to do any insurance business in substance equivalent to any of the foregoing in a manner designed to evade the provisions of the statutes.

9. Any other transactions of business in this state by an insurer.

(b) The provisions of this section do not apply to:

1. The lawful transaction of surplus lines insurance.

2. The lawful transaction of reinsurance by insurers.

3. Transactions in this state involving a policy lawfully solicited, written, and delivered outside of this state covering only subjects of insurance not resident, located, or expressly to be performed in this state at the time of issuance, and which transactions are subsequent to the issuance of such policy.

4. Transactions involving contracts of insurance independently procured through negotiations occurring entirely outside of this state which are reported and on which premium tax is paid in accordance with this Article.

5. Transactions in this state involving group life, health or accident insurance (other than credit insurance) and group annuities where the master policy of such groups was lawfully issued and delivered in a state in which the company was authorized to do an insurance business and such transactions are authorized by other statutes of this state.

Sec. 3. Unauthorized Insurance Prohibited.—No person or insurer shall directly or indirectly do any of the acts of an insurance business set forth in this Article except as provided by and in accordance with the specific authorization of statute. In respect to the insurance of subjects resident, located or to be performed within this state this section shall not prohibit the collection of premium or other acts performed outside of this state by persons or insurers authorized to do business in this state provided such transactions and insurance contracts otherwise comply with statute.

Sec. 4. Service of Process on Commissioner.—(a) Any act of doing an insurance business as set forth in this Article by any unauthorized person or insurer is equivalent to and shall constitute an irrevocable appointment by such person or insurer, binding upon him, his executor, administrator or personal representative, or successor in interest if a corporation, of the Commissioner of Insurance, his successor or successors in office to be the true and lawful attorney of such person or insurer upon whom may be served all legal process in any action, suit or proceeding in any court arising out of doing an insurance business in this state by such person or insurer, except in an action, suit or proceeding by the State Board of Insurance or by the state. Any act of doing an insurance business as set forth in this Article by any unauthorized person or insurer shall be signification of its agreement that any such legal process so served shall be of the same legal force and validity as personal service of process in this state upon such person or insurer, or upon his executor, administrator or personal representative, or its successor in interest if a corporation.

(b) Such service of process shall be made by leaving two copies thereof in the hands or office of the Commissioner of Insurance. A certificate by the Commissioner showing such service and attached to the original or third copy of such process presented to him for that purpose shall be sufficient evidence thereof. Service upon the Commissioner as such attorney shall be service upon the principal.

(c) The Commissioner shall forthwith mail one copy of such process to the defendant at its last known principal place of business and shall keep a record of all process so served upon him which shall show the day and hour of service. Such service of process is sufficient, provided notice of such service and a copy of the process are sent within 10 days

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thereafter by registered mail by plaintiff or plaintiff's attorney to the defendant at the last known principal place of business of the defendant and the defendant's receipt, or receipt issued by the post office with which the letter is registered, showing the name of the sender of the letter and the name and address of the person or insurer to whom the letter is addressed, and the affidavit of the plaintiff or plaintiff's attorney showing compliance herewith are filed with the clerk of the court in which such action is pending on or before the date the defendant is required to appear, or within such further time as the court may allow.

(d) Service of process in any such action, suit or proceeding shall, in addition to the manner provided in Paragraphs (b) and (c), be valid if served upon any person within this state who on behalf of such unauthorized person or insurer is doing any act of an insurance business as set forth in this Article and if a copy of such process is sent within 10 days thereafter by registered mail by plaintiff or plaintiff's attorney to the defendant at the last known principal place of business of the defendant and the defendant's receipt, or receipt issued by the post office with which the letter is registered, showing the name of the sender of the letter and the name and address of the person or insurer to whom the letter is addressed and the affidavit of the plaintiff or plaintiff's attorney showing compliance herewith are filed with the clerk of the court in which such action is pending on or before the date the defendant is required to appear, or within such further time as the court may allow.

(e) No plaintiff or complainant shall be entitled to a judgment by default in any action, suit or proceeding in which the process is served under this subsection until the expiration of 45 days from the date of filing of the affidavit of compliance.

(f) Nothing contained in this section shall limit or abridge the right to serve any process, notice or demand upon any person or insurer in any other manner now or hereafter permitted by law.

Sec. 5. Service of Process on Secretary of State.—(a) Any act of doing an insurance business as set forth in this Article by any unauthorized person or insurer is equivalent to and shall constitute an irrevocable appointment by such person or insurer, binding upon him, his executor, administrator or personal representative, or successor in interest if a corporation, of the Secretary of State, his successor or successors in office to be the true and lawful attorney of such person or insurers upon whom may be served all legal process in any action, suit or proceeding in any court by the State Board of Insurance or by the state and upon whom may be served any notice, order, pleading or process in any proceeding before the State Board of Insurance and which arises out of doing an insurance business in this state by such person or insurer. Any act of doing an insurance business as set forth in this Article by any unauthorized person or insurer shall be signification of its agreement that any such legal process in such court action, suit or proceeding and any such notice, order, pleading or process in such administrative proceeding before the State Board of Insurance so served shall be of the same legal force and validity as personal service of process in this state upon such person or insurer, or upon his executor, administrator or personal representative, or its successor in interest if a corporation.

(b) Such service of process in such action, suit or proceeding in any court or such notice, order, pleading or process in such administrative proceeding authorized by Paragraph (a) shall be made by leaving two copies thereof in the hands or office of the Secretary of State. A certificate by the Secretary of State showing such service and attached to the original or third copy of such process presented to him for that purpose shall be sufficient evidence thereof. Service upon the Secretary of State as such attorney shall be service upon the principal.

(c) The Secretary of State shall forthwith mail one copy of such court process or such notice, order, pleading or process in proceedings before the State Board of Insurance to the defendant in such court proceeding or to whom the notice, order, pleading or process in such administrative proceeding is addressed or directed at its last known principal place of business and shall keep a record of all process so served on him which shall show the day and hour of service. Such service is sufficient, provided notice of such service and a copy of the court process or the notice, order, pleading or process in such administrative proceeding are sent within 10 days thereafter by registered mail by the plaintiff or the plaintiff's attorney in the court proceeding or by the State Board of Insurance in the administrative proceeding to the defendant in the court proceeding or to whom the notice, order, pleading or process in such administrative proceeding is addressed or directed at its last known principal place of business of the defendant in the court or administrative proceeding, and the defendant's receipt, or receipt issued by the post office with which the letter is registered, showing the name of the sender of the letter and the name and address of the person or insurer to whom the letter is addressed, and the affidavit of the plaintiff or plaintiff's attorney in court proceeding or of the State Board of Insurance in administrative proceeding, showing compliance herewith are filed with the clerk of the court in which such action, suit or proceeding is pending or with the State Board of Insurance in administrative proceedings, on or before the date the defendant in the court or administrative proceeding is required to appear or respond thereto, or within such further time as the court or the State Board of Insurance may allow.

(d) No plaintiff or complainant shall be entitled to a judgment or determination by default in any court or administrative proceeding in which court process or notice, order, pleading or process in proceedings before the State Board of Insurance is served under this section until the expiration of 45 days from the date of filing of the affidavit of compliance.

(e) Nothing contained in this section shall limit or abridge the right to serve any process, notice, order, pleading or demand upon any person or insurer in any other manner now or hereafter permitted by law.

(f) The Attorney General upon request of the State Board of Insurance is authorized to proceed in the courts of this or any other state or in any federal court or agency to enforce an order or decision in any court proceeding or in any administrative proceeding before the State Board of Insurance.

Sec. 6. Unauthorized Person or Insurer Defense of Action.—(a) Before any unauthorized person or insurer files or causes to be filed any pleading in any court action, suit or proceeding or in any notice, order, pleading or process in such administrative proceeding before the State Board of Insurance instituted against such person or insurer, by service made as provided in Sections 4 and 5, such person or insurer shall either:

1. Deposit with the clerk of the court in which such action, suit or proceeding is pending, or with the State Board of Insurance in administrative proceedings before the State Board of Insurance, cash or securities or bond with good and sufficient sureties to be approved by the court or the State Board of Insurance, in an amount to be fixed by the court or the State Board of Insurance sufficient to secure the payment of any final judgment which may be rendered in such court proceeding or in such administrative proceeding before the State Board of Insurance, provided that the court or the State Board of Insurance in administrative proceedings before the State Board of Insurance may in its discretion make an order dispensing with such deposit or bond where the insurer makes a showing satisfactory to such court or the State Board of Insurance that it maintains in a state of the United States funds or securities,

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in trust or otherwise, sufficient and available to satisfy any final judgment which may be entered in such court action, suit or proceeding or in such administrative proceeding before the State Board of Insurance; or

2. Procure proper authorization to do an insurance business in this state.

(b) The court in any action, suit or proceeding in which service is made as provided in Section 4 or the State Board of Insurance in any administrative proceeding before the State Board of Insurance in which service is made as provided in Section 5, may, in its discretion, order such postponement as may be necessary to afford the defendant reasonable opportunity to comply with Paragraph (a) and to defend such court action or administrative proceeding.

(c) Nothing in Paragraph (a) is to be construed to prevent an unauthorized person or insurer from filing a motion to quash a writ or to set aside service thereof made as provided in Sections 4 or 5 on the ground that such unauthorized person or insurer has not done any of the acts enumerated in this Article or that the person on whom service was made pursuant to Section 4(d) was not doing any of the acts therein enumerated.

Sec. 7. Attorneys' Fees.—In an action against an unauthorized person or insurer upon a contract of insurance issued or delivered in this state to a resident thereof or to a corporation authorized to do business therein, if the person or insurer has failed for 30 days after demand prior to the commencement of the action to make payment in accordance with the terms of the contract, and it appears to the court that such refusal was vexatious and without reasonable cause, the court may allow to the plaintiff a reasonable attorney's fee and include such fee in any judgment that may be rendered in such action. Failure of the person or insurer to defend any such action shall be deemed prima facie evidence that its failure to make payment was vexatious and without reasonable cause.

Sec. 8. Validity of Insurance Contracts.—Except for lawfully procured surplus lines insurance and contracts of insurance independently procured through negotiations occurring entirely outside of this state which are reported and on which premium tax is paid in accordance with this Article or Article 1.14-2, any contract of insurance effective in this state and entered into by an unauthorized insurer is unenforceable by such insurer. In event of failure of any such unauthorized insurer to pay any claim or loss within the provisions of such insurance contract, any person who assisted or in any manner aided directly or indirectly in the procurement of such insurance contract shall be liable to the insured for the full amount thereof pursuant to the provisions of such insurance contract.

Sec. 9. Investigation and Disclosure of Insurance Contracts.—(a) Whenever the State Board of Insurance has reason to believe that insurance has been effectuated by or for any person in this state with an unauthorized insurer the State Board of Insurance shall in writing order such person to produce for examination all insurance contracts and other documents evidencing insurance with both authorized and unauthorized insurers and to disclose to the State Board of Insurance the amount of insurance, name and address of each insurer, gross amount of premium paid or to be paid and the name and address of the person or persons assisting or aiding in the solicitation, negotiation or effectuation of such insurance.

(b) Every person who, for 30 days after such written order pursuant to Paragraph (a), neglects to comply with the requirements of such or-

der or who wilfully makes a disclosure that is untrue, deceptive or misleading shall forfeit \$50 and an additional \$50 for each day of neglect after expiration of said 30 days.

Sec. 10. Reporting of Unauthorized Insurance.—(a) Every person investigating or adjusting any loss or claim on a subject of insurance in this state shall immediately report to the State Board of Insurance every insurance policy or contract which has been entered into by any insurer not authorized to transact such insurance in this state.

(b) This section does not apply to transactions in this state involving a policy lawfully solicited, written, and delivered outside of this state covering only subjects of insurance not resident, located or expressly to be performed in this state at the time of issuance, and which transactions are subsequent to the issuance of such policy.

Sec. 11. Unauthorized Insurance Premium Tax.—(a) Except as to premiums on lawfully procured surplus lines insurance and premiums on independently procured insurance on which a tax has been paid pursuant to this Article or Article 1.14-2, every unauthorized insurer shall pay to the State Board of Insurance before March 1 next succeeding the calendar year in which the insurance was so effectuated, continued or renewed a premium receipts tax of 3.85 percent of gross premiums charged for such insurance on subjects resident, located or to be performed in this state. Such insurance on subjects resident, located or to be performed in this state procured through negotiations or an application, in whole or in part occurring or made within or from within or outside of this state, or for which premiums in whole or in part are remitted directly or indirectly from within or outside of this state, shall be deemed to be insurance procured, or continued or renewed in this state. The term "premium" includes all premiums, membership fees, assessments, dues and any other consideration for insurance. Such tax shall be in lieu of all other insurance taxes. On default of any such unauthorized insurer in the payment of such tax the insured shall pay the tax. If the tax prescribed by this subsection is not paid within the time stated, the tax shall be increased by a penalty of 25 percent and by the amount of an additional penalty computed at the rate of one percent per month or any part thereof from the date such payment was due to the date paid.

(b) If a policy covers risks or exposures only partially in this state, the tax payable shall be computed on the portions of the premiums which are properly allocable to the risks or exposures located in this state. In determining the amount of premiums taxable in this state, all premiums written, procured, or received in this state and all premiums on policies negotiated in this state shall be deemed written on property or risks located or resident in this state, except such premiums as are properly allocated or apportioned and reported as taxable premiums of any other state or states.

Sec. 12. Independently Procured Insurance.—(a) Every insured who procures or causes to be procured or continues or renews insurance with any unauthorized insurer, or any insured or self-insurer who so procures or continues excess loss, catastrophe or other insurance, upon a subject of insurance resident, located or to be performed within this state, other than insurance procured through a surplus lines agent pursuant to the surplus lines law of this state shall within 60 days after the date such insurance was so procured, continued or renewed, file a report of the same with the State Board of Insurance in writing and upon forms designated by the State Board of Insurance and furnished to such an insured upon request. The report shall show the name and address of the insured or insureds, name and address of the insurer, the subject of the insurance, a general description of the coverage, the amount of premium

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currently charged therefor, and such additional pertinent information as is reasonably requested by the State Board of Insurance.

(b) Any insurance in an unauthorized insurer of a subject of insurance resident, located or to be performed within this state procured through negotiations or an application, in whole or in part occurring or made within or from within or outside of this state, or for which premiums in whole or in part are remitted directly or indirectly from within or outside of this state, shall be deemed to be insurance procured, or continued or renewed in this state within the intent of Paragraph (a).

(c) There is hereby levied upon the obligation, chose in action, or right represented by the premium charged for such insurance, a premium receipts tax of 3.85 percent of gross premiums charged for such insurance. The term "premium" shall include all premiums, membership fees, assessments, dues and any other consideration for insurance. Such tax shall be in lieu of all other insurance taxes. The insured shall, before March 1 next succeeding the calendar year in which the insurance was so procured, continued or renewed, pay the amount of the tax to the State Board of Insurance. In event of cancellation and rewriting of any such insurance contract the additional premium for premium receipts tax purposes shall be the premium in excess of the unearned premium of the canceled insurance contract.

(d) If a policy covers risks or exposures only partially in this state, the tax payable shall be computed on the portions of the premium which are properly allocable to the risks or exposures located in this state. In determining the amount of premiums taxable in this state, all premiums written, procured or received in this state and all premiums on policies negotiated in this state shall be deemed written on property or risks located or resident in this state, except such premiums as are properly allocated or apportioned and reported as taxable premiums of any other state or states.

(e) If the insured fails to withhold from the premium the amount of tax herein levied, the insured shall be liable for the amount thereof and shall pay the same to the State Board of Insurance within the time stated in Paragraph (c). If the tax prescribed by this subsection is not paid within the time stated in Paragraph (c), the tax shall be increased by a penalty of 25 percent and by the amount of an additional penalty computed at the rate of one percent per month or any part thereof from the date such payment was due to the date paid.

(f) The Attorney General, upon request of the State Board of Insurance, shall proceed in the courts of this or any other state or in any federal court or agency to recover such tax not paid within the time prescribed in this section.

(g) This section shall not be construed or deemed to abrogate or modify any provision of this Article. This section does not apply as to individual life or individual disability insurance.

Sec. 13. Penalty for Unauthorized Insurance.—(a) Any unauthorized insurer who does any unauthorized act of an insurance business as set forth in this Article shall be fined not more than \$5,000.

(b) In addition to any other penalty provided for herein or otherwise provided by law, any person or insurer violating this Article shall forfeit to this state the sum of \$500 for the first offense and an additional sum of \$500 for each month during which any such person or insurer continues such violation.

Sec. 14. Unconstitutional Application Prohibited.—This Article and law does not apply to any insurer or other person to whom, under

the Constitution of the United States or the Constitution of the State of Texas, it cannot validly apply.

Added by Acts 1967, 60th Leg., p. 401, ch. 185, § 1, emerg. eff. May 12, 1967.

¹ See 15 U.S.C.A. § 1011 et seq.

Section 2 of Acts 1967, 60th Leg., p. 401, ch. 185 is codified as article 1.14—2, section 3 of the act of 1967 is a severability provision and is set out as a note under article 1.14—2, and section 4 of the act, set out as a note under article 1.14—2, repealed conflicting laws, including article

21.38, made licenses issued thereunder effective until expiration according to their terms, and made taxes which, accrued under article 21.38, payable at rates in accordance with article 21.38 as they existed before the act of 1967 became effective.

Art. 1.14—2. Surplus Lines Insurance

Section 1. Purpose.—Insurance transactions which are entered into by citizens of this state with unauthorized insurers through a surplus lines agent as a result of difficulty in obtaining coverage from licensed insurers are a matter of public interest. The Legislature declares that such transaction of surplus lines insurance is a subject of concern and that it is necessary to provide for the regulation, taxation, supervision and control of such transactions and the practices and matters related thereto by requiring appropriate standards and reports concerning the placement of such insurance; by imposing requirements necessary to make such regulation and control reasonably complete and effective; by providing orderly access to insurers that are not authorized to transact the business of insurance in this state; by insuring the maintenance of fair and honest markets; by protecting the revenues of this state; and by protecting authorized insurers, which under the laws of this state must meet strict standards as to the regulation of the business of insurance and the taxation thereof, from unfair competition by unauthorized insurers. In order to properly regulate and tax such unauthorized insurance within the meaning and intent of P.L. 79-15 (1945), (Chap. 20, 1st Sess., S. 340), 59 Stat. 33,¹ the Legislature herein provides an orderly method for the insuring public of this state to effect insurance with unauthorized insurers through qualified, licensed and supervised surplus line agents in this state and under reasonable and practical safeguards so that such insurance coverage may be obtained by residents of this state to the extent that the coverage is not procurable from duly licensed, regulated insurers conducting business in this state.

Sec. 2. Definitions.—(a) "Surplus lines agent" means an agent authorized under Article 21.14 who is granted a surplus lines license in accordance with this Article.

(b) "Surplus lines insurer" means an unauthorized insurer in which an insurance coverage is placed or may be placed under this Article.

Sec. 3. Surplus Lines Insurance Authorized.—(a) If insurance coverages of subjects resident, located or to be performed in this state cannot be procured from licensed insurers after diligent effort, such coverages, hereinafter designated as surplus line insurance, may be procured from unauthorized insurers subject to the following conditions:

1. The insurance must be eligible for surplus lines under Section 5.
2. The insurer must be an eligible surplus lines insurer under Section 8.
3. The insurance must be placed through a licensed Texas surplus lines agent resident in this state.
4. The other applicable provisions of this section must be complied with.

(b) Any insurance of subjects resident, located or to be performed in this state, procured through negotiations or an application, in whole or in part occurring or made within or from within this state, or for which

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premiums in whole or in part are remitted directly or indirectly from within this state, shall be deemed to be insurance procured, or continued or renewed in this state within the intent of Paragraph (a).

Sec. 4. Surplus Lines Agent's License.—(a) The State Board of Insurance may issue a surplus lines license to any authorized agent which shall grant such agent authority to procure the kinds of insurance provided for in this Article from companies not licensed in this state under the conditions prescribed in this Article. Every license issued pursuant to this section shall be for a term expiring on the 31st day of December next following the date of issuance and may be renewed for ensuing periods of 12 months. Before any such license shall be issued and before each renewal thereof a written application shall be filed by the applicant in such form as the State Board of Insurance prescribes and the fee provided therefor by this Article shall be paid.

(b) The fee for the issuance of a surplus lines license shall be \$25.00, which fee shall be placed in the separate fund that is provided pursuant to Section 21 of Article 21.14 of the Insurance Code. No diminution of the license fee herein provided shall occur as to any license effective after January 1 of any year.

Sec. 5. Eligibility for Surplus Lines Insurance.—(a) No insurance coverage shall be eligible for surplus lines unless the full amount of insurance required is not procurable, after a diligent effort has been made to do so, from among the insurers licensed to transact and actually writing that kind and class of insurance in this state, and the amount of insurance eligible for surplus lines shall be only the amount in excess of the amount so procurable from licensed insurers.

(b) Policy or contract forms shall not be eligible unless the use is reasonably necessary for the principal purposes of the coverage or unless the use would not be contrary to the purposes of the coverage or unless the use would not be contrary to the purposes of this Article with respect to the reasonable protection of authorized insurers from unwarranted competition by unauthorized insurers.

Sec. 6. Procedure for Effecting Surplus Lines Contracts.—(a) Before any new or renewal insurance shall be procured in an unlicensed insurer the agent shall make an affidavit, which shall be promptly filed with the State Board of Insurance, that he is after diligent effort unable to procure from any licensed insurer or insurers the full amount of insurance required to protect the interest of the insured. If the annual premiums paid by the insured for such surplus lines coverage exceed \$25,000, the insured may execute the affidavit in lieu of the surplus lines agent.

(b) Upon placing a new or renewal surplus line coverage, the surplus lines agent shall promptly issue and deliver to the insured or his agent, as the case may be, evidence of the insurance consisting either of the policy as issued by the insurer or, if such policy is not then available, a certificate, cover note or other confirmation of insurance.

(c) Within 60 days after the effectuation of any new or renewal surplus lines insurance the surplus lines agent shall file with the State Board of Insurance an exact copy of the policy issued. If a policy has not been issued, the surplus lines agent shall so file an exact copy of his certificate, cover note or other confirmation of insurance as delivered to the insured. The surplus lines agent shall likewise promptly file with the State Board of Insurance an exact copy of any substitute certificate, cover note or other confirmation of insurance, and of every endorsement of an original policy, certificate, cover note or other confirmation of insurance, delivered to an insured, together with such surplus lines agent's memorandum informing the State Board of Insurance as to the substance of any change represented by such substitute certificate, cover

note or other confirmation, or of any such endorsement, as compared with the coverage as originally placed or issued. Except, however, as respects this Subsection (c), equivalent information may be filed as required by the Board.

(d) No surplus lines agent shall deliver any such document, or purport to insure or represent that insurance will be or has been granted by any unauthorized insurer unless he has prior written authority from the insurer for the insurance, or has received information from the insurer in the regular course of business that such insurance has been granted, or an insurance policy providing the insurance actually has been issued by the insurer and delivered to the insured.

(e) If after the delivery of any such document there is any change as to the identity of the insurers, or the proportion of the direct risk assumed by the insurer as stated in the original certificate, cover note or confirmation, or in any other material respect as to the insurance coverage evidenced by such a document, the surplus lines agent shall promptly deliver to the insured a substitute certificate, cover note, confirmation or endorsement for the original such document, accurately showing the current status of the coverage and the insurers responsible thereunder. No such change shall result in a coverage or insurance contract which would be in violation of this Article if originally issued on such basis.

(f) If a policy issued by the insurer is not available upon placement of the insurance and the surplus lines agent has delivered a certificate, cover note or confirmation, as hereinabove provided, upon request therefor by the insured the surplus lines agent shall as soon as reasonably possible procure from the insurer its policy evidencing the insurance and deliver the policy to the insured in replacement of the certificate, cover note or confirmation theretofore issued.

Sec. 7. Requirements for Surplus Lines Contracts.—(a) Every new or renewal insurance contract certificate, cover note or other confirmation of insurance procured and delivered as a surplus line coverage pursuant to this Article shall bear the name and address of the insurance agent who procured it and shall have stamped or affixed upon it the following: "This insurance contract is with an insurer not licensed to transact insurance in this state and is issued and delivered as a surplus line coverage pursuant to the Texas insurance statutes. Article 1.14—2, Texas Insurance Code, requires payment of 3.85 percent tax on gross premium."

(b) Such document shall show the description and location of the subject of the insurance, coverage, conditions and term of the insurance, the premium and rate charged and premium taxes to be collected from the insured, and the name and address of the insured and insurer. If the direct risk is assumed by more than one insurer, the document shall state the name and address and proportion of the entire direct risk assumed by each insurer.

Sec. 8. Eligibility of Surplus Lines Insurers.—(a) A surplus lines agent shall not knowingly place surplus lines insurance with financially unsound insurers. The agent shall make a reasonable effort to ascertain the financial condition of the unauthorized insurer before placing insurance therewith. An insurer shall not be eligible unless it has capital and surplus or its equivalent that is adequate in relation to its premium writings and the exposure it assumes.

(b) The unauthorized insurer must be of good repute and provide reasonably prompt service to its policyholders in the payment of just losses and claims.

(c) No unauthorized insurer shall be eligible if the management is incompetent or untrustworthy, or so lacking in insurance company managerial experience as to make its proposed operation hazardous to the insurance-buying public; or if the State Board of Insurance has good

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reason to believe that it is affiliated directly or indirectly through ownership, control, reinsurance transactions or other insurance or business relations, with any person whose business operations are or have been detrimental to policyholders, stockholders, investors, creditors or to the public.

(d) No unauthorized insurer shall be eligible if the insurer or its agents have failed to submit to any fine or penalty levied pursuant to statute. The State Board of Insurance may order revocation of insurance contracts issued by insurers that do not conform with the eligibility requirements of this section.

(e) No new or renewal surplus lines insurance shall be placed with any surplus lines insurer which requires as a condition precedent to writing such new or renewal insurance that the prospective insured or the insured place other insurance not eligible as surplus lines insurance with such surplus lines insurer.

(f) This section shall not be deemed to cast upon the State Board of Insurance any duty or responsibility to determine the actual financial condition or claims practice of any unauthorized insurer.

Sec. 9. Validity of Contracts.—(a) Insurance contracts procured as surplus line coverage from unauthorized insurers in accordance with this Article shall be fully valid and enforceable as to all parties, and shall be given recognition in all matters and respects to the same effect and extent as like contracts issued by authorized insurers.

(b) A contract of insurance placed in effect by an unauthorized insurer in violation of this Article is unenforceable by the insurer. The insured shall not be precluded from enforcing his rights in accordance with the terms and provisions of such contract.

Sec. 10. Liability of Surplus Lines Insurer for Losses and Unearned Premiums.—If the surplus lines insurer has assumed the risk in accordance with this Article and if the premium therefor has been received by the surplus lines agent who placed such insurance, then in all questions thereafter arising under the coverage as between the insurer and the insured the insurer shall be deemed to have received the premium due to it for such coverage; and the insurer shall be liable to the insured as to losses covered by such insurance, and for unearned premiums which may become payable to the insured upon cancellation of such insurance, whether or not in fact the surplus lines agent is indebted to the insurer with respect to such insurance or for any other cause. Each surplus lines insurer assuming a surplus lines risk under this Article shall be deemed thereby to have subjected itself to the terms of this subsection.

Sec. 11. Actions Against Insurer; Service of Process.—A surplus lines insurer may be sued upon any cause of action arising in this state under any surplus lines insurance contract issued by it or certificate, cover note or other confirmation of such insurance issued by the surplus lines agent, pursuant to the same procedure as is provided for unauthorized insurers in Article 1.14—1. Any such policy issued by the insurer, or any certificate of insurance issued by the surplus lines agent, shall contain a provision stating the substance of this section and designating the person to whom the Commissioner of Insurance shall mail process. Each surplus lines insurer assuming a surplus lines risk pursuant to this Article shall be deemed thereby to have subjected itself to the terms of this section. This section shall be cumulative to any other methods which may be provided by law for service of process upon the insurer.

Sec. 12. Surplus Lines Insurance Premium Tax.—(a) The premiums charged for surplus lines insurance are subject to a premium receipts tax of 3.85 percent of gross premiums charged for such insurance. The term premium includes all premiums, membership fees, assessments, dues or any other consideration for insurance. Such tax shall be in lieu of

all other insurance taxes. The surplus lines agent shall collect from the insured the amount of the tax at the time of delivery of the cover note, certificate of insurance, policy or other initial confirmation of insurance, in addition to the full amount of the gross premium charged by the insurer for the insurance. No agent shall absorb such tax nor shall any agent, as an inducement for insurance or for any other reason, rebate all or any part of such tax or his commission. The surplus lines agent shall report, under oath, to the State Board of Insurance within 30 days from the 1st day of January and July of each year the amount of gross premiums paid for such insurance placed through him in nonlicensed insurers, and shall pay to the Board the tax provided for by this Article. If a surplus lines policy covers risks or exposures only partially in this state, the tax payable shall be computed on the portions of the premium which are properly allocable to the risks or exposures located in this state. In determining the amount of premiums taxable in this state, all premiums written, procured, or received in this state and all premiums on policies negotiated in this state shall be deemed written on property or risks located or resident in this state, except such premiums as are properly allocated or apportioned and reported as taxable premiums of any other state or states. In event of cancellation and rewriting of any surplus lines insurance contract the additional premium for premium receipts tax purposes shall be the premium in excess of the unearned premium of the canceled insurance contract.

(b) All surplus lines premium receipt taxes collected by a surplus lines agent are trust funds in his hands and the property of this state. Such funds shall be maintained by the surplus lines agent in a separate account and shall not be mingled with any other funds, either business or private. Any surplus lines agent who fails or refuses to pay over to the state the surplus lines premium receipts tax at the time required in this section, or who fraudulently withholds or appropriates or otherwise uses such money or any portions thereof belonging to the state is guilty of theft and shall be punished as provided by law for the crime of theft, irrespective of whether any such surplus lines agent has or claims to have any interest in such money so received by him.

(c) If the property of any surplus lines agent is seized upon any mesne or final process in any court in this state, or when the business of any surplus lines agent is suspended by the action of creditors or put into the hands of any assignee, receiver or trustee, all surplus lines premium receipts tax money and penalties due the state from such surplus lines agent shall be considered preferred claims and the state shall be a preferred creditor and shall be paid in full.

(d) The Attorney General, upon request of the State Board of Insurance, shall proceed in the courts of this or any other state or in any federal court or agency to recover such license fees or tax not paid within the time prescribed in this section.

Sec. 13. Surplus Lines Agents May Advertise.—Any agent who is granted a surplus lines license in accordance with this Article may bring announcements or statements before the public in respect to his ability to place such surplus lines insurance as may be permitted by this Article.

Sec. 14. Surplus Lines Agents' Commissions.—Agents licensed in accordance with this Article may not pay the whole or any part of the commission on surplus lines insurance to any person, except that such commissions may be shared or divided with any other licensed agent.

Sec. 15. Records of Surplus Lines Agent.—(a) Each surplus lines agent shall keep in his office in this state a full and true record of each surplus lines contract procured by him, including a copy of the daily report, if any, and showing such of the following items as may be applicable:

1. Amount of the insurance and perils insured against;
2. Brief general description of property insured and where located;

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3. Gross premium charged;
4. Return premium paid, if any;
5. Rate of premium charged upon the several items of property;
6. Effective date of the contract, and the terms thereof;
7. Name and post office address of the insured;
8. Name and home office address of the insurer;
9. Amount collected from the insured; and
10. Other information as may be required by the State Board of Insurance.

(b) The record shall at all times be open to examination by the State Board of Insurance without notice, and shall be so kept available and open to the State Board of Insurance for three years next following expiration or cancellation of the contract.

Sec. 16. Annual Report of Surplus Lines Agent.—Each surplus lines agent shall, before March 1 in each year, make a report to the State Board of Insurance for the preceding calendar year, on the form prescribed by it, of such facts as it requires and including a showing that the amount of insurance procured from such unauthorized insurer or insurers is only the amount in excess of the amount procurable from licensed insurers.

Sec. 17. Penalty.—Any violation of this section shall subject the agent to suspension of his agent's license for a period of not less than 90 days and a fine of not more than \$500.

Sec. 18. Unconstitutional Application Prohibited.—This Article and law does not apply to any insurer or other person to whom, under the Constitution of the United States or the Constitution of the State of Texas, it cannot validly apply.

Added by Acts 1967, 60th Leg., p. 408, ch. 185, § 2, emerg. eff. May 12, 1967.

¹ See 15 U.S.C.A. § 1011 et seq.

Section 1 of Acts 1967, 60th Leg., p. 401, ch. 185 is codified as article 1.14-1; sections 3 and 4 of the act of 1967 provided: "Sec. 3. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions and applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

"Sec. 4. All laws or parts of laws in conflict herewith, including Article 21.38 of the

Insurance Code, are hereby repealed; provided, however, licenses heretofore issued under authority of Article 21.38 shall remain in effect, subject to the provisions of Article 21.38 before this amendment, until they expire according to their terms; and provided further that all taxes which have accrued under Article 21.38 before this amendment shall be payable at the rates and in accordance with the provisions of Article 21.38 as they existed before this amendment became effective."

Art. 1.26. Mortgage Guaranty Insurance

Section 1. The definitions set forth herein shall govern the construction of the terms used in this Article but shall not affect any other provisions of this Code.

(a) "Mortgage guaranty insurance" means insurance against financial loss by reason of nonpayment of principal, interest and other sums agreed to be paid under the terms of any note or bond or other evidence of indebtedness secured by a mortgage, deed of trust, or other instrument constituting a valid first lien or charge on real estate.

(b) "Authorized real estate security" means an amortized note, bond or other evidence of indebtedness, not exceeding 90 percent of the fair market value of the real estate, secured by a mortgage, deed of trust, or

other instrument constituting a valid first lien or charge on real estate; provided:

(1) The real estate loan secured in such manner is one which a bank, savings and loan association, or an insurance company, which is supervised and regulated by a department of this state or an agency of the federal government, is authorized to make.

(2) The improvement on such real estate is a residential building or buildings designed for occupancy by not more than four families.

(3) The lien on such real estate may be subject and subordinate to the following:

(i) The lien of any public bond, assessment, or tax, when no installment, call or payment of or under such bond, assessment or tax is delinquent.

(ii) Outstanding mineral, oil or timber rights, rights-of-way, easements or rights-of-way or support, sewer rights, building restrictions or other restrictions or covenants, conditions or regulations of use, or outstanding leases upon such real property under which rents or profits are reserved to the owner thereof.

(c) "Contingency reserve" means an additional premium reserve established for the protection of policyholders against the effect of adverse economic cycles or losses.

Sec. 2. Qualifications for mortgage guaranty insurers shall be as follows:

(1) An insurer, in order to qualify for writing mortgage guaranty insurance, must have the same minimum capital and surplus as that required of a company by Chapter 8, Texas Insurance Code.

(2) A foreign or alien insurer writing mortgage guaranty insurance shall not be eligible for the issuance of a certificate of authority in Texas unless it has demonstrated a satisfactory operating experience in its state of domicile.

Sec. 3. The unearned premium reserve on mortgage guaranty insurance shall be computed in accordance with Article 6.01 of this Code.

Sec. 4. On such insurance, the case basis method shall be used to determine the loss reserve, which shall include a reserve for claims reported and unpaid and a reserve for claims incurred but not reported.

Sec. 5. In addition to the capital, surplus and reserves specified in Sections 2, 3, and 4 hereof, each mortgage guaranty insurer shall establish a contingency reserve, which shall be reported as a liability in the insurer's financial statements. To provide for and maintain such reserve, the company shall annually contribute to such reserve 50 percent of the earned premiums on its mortgage guaranty insurance business. The earned premiums so reserved may be released to the insurer's surplus, annually, after they have been so maintained for 120 months. However, withdrawals may be made from such reserve by the insurer in any given year in which the insurer can demonstrate to the Commissioner of Insurance that the incurred losses for such year exceed 35 percent of the corresponding earned premiums for such year. The amount so withdrawn and released for such losses shall reduce any subsequent annual release to surplus from the established contingency reserve by an amount equal to the amount so withdrawn, and any balance in excess of the normal annual release from such reserve shall carry over and be deducted from subsequent annual releases.

Sec. 6. A mortgage guaranty insurer shall not at any time have outstanding a total liability, net of reinsurance, under its aggregate mortgage guaranty insurance policies exceeding 25 times its capital, surplus and contingency reserve, such liability to be computed on the basis of the insurer's liability under its election as provided in Section 7. In the event that any insurer has outstanding total liability exceeding 25 times its capi-

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tal, surplus and contingency reserve, it shall cease writing new mortgage guaranty insurance policies until such time as its total liability no longer exceeds 25 times its capital, surplus and contingency reserve.

Sec. 7. A mortgage guaranty insurer shall limit its coverage to a maximum of 20 percent of the outstanding balance of the loan insured, but the insurer's liability shall in no event exceed the actual loss. In lieu of paying the percentage of the loan insured as specified in the policy, a mortgage guaranty insurer may elect to pay the entire indebtedness to the insured and acquire title to the authorized real estate security.

Sec. 8. A mortgage guaranty insurer shall not insure loans secured by properties in a single housing tract or a contiguous tract in excess of 10 percent of the insurer's capital, surplus and contingency reserve. In determining the amount of such risk, applicable reinsurance in any assuming insurer authorized to transact mortgage guaranty insurance in this state shall be deducted from the total direct risk insured. "Contiguous," for the purposes of this section, means not separated by more than one-half mile.

Sec. 9. No bank, savings and loan association or insurance company, any of whose authorized real estate securities are insured by a mortgage guaranty insurance company, may state in any brochure, pamphlet, report or any form of advertising that the real estate loans of the bank, savings and loan association or insurance company are "insured loans" unless the brochure, pamphlet, report or advertising also clearly states that the loans are insured by private insurers and the names of the private insurers are given and shall not make any such statement at all unless such insurance is by an insurer certificated to write in this state.

Sec. 10. All the applicable provisions of this Code and of other statutes of this state, except as the same may be in conflict herewith, shall apply to the operation and conduct of mortgage guaranty insurance business.

Added by Acts 1963, 58th Leg., p. 1318, ch. 504, § 1, eff. June 11, 1963; amended by Acts 1967, 60th Leg., p. 466, ch. 211, § 1, emerg. eff. May 19, 1967.

Acts 1967, 60th Leg., p. 468, ch. 211, §§ 2, 3 provided:

"Sec. 2. Corporations, domestic or foreign, operating with certificates of authority under the Texas Insurance Code, as amended, shall not have the right to engage in the business of mortgage guaranty insurance as defined in Section 1 hereof, and if any such corporations shall do so it shall forthwith forfeit and surrender its certificate to do business. Provided, however, that this section shall not apply to or be effective against any corporation which, on the effective date of this Act,

was actively engaged in such business under a certificate of authority issued by the State Board of Insurance or the Commissioner of Insurance.

"Sec. 3. If any provision of this Act or the application thereof to any person or circumstance is held to be invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable."

CHAPTER TWO—INCORPORATION OF INSURANCE COMPANIES

Art. 2.07. Shares of Stock

* * * * *

Purchase of shares of stock; application; approval

Sec. 7. Any such company may purchase in the name of such company, issued and outstanding shares of the capital stock of such company in accordance with the provisions of the Texas Business Corporation Act, provided prior approval is first obtained from the State Board of Insurance. Application for approval shall specify the number of shares offered, their description, the price offered by the company, the book value of

said shares, their market value if a market exists, and any other pertinent information regarding the value of said shares and show that said shares will be purchased out of uncommitted earned surplus. A copy of said application shall be given to the seller prior to the filing of said application with the State Board of Insurance. Said application shall be promptly approved by the State Board of Insurance if the application appears to involve a reasonably fair price and complies with this Article and the Texas Business Corporation Act.

Sec. 7 added by Acts 1967, 60th Leg., p. 721, ch. 301, § 2, eff. Aug. 28, 1967.

Section 1 of the act of 1967 amended article 3.05.

CHAPTER THREE—LIFE, HEALTH AND ACCIDENT INSURANCE

SUBCHAPTER C. RESERVES AND INVESTMENTS

Art.
3.40—1. Investments in Income Producing Real Estate [New].

SUBCHAPTER D. POLICIES AND BENEFICIARIES

3.49—3. Life Insurance and Annuity Contracts of a Spouse [New].
3.40—3. Designation of Trustee to Receive Proceeds of Life Insurance Policies and Taxation Thereof [New].

SUBCHAPTER E. GROUP INDUSTRIAL AND CREDIT INSURANCE

Art.
3.51—2 County and Political Subdivision of a County—Officials and Employees [New].
3.51—3. Issuance of Group Insurance Policies to Association of Teachers and School Administrators [New].
3.72 Variable Annuity Contracts [New].

SUBCHAPTER A. TERMS DEFINED; DOMESTIC COMPANIES

Art. 3.05. Amendment of Charter

(a) At any regular or called meeting of the stockholders, they may, by resolution, provide for any lawful amendment to the charter or articles of incorporation; and such amendment, accompanied by a copy of such resolution duly certified by the president and secretary of the company, shall be filed and recorded in the same manner as the original charter, and shall thereupon become effective. Stockholders representing a majority of the capital stock of any such company may in such manner also increase or reduce the amount of its capital stock. The capital stock shall in no case be reduced to less than the minimum amount of fully paid up capital stock required by applicable provisions of law. A statement of any such increase or reduction shall be signed and acknowledged by two officers of the company and filed and recorded along with the certified copy of the resolution of the stockholders provided therefor in the same manner as the charter or amendment thereto. For any such increase or reduction, the company may require the return of the original certificates as other evidence of stock in exchange for new certificates issued in lieu thereof. The shares of stock of such company shall be transferable on its books, in accordance with law and the by-laws of the company, by the owner in person or his authorized agent. Every person becoming a stockholder by such transfer shall succeed to all rights of the former holder of the stock transferred, by reason of such ownership.

(b) Any legal reserve life insurance company may purchase in the name of such company, issued and outstanding shares of the capital stock of such company in accordance with the provisions of the Texas Business Corporation Act. Purchases of stock under this paragraph shall not be deemed an investment nor shall such purchases be held in violation of the provisions of the Texas Insurance Code governing eligible investments for such company. Any such company, immediately or within ten

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days after such purchase, shall file a statement with the Commissioner of Insurance, which statement shall set forth the name of the shareholder or shareholders from whom such shares have been purchased and the sum of money paid for such shares.

Article amended by Acts 1967, 60th Leg., p. 720, ch. 301, § 1, eff. Aug. 28, 1967.

Section 2 of the act of 1967 amended article 2.07.

Art. 3.15. Deposit of Securities in Amount of Capital Stock

(a) Any "domestic" company may, at its option, deposit with the Treasurer of this State, securities in which its capital stock is invested, or securities equal in amount to its capital stock, of the class in which the law of this State permits such insurance companies to invest their capital stock, and may, at its option, withdraw the same or any part thereof, first having deposited with the Treasurer, in lieu thereof, other securities of like class and equal amount and value to those withdrawn. Any such securities, before being so originally deposited or substituted, shall be approved by the Board of Insurance Commissioners. When any such deposit is made, the Treasurer shall execute to the company making such deposit a receipt therefor, giving such description of said stock or securities as will identify the same, and stating that the same are held on deposit as the capital stock investments of such company; and such company shall have the right to advertise such fact or print a copy of the Treasurer's receipt on the policies it may issue; and the proper officer or agent of each insurance company making such deposit shall be permitted at all reasonable times to examine such securities and to detach coupons therefrom, and to collect interest thereon, under such reasonable rules and regulations as may be prescribed by the Treasurer and the Board of Insurance Commissioners. The deposit herein provided for, when made by any company, shall thereafter be maintained so long as said company shall have outstanding any liability to its policyholders in this State. For the purpose of state, county and municipal taxation, the situs of securities deposited with the treasurer by domestic insurance companies shall be in the city and county where the principal business office of such company is fixed by its charter.

(b) When two or more companies merge or consolidate or enter a total reinsurance contract by which the ceding company is dissolved and its assets acquired and liabilities assumed by the surviving company, and the companies have on deposit with the State Treasurer two or more deposits made under Article 3.15 of the Texas Insurance Code, as amended, all such deposits, except the deposit of greatest amount and value may be withdrawn by the new, surviving or reinsuring company upon proper showing before the Commissioner that the company is the owner thereof. The Treasurer of the State of Texas shall release, transfer and deliver such deposit or deposits to the owner as directed by order of the Commissioner.

Article amended by Acts 1967, 60th Leg., p. 1827, ch. 705, § 4, eff. Aug. 28, 1967.

Sections 1-3 of the act of 1967 amended article 1.10.

SUBCHAPTER C. RESERVES AND INVESTMENTS

Art. 3.39. Authorized Investments and Loans for "Domestic" Life Insurance Companies

PART I. AUTHORIZED INVESTMENTS

* * * * *

A. ANY OF ITS FUNDS AND ACCUMULATIONS

* * * * *

15A. Other Bonds.

A company may also invest its funds and accumulations in:

- (1) bonds issued, assumed, or guaranteed by the Inter-American Development Bank; and
- (2) bonds of the \$100 million Development Issue of State of Israel Bonds, March 30, 1966.

Par. 15A added by Acts 1967, 60th Leg., p. 1829, ch. 707, § 1, eff. Aug. 28, 1967.

* * * * *

Saved from Repeal

Article 3.72, enacted by Acts 1967, 60th Leg., p. 461, ch. 210, § 1, authorizing the issuance of variable annuity contracts, provides in section 16 that nothing in the article shall be deemed to repeal or affect the provisions of Part III of article 3.39, dealing with group variable annuity contracts, or to affect such contracts.

Acts 1967, 60th Leg., p. 1829, ch. 707, § 2 adoption of amendment to Const. art. 7, amended Vernon's Ann.Civ.St. art. 2669; § 11a proposed by Acts 1967, 60th Leg., sections 3 and 4 thereof amended Vernon's H.J.R. No. 20, p. 2987. Ann.Civ.St. art. 2591a conditioned on the

Art. 3.40—1. Investments in Income Producing Real Estate

Section 1. Notwithstanding any provision or limitation of Article 3.40 of this Code, any life insurance company organized under the laws of this state may invest any of its funds and accumulations in improved income producing real estate or any interest therein, and may hold, improve, maintain, manage, lease, sell or convey such property or interest therein, subject to the following terms, conditions and limitations:

(1) The term "improved income producing real estate" as used in this Article shall include all commercial and industrial real property, a substantial portion of which has been materially enhanced in value by the construction of durable, permanent-type buildings and other improvements costing an amount at least equal to the value of such real estate exclusive of buildings and improvements, as may be held or acquired by purchase or lease, or otherwise, for the production of income, excepting any agricultural, horticultural, farm and ranch property, residential property, single or multiunit family dwelling property, which is expressly excluded.

(2) The total amount invested by any such company in all such income producing property and improvements thereof shall not exceed seven and one-half per centum of its admitted assets, provided, however, that the amount invested in any one such property and its improvements shall not exceed three per centum of its admitted assets. The admitted assets of the company at any time shall be determined from its annual statement made as of the last preceding December 31 and filed with the State Board of Insurance as required by law. The value of any investment made under this Article shall be subject to Subdivision 1(c) of Article 3.40 of this Code.

(3) The investment authority granted by this Article 3.40—1 is in addition to and separate and apart from that granted by Article 3.40 of this

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Code, provided, however, that no such company shall make any investment in the properties described in this Article 3.40—1 which when added to those described in subdivision 1(a) of Article 3.40 of this Code would be in excess of the limitations provided by subdivision 1(b) of Article 3.40 of this Code.

Sec. 2. The property owned by such life insurance company pursuant to this Article shall not be classified as "Texas Securities".

Sec. 3. Nothing contained in this Article shall permit such a life insurance company to purchase undeveloped real estate for the purpose of development or subdivision.

Sec. 4. No life insurance company may invest more than one per centum of its admitted assets in income producing real estate in any one year during the first seven years after the effective date of this Act, provided, however, if a life insurance company invests less than one per centum of its admitted assets in income producing real estate during any one year such life insurance company may thereafter, at any time, invest the difference between the percentage of admitted assets invested and one per centum of admitted assets and such percentage shall be in addition to and cumulative of the amount of income producing real estate in which such life insurance company may invest in any particular year hereunder. Added by Acts 1967, 60th Leg., p. 1753, ch. 660, § 1, eff. Aug. 28, 1967.

SUBCHAPTER D. POLICIES AND BENEFICIARIES

Art. 3.49—3. Life Insurance and Annuity Contracts of a Spouse

A spouse shall have management, control and disposition of any contract of life insurance or annuity heretofore or hereafter issued in his or her name or to the extent provided by the contract or any assignment thereof without the joinder or consent of the other spouse.

Added by Acts 1967, 60th Leg., p. 740, ch. 309, § 4, eff. Jan. 1, 1968.

Article 3.49—3, Designation of trustee to receive proceeds of life insurance policies and taxation thereof, added by Acts 1967, 60th Leg., p. 1821, ch. 701, § 1, effective July 1, 1967, see article 3.49—3 post.

Art. 3.49—3. Designation of Trustee to Receive Proceeds of Life Insurance Policies and Taxation Thereof

Section 1. Life insurance may be made payable to a trustee to be named as beneficiary in the policy and the proceeds of such insurance shall be paid to such trustee and be held and disposed of by the trustee as provided in a trust agreement made by the insured during his lifetime. It shall not be necessary to the validity of any such trust agreement or declaration of trust that it have a trust corpus other than the right of the trustee to receive such insurance proceeds as beneficiary.

Sec. 2. A policy of life insurance may designate as beneficiary a trustee or trustees named by will, if the designation is made in accordance with the provisions of the policy and the requirements of the insurance company. Upon probate of the will the proceeds of such insurance shall be payable to the trustee or trustees to be held and disposed of under the terms of the will as they exist as of the date of the death of the testator and in the same manner as other testamentary trusts are administered; but if no qualified trustee makes claim to the proceeds from the insurance company within eighteen months after the death of the insured, or if satisfactory evidence is furnished to the insurance company within such eighteen month period showing that there is or will be no trustee to receive the proceeds, payment shall be made by the insurance company to the executors, administrators or assigns of the insured, unless otherwise pro-

vided by agreement with the insurance company during the lifetime of the insured.

Sec. 3. The proceeds of the insurance as received by the trustee or trustees shall not be subject to debts of the insured nor to inheritance tax to any greater extent than if such proceeds were payable to beneficiaries other than the executor or administrator of the estate of the insured.

Sec. 4. Such insurance proceeds so held in trust may be commingled with any other assets which may properly come into such trust.

Sec. 5. Nothing in this Act shall affect the validity of any life insurance policy beneficiary designation heretofore made naming trustees of trusts established by will.

Added by Acts 1967, 60th Leg., p. 1821, ch. 701, § 1, eff. July 1, 1967.

Article 3.49—3, Life insurance and annuity contracts of a spouse, added by Acts 1967, 60th Leg., p. 735, ch. 309, § 4, effective January 1, 1968, see article 3.49—3 ante.

Acts 1967, 60th Leg., p. 735, ch. 309, § 1, revised and amended chapters 2 and 3 of Title 76 of Vernon's Civil Statutes; sections 2 and 3 of the act amended Vernon's Ann.Civ.St. arts. 1064, 5518, 5519, 5535, 6632 and 6647; section 5 of the act amended Vernon's Ann.Civ.St. art. 5460; and sections 6-8, which repealed various articles of the civil statutes, validated certain acknowledgements of married women and provided an effective date, are set out as notes under Vernon's Ann.Civ.St. art. 4610.

Acts 1967, 60th Leg., p. 1821, ch. 701, §§ 2-4 provided:

"Sec. 2. Saving Clause. The repeal of any law by this Act shall not affect or impair any act done or obligation, right, license, permit or penalty accrued or existing under the authority of the law repealed; and such law shall be treated as still

remaining in force for the purpose of sustaining any proper action concerning any such obligation, right, license, permit or penalty. In addition, any permit or license obtained under any law repealed by this Act shall remain effective for the term and under the conditions prescribed by the repealed law under which the permit or license was granted or issued.

"Sec. 3. Severability. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, this invalidity shall not affect other provisions or applications of this Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared severable.

"Sec. 4. This Act shall be effective July 1, 1967."

SUBCHAPTER E. GROUP INDUSTRIAL AND CREDIT INSURANCE

Art. 3.50. Group Life Insurance

Section 1. Definitions.—No policy of group life insurance shall be delivered in this state unless it conforms to one of the following descriptions:

(1)

* * * * *

(d) The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the employees or by the employer or trustees. No policy may be issued which provides insurance on any employee which together with any other insurance under any group life insurance policies issued to the employer or to the trustees of a fund established by the employer exceeds Twenty Thousand Dollars (\$20,000.00), unless two hundred percent (200%) of the annual compensation of such employee from his employer or employers exceeds Twenty Thousand Dollars (\$20,000.00), in which event all such term insurance shall not exceed Fifty Thousand Dollars (\$50,000.00), or two hundred per cent (200%) of such annual compensation, whichever is the lesser, except that this limitation shall not apply to group insurance on other than the term plan where such insurance is to be used to fund the benefits under a pension plan and the amount of such insurance does not exceed that required to provide at normal retirement date the pension

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specified by the plan, and except that a group policy which is issued by the same or another carrier to replace another group policy may provide term insurance not to exceed the amounts provided by the policy which it replaces, or the amounts provided above, whichever are greater.

Sec. 1(1)(d) amended by Acts 1967, 60th Leg., p. 518, ch. 223, § 1, eff. Aug. 28, 1967.

* * * * *
(3)
* * * * *

(b) The premium for the policy may be paid in whole or in part from funds contributed by the insured employees, provided, however, that any moneys or credits received by or allowed to the policyholder pursuant to any participation agreement contained in or issued in connection with the policy shall be applied to the payment of future premiums and to the pro rata abatement of the insured employees contribution therefor; and provided further, that the employer may deduct from the employees salaries the employees contributions for the premiums when authorized in writing by the respective employees so to do. Such policy may be placed in force only if at least seventy-five percent (75%) of the eligible employees, excluding any as to whom evidence of individual insurability is not satisfactory to the insurer, elect to make the required premium contributions and become insured thereunder.

Sec. 1(3)(b) amended by Acts 1967, 60th Leg., p. 1007, ch. 437, § 1, eff. Aug. 28, 1967.

* * * * *
(5)
* * * * *

(d) The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the insured persons or by the policyholder or employer. No policy may be issued which provides term insurance on any person which together with any other term insurance under any group life insurance policy or policies issued to trustees or employers exceeds Twenty Thousand Dollars (\$20,000.00), unless two hundred percent (200%) of the annual compensation of such employee from his employer or employers exceeds Twenty Thousand Dollars (\$20,000.00), in which event all such term insurance shall not exceed Fifty Thousand Dollars (\$50,000.00), or two hundred percent (200%) of such annual compensation, whichever is the lesser.

Sec. 1(5)(d) amended by Acts 1967, 60th Leg., p. 519, ch. 223, § 2, eff. Aug. 28, 1967.

* * * * *
(6)
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(d) No policy may be issued on a wholesale, franchise or employee life insurance basis which, together with any other term life insurance policy or policies issued on a wholesale, franchise, employee life insurance or group basis, provides term life insurance coverage for an amount in excess of Twenty Thousand Dollars (\$20,000.00), unless two hundred percent (200%) of the annual compensation of such employee from his employer or employers exceeds Twenty Thousand Dollars (\$20,000.00), in which event all such term insurance shall not exceed Fifty Thousand Dollars (\$50,000.00), or two hundred percent (200%) of such annual compensation, whichever is the lesser. An individual application shall be taken for each such policy and the insurer shall be entitled to

rely upon the applicant's statements as to applicant's other similar coverage upon his life.

Sec. 1(6) (d) amended by Acts 1967, 60th Leg., p. 519, ch. 223, § 3, eff. Aug. 28, 1967.

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Section 2 of Acts 1967, 60th Leg., p. 1007, ch. 437 amended article 3.51, § 1(a).

Sections 4 and 5 of Acts 1967, 60th Leg., ch. 223 provided:

"Sec. 4. That all laws or parts of laws in conflict herewith are to that extent hereby repealed; and this Act shall prevail over any conflicting provisions of law.

"Sec. 5. That if any section, paragraph, sentence, clause or word of this Act is held to be unconstitutional, the remaining portion of the same, nevertheless, shall be valid; and the Legislature hereby declares that it would have enacted this Act without such unconstitutional portion."

Art. 3.51. Group Insurance for Employees of State and Its Subdivisions and College and School Employees

Section 1. (a) The State of Texas and each of its political, governmental and administrative subdivisions, departments, agencies, associations of public employees, and the governing boards and authorities of each state university, colleges, common and independent school districts or of any other agency or subdivision of the public school system of the State of Texas are authorized to procure contracts insuring their respective employees or any class or classes thereof under a policy or policies of group, health, accident, accidental death and dismemberment, disability income replacement and hospital, surgical and/or medical expense insurance. The dependents of any such employees may be insured under group policies which provide hospital, surgical and/or medical expense insurance. The employees contributions to the premiums for such insurance issued to the employer or to an association of public employees as the policy holder may be deducted by the employer from the employees salaries when authorized in writing by the respective employees so to do. The premium for the policy may be paid in whole or in part from funds contributed by the employer or in whole or in part from funds contributed by the insured employees.

Sec. 1(a) amended by Acts 1967, 60th Leg., p. 1007, ch. 437, § 2, eff. Aug. 28, 1967.

(b) Independent School Districts procuring policies insuring their employees under this Section may pay all or any portion of the premiums on such policies from the local funds of such Independent School District, but in no event shall any part of such premiums be paid from funds paid such districts by the State of Texas.

Sec. 1(b) amended by Acts 1967, 60th Leg., p. 239, ch. 126, § 1, eff. Aug. 28, 1967.

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Section 1 of Acts 1967, 60th Leg., p. 1007, ch. 437, amended article 3.50, § 1(3) (b).

Art. 3.51—2. County and Political Subdivision of a County—Officials and Employees

(a) Each county or political subdivision of a county of the State of Texas is authorized to procure contracts insuring its officials and employees or any class or classes thereof under a policy or policies of group life, group health, accident, accidental death and dismemberment, and hospital, surgical, and/or medical expense insurance. The dependents of any such officials and employees may be insured under group policies which provide hospital, surgical and/or medical expense insurance. The employees' contributions to the premiums for such insurance issued to the employer as the policyholder may be deducted by the employer from the employees' salaries when authorized in writing by the respective employees so to do; provided, however, no state funds shall be used to pro-

For Annotations and Historical Notes, see V.A.T.S.

cure such contracts, nor shall any state funds be used to pay premiums under said contracts of insurance.

(b) Any county or political subdivision of a county of the State of Texas which is authorized by law to procure a contract insuring its respective officials and employees or any class or classes thereof under a policy or policies of group insurance covering one or more risks may pay all or any portion of the premiums on such policy or policies from the local funds of such county or political subdivision of a county of the State of Texas; provided that the amount of group life insurance on any official or employee shall not exceed \$10,000.

Added by Acts 1967, 60th Leg., p. 1090, ch. 479, § 1, eff. Aug. 28, 1967.

Art. 3.51—3. Issuance of Group Insurance Policies to Associations of Teachers and School Administrators

Any voluntary association of school administrators and/or teachers in public and/or private schools, colleges or universities, which association is organized on a non-profit membership basis and is incorporated under the laws of the United States or of this state, is hereby authorized to procure contracts of insurance covering any class or classes of its membership and their dependents under a policy or policies of group life, health, accident, accidental death or dismemberment, and hospital, surgical and/or medical expense insurance; and any insurance company authorized to do business in this state is hereby authorized to issue such policies to any such association under the terms and conditions set out in this Act, any contrary or inconsistent provisions in any other statute notwithstanding. Separate policies may be obtained for one or more of the aforementioned risks, and the association shall be deemed the policyholder. The premium for the policy shall be paid by the policyholder either wholly or partly from the association's funds, or partly from such funds and partly from funds contributed by insured members, or from funds wholly contributed by the insured members. The policy must cover at least twenty-five members at date of issue, and if any part or all of the premiums are to be derived from funds contributed by the insured members specifically for their insurance, the policy may be placed in force only if at least seventy-five per centum (75%) of the then eligible members or a minimum of four hundred members (whichever is less, and excluding any as to whom evidence of individual insurability is not satisfactory to the insurer) elect to make the required contributions and become insured thereunder. The amounts of insurance under the policy must be based on some plan precluding individual selection either by the insured members or by the association.

Acts 1967, 60th Leg., p. 224, ch. 123, § 1, eff. Aug. 28, 1967.

Article 3.51—3 was not enacted as part of the Insurance Code of 1951.

Title of Act:

An Act authorizing issuance to certain associations of teachers or school administrators of group insurance policies covering any class or classes of their members and members' dependents for one or more of the risks herein enumerated; providing

that such policies may be issued to any such association as the policyholder upon the terms and conditions set out in this Act, notwithstanding contrary or inconsistent provisions in any other Act contained; and declaring an emergency. Acts 1967, 60th Leg., p. 224, ch. 123.

SUBCHAPTER G. ACCIDENT AND SICKNESS INSURANCE

Art. 3.70—2. Form of Policy; Designation of Practitioners of the Healing Arts

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(B) No policy of accident and sickness insurance shall make benefits contingent upon treatment or examination by a particular practitioner or

by particular practitioners of the healing arts hereinafter designated unless such policy contains a provision designating the practitioner or practitioners who will be recognized by the insurer and those who will not be recognized by the insurer. Such provision may be located in the "Exceptions" or "Exceptions and Reductions" provisions, or elsewhere in the policy, or by endorsement attached to the policy, at the insurer's option. In designating the practitioners who will and will not be recognized, such provision shall use the following terms: Doctor of Medicine, Doctor of Osteopathy, Doctor of Dentistry, Doctor of Chiropractic, Doctor of Optometry, Doctor of Podiatry. For purposes of this Act, such designations shall have the following meanings:

Doctor of Medicine: One licensed by the Texas State Board of Medical Examiners on the basis of the degree "Doctor of Medicine";

Doctor of Osteopathy: One licensed by the Texas State Board of Medical Examiners on the basis of the degree of "Doctor of Osteopathy";

Doctor of Dentistry: One licensed by the State Board of Dental Examiners;

Doctor of Chiropractic: One licensed by the Texas Board of Chiropractic Examiners;

Doctor of Optometry: One licensed by the Texas State Board of Examiners in Optometry; and

Doctor of Podiatry: One licensed by the State Board of Chiropody Examiners.

Subsec. B added by Acts 1967, 60th Leg., p. 57, ch. 32, § 1, eff. Jan. 1, 1968.

Section 2 of the amendatory act of 1967 amended article 3.70—3; sections 3-5 thereof provided:

"Sec. 3. This Act shall take effect January 1, 1968, and shall apply to all accident and sickness policies issued and delivered in the State of Texas or issued for delivery in the State of Texas after such date, but shall not apply to any policies issued and delivered in the State of Texas or issued for delivery in the State of Texas prior to such date. With respect to any policy forms approved by the State Board of Insurance prior to the effective date hereof, an insurer is authorized to achieve compliance with this Act by the use of endorsements or

riders, provided such endorsements or riders are approved by the State Board of Insurance as being in compliance with this Act.

"Sec. 4. All laws, or parts of laws, in conflict with the provisions of this Act are hereby repealed to the extent of the conflict only.

"Sec. 5. If any Section, paragraph or provision of this Act be declared unconstitutional or invalid for any reason, such holding shall not in any manner affect the remaining Sections, paragraphs or provisions of this Act, but the same shall remain in full force and effect."

Art. 3.70—8. Non-application to Certain Policies

Nothing in this Act shall apply to or affect (1) any policy of workmen's compensation insurance or any policy of liability insurance with or without supplementary expense coverage therein; or (2) any policy or contract of reinsurance; or (3) any blanket or group policy of insurance except as provided in Section 2, Subsection B; or (4) life insurance, endowment or annuity contracts, or contracts supplemental thereto which contain only such provisions relating to accident and sickness insurance as (a) provide additional benefits in case of death or dismemberment or loss of sight by accident, or as (b) operate to safeguard such contracts against lapse, or to give a special surrender value or special benefit or an annuity in the event that the insured or annuitant shall become totally and permanently disabled, as defined by the contract or supplemental contract, or (5) any policy written under the provisions of Senate Bill No. 208, Acts of the 51st Legislature, 1949.¹

Amended by Acts 1967, 60th Leg., p. 57, ch. 32, § 2, eff. Jan. 1, 1968.

¹ Article 3.53.

Section 1 of the amendatory act of 1967 amended article 3.70—2; sections 3-5 thereof provided an effective date, made the act inapplicable to certain policies, repealed

conflicting laws, provided a severability clause, and are set out as a note under art. 3.70—2.

Art. 3.72. Variable Annuity Contracts

Section 1. Variable Annuity Contracts Defined.—When used in this article the term “variable annuity contract” shall mean any annuity contract issued by an insurance company providing for the dollar amount of annuity benefits or other contractual payments or values thereunder to vary so as to reflect investment results of any segregated portfolio of investments or of a designated separate account in which amounts received in connection with such contracts shall have been placed and accounted for separately and apart from other investments and accounts; provided, however, that “variable annuity contracts,” issued under this Article 3.72 shall not be deemed to be a “security” or “securities” as defined in The Security Act (Acts 1957, 55th Legislature, page 575, Chapter 269)¹ nor subject to regulation under said Act.

¹ Vernon's Ann.Civ.St. art. 581—1 et seq.

Sec. 2. Qualification of Insurers.—No domestic insurance company shall issue, deliver or use any variable annuity contract and no foreign insurance company authorized to transact business in this state shall issue, deliver or sell any variable annuity contract in this state unless and until such company shall have satisfied the State Board of Insurance that its financial and general condition and its methods of operation, including the issue and sale of variable annuity contracts, are not and will not be hazardous to the public or to its policy and contract owners in this state. No foreign insurance company shall issue, deliver or sell any variable annuity contract in this state unless authorized to do so by the laws of its domicile. In determining the qualifications of a company requesting authority to issue, deliver or use variable annuity contracts pursuant to this article the State Board of Insurance shall consider the history of the company, its financial and general condition, the character, responsibility and general fitness and ability of its officers and directors, and the regulation of a foreign company by the state of its domicile. It is specifically provided that an insurer shall not qualify for authority to issue, deliver, or use variable annuity contracts in this State unless at the time of such issuance, delivery, or use it shall have at least the minimum capital and surplus, or in the case of a mutual insurer, the minimum free surplus, which would at such time be required by law for the incorporation of such a domestic insurer or the licensing in Texas of such a foreign insurer. If after notice and hearing the State Board of Insurance shall find that the company is qualified to issue, deliver and use variable annuity contracts in accordance with this article and the regulations and rules issued thereunder, it shall issue its official order of authorization, otherwise it shall issue its official order denying such authority and the request therefor and specifying the grounds for such denial.

Sec. 3. Contracts Shall Contain Certain Provisions.—(a) Every variable annuity contract delivered or issued for delivery in this state, and every certificate evidencing variable benefits issued pursuant to any such contract on a group basis, shall contain a statement of the essential features of the procedure to be followed by the issuing company in determining the dollar amount of the variable annuity benefits or other contractual payments or values thereunder and shall state in clear terms that such amounts may decrease or increase according to such procedure. Every such contract delivered or issued for delivery in this state, and every such certificate, shall contain on its first page, in a prominent position, a clear statement that the benefits or other contractual payments or values thereunder are on a variable basis.

(b) Every individual variable annuity contract delivered or issued for delivery in this state shall stipulate the method of determining the variations in the dollar amount of variable annuity benefits or other contractual payments or values thereunder due to variations in investment experience, and shall guarantee that the expense and mortality results shall not ad-

versely affect such dollar amounts. The first annuity payment to be made pursuant to such method shall not be in an amount in excess of the amount produced by the use of the Progressive Annuity Mortality Table or any other Annuity Mortality Table approved by the State Board of Insurance, and an annual interest assumption of three and one half percent (3½%).

(c) Every individual variable annuity contract delivered or issued for delivery in this state shall contain in substance the following provisions or other provisions more favorable or at least as favorable to the contract owner and approved by the State Board of Insurance:

(i) That, in the event of default in the payment of any consideration beyond the period of grace allowed by the contract for the payment thereof, the company will make payment of the value of the contract, as determined thereunder, in accordance with a plan provided by the contract or agreed upon by the contract owner and the company, such payments to commence not later than the date contractual payments were otherwise to have commenced in accordance with the contract;

(ii) That, upon written request of the contract owner and surrender of the contract the company will make payment of the value of the contract, as determined thereunder, in accordance with a plan provided by the contract and selected by the contract owner or as agreed upon by the contract owner and the company;

(iii) That, the company will mail to the contract owner not less than semiannually after the first contract year a report in a form approved by the State Board of Insurance which shall include a statement of the number of units of uniform value credited to such contract and the dollar value of each such unit as of a date not more than four (4) months previous to the date of mailing, and a statement in a form and as of a date approved by the State Board of Insurance of the investments held in the segregated portfolio or portfolios of investments or separate account or accounts designated in such contract.

(d) Every group variable annuity contract delivered or issued for delivery in this state shall stipulate the method of determining the variations in the dollar amount payable with respect to a unit of variable annuity benefits purchased thereunder due to variations in investment experience, and shall guarantee that expense and mortality results shall not adversely affect such dollar amounts.

Sec. 4. Optional Fixed Dollar Benefits and Payments.—Any domestic insurance company issuing variable annuity contracts pursuant to this article may in its discretion, but need not, issue annuity contracts providing a combination of fixed dollar amount and variable dollar amount benefits and for optional lump-sum payment of benefits.

Sec. 5. Filing and Approval Requirements.—Every variable annuity contract form delivered or issued for delivery in this state, and every certificate form evidencing variable benefits issued pursuant to any such contract on a group basis, and the application, rider and endorsement forms applicable thereto and used in connection therewith, shall be and are hereby expressly made subject to the filing and approval requirements of Article 3.42 of this Insurance Code and any and all amendments thereof.

Sec. 6. Certain Illustrations Prohibited.—Illustration of benefits payable under any variable annuity contract shall not include or involve projections of past investment experience into the future and shall conform with reasonable regulations promulgated by the State Board of Insurance.

Sec. 7. Separate Accounts and Operation of Same.—Every insurance company authorized pursuant to this article to issue, deliver or use variable annuity contracts shall, in connection with same, establish one or more separate accounts to be known as separate variable annuity accounts. All amounts received by the company in connection with any such contract which are required by the terms thereof to be allocated or applied to one

or more designated separate variable annuity accounts shall be placed in such designated account or accounts. The assets and liabilities of each such separate variable annuity account shall at all times be clearly identifiable and distinguishable from the assets and liabilities in all other accounts of the company. The assets held in any such separate variable annuity account shall not be chargeable with liabilities arising out of any other business the company may conduct but shall be held and applied exclusively for the benefit of the owners or beneficiaries of the variable annuity contracts applicable thereto. In the event of the insolvency of the company the assets of each such separate variable annuity account shall be applied to the contractual claims of the owners or beneficiaries of the variable annuity contracts applicable thereto. Except as otherwise specifically provided by the contract, no sale, transfer or exchange of assets may be made between any such separate variable annuity account and any other account of the company, and no asset of a separate variable annuity account shall be pledged, transferred or in any manner encumbered as collateral for a loan. All amounts and assets allocated to any such separate variable annuity account shall be owned by the company and with respect to same the company shall not be nor hold itself out to be a trustee.

Sec. 8. Investment of Separate Account Funds.—Any domestic insurance company which has established one or more separate variable annuity accounts pursuant to this article may invest and reinvest all or any part of the assets allocated to any such account in and only in the securities and investments authorized by Article 3.39 of this Insurance Code for any of the funds of a domestic life insurance company, free and clear of any and all limitations and restrictions in such Article 3.39, and in addition thereto in common capital stocks or other equities which are listed on or admitted to trading in a securities exchange located in the United States of America, or which are publicly held and traded in the "over-the-counter market" as defined by the State Board of Insurance and as to which market quotations have been available. None of the assets allocated to any such variable annuity account shall be invested in common stocks of corporations which shall have defaulted in the payment of any debt within five years next preceding such investment. No such company shall invest in excess of the greater of (a) Twenty-Five Thousand Dollars (\$25,000) or (b) five per cent (5%) of the assets of any such separate variable annuity account in any one corporation issuing such common capital stock. The assets and investments of such separate variable annuity accounts shall not be taken into account in applying the quantitative investment limitations applicable to other investments of the company. In the purchase of common capital stock or other equities, the insurer shall designate to the broker, or to the seller if the purchase is not made through a broker, the specific variable annuity account for which the investment is made.

Sec. 9. Valuation of Assets.—Assets allocated to any separate variable annuity account shall be valued at their market value on the date of any valuation, or if there is no readily available market then in accordance with the terms of the variable annuity contract applicable to such assets, or if there are no such contract terms then in such manner as may be prescribed by reasonable rules and regulations of the State Board of Insurance.

Sec. 10. Reserve Liability.—The reserve liability for variable annuity contracts shall be established by the State Board of Insurance pursuant to the requirements of the Standard Valuation Law as contained in this Insurance Code, and in accordance with actuarial procedures that recognize the variable nature of the benefits provided.

Sec. 11. Separate Annual Statements.—Every insurance company authorized pursuant to this article to issue, deliver or use variable annuity contracts shall annually file with the State Board of Insurance a separate

annual statement of its separate variable annuity accounts. Such statement shall be on a form prescribed or approved by the State Board of Insurance and shall include details as to all of the income, disbursements, assets and liability items of and associated with the said separate variable annuity accounts. Said statement shall be under oath of two officers of the company and shall be filed simultaneously with the annual statement required by Article 3.07 and Article 11.06 of this Insurance Code.

Sec. 12. Amendment of Domestic Company Charters.—Every domestic insurance company authorized pursuant to this article to issue variable annuity contracts and establish separate variable annuity accounts may amend its charter to provide for special voting rights and procedures for the owners of its variable annuity contracts to give them jurisdiction over matters relating to investment policies, investment advisory services and the selection of certified public accountants in relation to the administration of the assets in such separate variable annuity accounts, and in order to comply with the Investment Company Act of 1940 of the United States and such other requirements of federal law as shall be applicable to such separate variable annuity accounts.

Sec. 13. Variable Annuity Agents' Licenses.—Notwithstanding any other law of this State, no person shall, within this State, sell or offer for sale a variable annuity contract, or do or perform any act or thing in the sale, negotiation, making or consummating of any variable annuity contract other than for himself unless such person shall have a valid and current certificate from the State Board of Insurance authorizing such person to act within this State as a variable annuity insurance agent. No such certificate shall be issued unless and until the said Board is satisfied, after examination, that such person is by training, knowledge, ability and character qualified to act as such agent. Any such certificate may be withdrawn and cancelled by said Board, after notice and hearing, if it shall find that the holder thereof does not then have the qualifications required for issue of such certificate.

Sec. 14. Issuance of Variable Annuity Contracts by Nonprofit Corporations not Domiciled in Texas.—An insurance company, including a corporation regulated by the insurance regulatory authority of its state of domicile, which is a nonprofit corporation, is hereby authorized to issue and deliver variable annuity contracts in this State pursuant to a license issued by the State Board of Insurance under such rules and regulations as may be promulgated from time to time by the State Board of Insurance. Any such company not domiciled in Texas must be authorized to issue and deliver variable annuity contracts under the law of its domicile. Variable annuity contracts issued and delivered in this State by such companies shall comply with the preceding and following sections hereof except that such variable annuity contracts may provide for payments which vary directly according to investment, mortality and expense experience. The State Board of Insurance shall pursuant to rules and regulations promulgated by it determine that the expenses of such company are not unfair, unjust, unreasonable or inequitable to the holders of such variable annuity contracts and approve the method of arriving at mortality and expense assumptions and the method of establishing reserve liability. No such company shall be authorized to issue any annuity or insurance contract other than the type of variable annuity contract authorized to be issued and delivered by this Act.

Sec. 15. Rules and Regulations.—The State Board of Insurance is authorized and directed to issue such reasonable rules and regulations as may be necessary to carry out the various purposes and provisions of this article, and in augmentation thereof.

Sec. 16. Provisions Cumulative and Conflicting Laws Repealed.—This article is cumulative of and in addition to the authority granted by any other law of this State relating to separate accounts for insurance

For Annotations and Historical Notes, see V.A.T.S.

companies or to annuity contracts on a variable basis, and shall not be deemed to repeal or affect the provisions of Part III of Article 3.39 of this Code dealing with the group variable annuity contracts referred to in such article, or to affect such contracts, and all other laws and parts of laws in conflict with this Act are hereby repealed to the extent only of such conflict.

Added by Acts 1967, 60th Leg., p. 461, ch. 210, § 1, eff. Aug. 28, 1967.

Acts 1967, 60th Leg., p. 465, ch. 210, § 2 provided: "If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applica-

tions of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable."

CHAPTER FIVE—RATING AND POLICY FORMS

SUBCHAPTER A. MOTOR VEHICLE OR AUTOMOBILE INSURANCE

Art.
5.06—1. Uninsured Motorist Coverage Required; Insolvency Protection; Right of Rejection [New].

SUBCHAPTER C. FIRE INSURANCE AND ALLIED LINES

Art.
5.25—2. City Fire Loss Lists [New].

SUBCHAPTER A. MOTOR VEHICLE OR AUTOMOBILE INSURANCE

Art. 5.06—1. Uninsured Motorist Coverage Required; Insolvency Protection; Right of Rejection

(1) No automobile liability insurance (including insurance issued pursuant to an Assigned Risk Plan established under authority of Section 35 of the Texas Motor Vehicle Safety-Responsibility Act),¹ covering liability arising out of the ownership, maintenance, or use of any motor vehicle shall be delivered or issued for delivery in this state unless coverage is provided therein or supplemental thereto, in the limits described in the Texas Motor Vehicle Safety-Responsibility Act, under provisions prescribed by the Board, for the protection of persons insured thereunder who are legally entitled to recover damages from owners or operators of uninsured motor vehicles because of bodily injury, sickness or disease, including death, resulting therefrom. The coverage required under this Article shall not be applicable where any insured named in the policy shall reject the coverage; and provided further, that unless the named insured requests such coverage in writing, such coverage need not be provided in or supplemental to a renewal policy where the named insured has rejected the coverage in connection with a policy previously issued to him by the same insurer.

(2) For the purpose of this coverage, the term "uninsured motor vehicle" shall, subject to the terms and conditions of such coverage, be deemed to include an insured motor vehicle where the liability insurer thereof is unable to make payment with respect to the legal liability of its insured within the limits specified therein because of insolvency. The State Board of Insurance is hereby authorized to promulgate the forms of the uninsured motorist coverage. The Board may also, in such forms, define "uninsured motor vehicle" to exclude certain motor vehicles whose operators are in fact uninsured.

(3) In the event of payment to any person under the coverage required by this Section and subject to the terms and conditions of such coverage, the insurer making such payment shall, to the extent thereof, be entitled to the proceeds of any settlement or judgment resulting from the exercise of any rights of recovery of such person against any person or organization legally responsible for the bodily injury, sickness or disease, or death for which such payment is made, including the proceeds

¹ Tex.St.Supp. 1968—35

recoverable from the assets of the insolvent insurer; provided, however, whenever an insurer shall make payment under a policy of insurance issued pursuant to this Act, which payment is occasioned by the insolvency of an insurer, the insured of said insolvent insurer shall be given credit in any judgment obtained against him, with respect to his legal liability for such damages, to the extent of such payment, but such paying insurer shall have the right to proceed directly against the insolvent insurer or its receiver, and in pursuance of such right such paying insurer shall possess any rights which the insured of the insolvent company might otherwise have had if the insured of the insolvent insurer had made the payment.

Added by Acts 1967, 60th Leg., p. 448, ch. 202, § 1, eff. Oct. 1, 1967.

¹ Vernon's Ann.Civ.St. art. 6701h, § 35.

Acts 1967, 60th Leg., p. 449, ch. 202, § 2 provides: "This Act shall become effective at 12:01 a. m. on October 1, 1967."

SUBCHAPTER C. FIRE INSURANCE AND ALLIED LINES

Art. 5.25—2. City Fire Loss Lists

Section 1. In this article,

(1) "list" means the list of fire and lightning losses in excess of \$100 paid under the Texas Standard Policy in a particular city or town prepared by the State Board of Insurance for distribution to the city or town;

(2) "board" means the State Board of Insurance.

Sec. 2. (a) The board shall compile for each city or town in Texas a list of the insured fire losses paid under the Texas Standard Policy in that city or town for the preceding statistical year.

(b) The list shall include

(1) the names of persons recovering losses under Texas Standard Policies;

(2) the addresses or locations where the losses occurred;

(3) the amount paid by the insurance company on each loss.

(c) The board shall obtain the information to make the lists from insurance company reports of individual losses during the statistical year.

Sec. 3. Upon the request of any city or town, or its duly authorized agent or fire marshal, the board shall provide that city and town with a copy of the list for its particular area.

Sec. 4. Each city or town shall investigate its list to determine the losses actually occurring in its limits and shall make a report to the board which report shall include

(1) a list of the losses that actually occurred in the limits of the city or town;

(2) a list of any losses not occurring in the limits of the city or town; and

(3) other evidence essential to establishing the losses in the city or town.

Sec. 5. The board shall make such changes or corrections as to it shall seem appropriate in order to correct the list of insured fire and lightning losses paid under the Texas Standard Policy in a particular city or town and said list of losses, as changed or corrected, shall be used to determine the fire record credit or debit for each particular city or town for the next year.

Sec. 6. The board shall set and collect a charge for compiling and providing a list of fire and lightning losses paid under the Texas Standard Policy in a particular city or town and as the board shall deem appropriate to administer the fire record system.

For Annotations and Historical Notes, see V.A.T.S.

Sec. 7. The board is authorized to require each and every city or town in the State of Texas and each and every insurance company or carrier of every type and character whatsoever doing business in the State of Texas to furnish to it a complete and accurate list of all fire and lightning losses occurring within the State of Texas and reflected in their records for the purpose of accumulating statistical information for the control and prevention of fires.

Sec. 8. The board may, at its discretion, furnish such list only during such time as the fire record system remains in force and effect. Added by Acts 1967, 60th Leg., p. 2063, ch. 765, § 1, eff. Aug. 28, 1967.

Acts 1967, 60th Leg., p. 2063, ch. 765, § 2 conflict with the provisions of this Act are provided: "All laws and parts of laws in hereby repealed."

CHAPTER SIX—FIRE AND MARINE COMPANIES

Art. 6.16. Reinsurance

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3. No credit for the reserve for unearned premium liability on such reinsurance shall be taken by the ceding insurer unless the assuming insurer is licensed to do business in this State, except that a ceding insurer domiciled in Texas may reinsure the whole or any part of risk or risks located without the State of Texas, the assuming insurer to be a solvent insurer duly licensed in the State or district where such reinsured risk or risks be located; but provided further that credit for reserves for unearned premium liability and loss reserves may be taken on such reinsurance if the assuming insurer is a group of alien individual unincorporated insurers writing insurance on the so-called Lloyd's plan, and is licensed to do business in a state of the United States and does maintain funds held in trust for the protection of United States policy holders and beneficiaries in a bank or trust company organized under the laws of the United States of America or any state thereof which is a member of the Federal Reserve System and such trust funds amount to at least \$50,000,000, invested in such assets as are enumerated under Article 2.08 of the Texas Insurance Code.

Sec. 3 amended by Acts 1967, 60th Leg., p. 278, ch. 130, § 1, emerg. eff. May 5, 1967.

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CHAPTER NINE—TEXAS TITLE INSURANCE ACT

Art.	Art.
9.01 Short Title.	9.13 Fees.
9.02 Definitions.	9.14 Charter and Amendments.
9.03 May Incorporate.	9.15 Certificate of Authority.
9.04 Governed by Other Laws.	9.16 Reserves.
9.05 Transfer and Assignment of Fiduciary Business to State Banks or Trust Companies.	9.17 Reserve for Unpaid Losses and Loss Expenses.
9.06 Capital Stock and Surplus Required.	9.18 Admissible Investments for Title Insurance Companies.
9.07 Policy Forms and Premiums.	9.19 Maximum Liability.
9.08 Prohibiting Guarantee of Payment of Obligations of Others—and Insuring Around.	9.20 Capital Stock and Minimum Surplus Impairment.
9.09 Prohibiting Transacting of Other Kinds of Insurance by Title Insurance Companies or The Transacting of Title Insurance by Other Types of Insurance Companies.	9.21 Authority of Board of Insurance of The State of Texas.
9.10 Foreign Corporations.	9.22 Annual Statement of Title Insurance Companies; Examination.
9.11 Revocation of License.	9.23 Regulating of Names.
9.12 Deposits.	9.24 Foreign Corporations; Permits.
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Chapter 9, Texas Insurance Code, relating to title insurance companies, was amended and revised by Acts 1967, 60th Leg., p. 490, ch. 219, § 1, effective October 1, 1967.

Art. 9.01. Short Title

This Act shall be known and may be cited as the "Texas Title Insurance Act."

Acts 1967, 60th Leg., p. 490, ch. 219, § 1, eff. Oct. 1, 1967.

Acts 1967, 60th Leg., p. 490, ch. 219, which amended and revised Chapter 9 of the Texas Insurance Code in section 1 thereof, provides in sections 2 and 3:

"Sec. 2. Severability Provision. If any part, section, subsection, paragraph, sentence, clause, phrase, or word contained in this Act shall be held by the courts to be

unconstitutional, such holding shall not affect the validity of the remaining portions of the Act, and the Legislature hereby declares that it would have passed such remaining portions despite such invalidity.

"Sec. 3. Effective Date. This Act shall become effective on October 1, 1967."

Art. 9.02. Definitions

(a) "Title Insurance" means insuring, guaranteeing or indemnifying owners of real property or others interested therein against loss or damage suffered by reason of liens, encumbrances upon, or defects in the title to said property, and the invalidity of liens thereon, or doing any business in substance equivalent to any of the foregoing in a manner designed to evade the provisions of this Act.

(b) The "business of title insurance" shall be deemed to be (1) the making as insurer, guarantor or surety, or proposing to make as insurer, guarantor or surety, of any contract or policy of title insurance; (2) the transacting or proposing to transact, any phase of title insurance, including solicitation, negotiation preliminary to execution, execution of a contract of title insurance, insuring and transacting matters subsequent to the execution of the contract and arising out of it, including reinsurance; or (3) the doing, or proposing to do, any business in substance equivalent to any of the foregoing in a manner designed to evade the provisions of this Act.

(c) "Title Insurance Company" means any domestic company organized under the provisions of this Act for the purpose of insuring titles to real property, any title insurance company organized under the laws of another state or foreign government meeting the requirements of this Act and holding a certificate of authority to transact business in Texas and any domestic or foreign company having the power and authority to insure titles to real estate within this state and which meet the requirements of this Act.

(d) "Commissioner" means the Commissioner of Insurance of the State of Texas.

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(e) "Board" means the State Board of Insurance of the State of Texas.

(f) "Title Insurance Agent" means a person, firm, association, or corporation owning or leasing and controlling an abstract plant as defined by the Board, or as a participant in a bona fide joint abstract plant operation as defined by the Board, and authorized in writing by a title insurance company to solicit insurance and collect premiums and to issue or countersign policies in its behalf.

(g) "Escrow Officer" means an officer or employee of a title insurance agent whose duties include any or all of the following: (1) countersigning title insurance policies, commitments and binders; or (2) supervising the preparation and delivery of title insurance policies, commitments and binders; or (3) receiving, handling, or disbursing escrow funds; provided that no clerical employees who perform any of the above duties under the direction and control of an escrow officer shall be included in this definition.

(h) "Foreign Title Insurance Company" means a title insurance company organized under the laws of any jurisdiction other than the State of Texas.

(i) "Abstract plant" as used herein shall mean a geographical abstract plant such as is defined by the Board from time to time and the Board, in defining an abstract plant, shall require a geographically arranged plant, currently kept to date, that in its opinion will be adequate for use in insuring titles, keeping in mind the safety and protection of the policyholders.

Acts 1967, 60th Leg., p. 490, ch. 219, § 1, eff. Oct. 1, 1967.

Art. 9.03. May Incorporate

Private corporations may be created for the following named purposes:

(1) To compile and own, or to acquire and own, records or abstracts of title to lands and interests in land; and to insure titles to lands or interests therein, both in Texas and other states of the United States, and indemnify the owners of such lands, or the holders of interests in or liens on such lands, against loss or damage on account of incumbrances upon or defects in the title to such lands or interests therein; and in transactions in which title insurance is to be or is being issued, to supervise or approve the signing of legal instruments (but not the preparation of such instruments) affecting land titles, disbursement of funds, prorations, delivery of legal instruments, closing of deals, issuance of commitments for title insurance specifying the requirements for title insurance and the defects in title necessary to be cured or corrected; provided, however, that nothing herein contained shall authorize such corporation to practice law, as that term is defined by the courts of this state, and in the event of any conflict herein, this clause shall be controlling.

Such corporations may also exercise the following powers by including same in the charter when filed originally, or by amendment:

(2) To make and sell abstracts of title in any counties of Texas or other states;

(3) To accumulate and lend money, to purchase, sell or deal in notes, bonds, and securities, but without banking privileges;

(4) To act as trustee under any lawful trust committed to it by contract or will, appointment by any court having jurisdiction of the subject matter as trustee, receiver or guardian and as executor or guardian under the terms of any will and as any administrator of the estates of decedents under the appointment of the court.

Acts 1967, 60th Leg., p. 491, ch. 219, § 1, eff. Oct. 1, 1967.

Art. 9.04. Governed by Other Laws

The laws governing corporations in general shall apply to and govern title insurance companies insofar as same are not inconsistent with the provisions of this Act.

Acts 1967, 60th Leg., p. 492, ch. 219, § 1, eff. Oct. 1, 1967.

Art. 9.05. Transfer and Assignment of Fiduciary Business to State Banks or Trust Companies

Section 1. Any corporation heretofore chartered under the provisions of Article 9.03 of this Act, or its antecedents, Article 9.01, Texas Insurance Code, or Chapter 40, Acts, 41st Legislature, 1929 (codified as Article 1302a, Vernon's Texas Civil Statutes), having as one of its powers "to act as trustee under any lawful trust committed to it by contract or will, appointment by any court having jurisdiction of the subject matter, as trustee, receiver or guardian and as executor or guardian under the terms of any will and as any administrator of the estates of decedents under the appointment of the court" may transfer and assign to a state bank or trust company created under the provisions of the Texas Banking Code of 1943, as amended, all of its fiduciary business in which such corporation is named or acting as guardian, trustee, executor, administrator or in any other fiduciary capacity, whereupon said state bank or trust company shall, without the necessity of any judicial action in the courts of the State of Texas or any action by the creator or beneficiary of such trust or estate, continue the guardianship, trusteeship, executorship, administration or other fiduciary relationship, and perform all of the duties and obligations of such corporation, and exercise all of the powers and authority relative thereto now being exercised by such corporation, and provided further that the transfer or assignment by such corporation of such fiduciary business being conducted by it under the powers granted in its original charter, as amended, shall not constitute or be deemed a resignation or refusal to act upon the part of such corporation as to any such guardianship, trust, executorship, administration, or any other fiduciary capacity; and provided further that the naming or designation by a testator or the creator of a living trust of such corporation to act as trustee, guardian, executor, or in any other fiduciary capacity, shall be considered the naming or designation of the state bank or trust company and authorizing such state bank or trust company to act in said fiduciary capacity. All transfers and assignments of fiduciary business by such corporations to a state bank or trust company consistent with the provisions of this Act are hereby validated.

Sec. 2. The power and authority of such corporation to transfer and assign its fiduciary business to a state bank or trust company as provided in Section 1 hereof shall expire on April 30, 1962.

Acts 1967, 60th Leg., p. 492, ch. 219, § 1, eff. Oct. 1, 1967.

Art. 9.06. Capital Stock and Surplus Required

All title insurance companies created and operating under the provisions of this Act must have a paid up capital of not less than Two Hundred Fifty Thousand Dollars (\$250,000) and a surplus of not less than One Hundred Thousand Dollars (\$100,000), provided, however, that the minimum unimpaired capital and surplus for a corporation which was authorized to transact title insurance business on the effective date of this Act and which on that date had an unimpaired capital of less than Two Hundred Fifty Thousand Dollars (\$250,000) and a surplus of less than One Hundred Thousand Dollars (\$100,000) shall be as follows:

(a) One Hundred Thousand Dollars (\$100,000) capital until July 1, 1968 (no requirement as to minimum surplus during this period);

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(b) From July 1, 1968, to July 1, 1969, One Hundred Thirty Thousand Dollars (\$130,000) capital and Twenty Thousand Dollars (\$20,000) surplus;

(c) From July 1, 1969, to July 1, 1970, One Hundred Sixty Thousand Dollars (\$160,000) capital and Forty Thousand Dollars (\$40,000) surplus;

(d) From July 1, 1970, to July 1, 1971, One Hundred Ninety Thousand Dollars (\$190,000) capital and Sixty Thousand Dollars (\$60,000) surplus;

(e) From July 1, 1971, to July 1, 1972, Two Hundred Twenty Thousand Dollars (\$220,000) capital and Eighty Thousand Dollars (\$80,000) surplus; and

(f) After July 1, 1972, every such corporation shall be required to have and maintain unimpaired capital of not less than Two Hundred Fifty Thousand Dollars (\$250,000) and surplus of not less than One Hundred Thousand Dollars (\$100,000) as otherwise required by this Article. Acts 1967, 60th Leg., p. 493, ch. 219, § 1, eff. Oct. 1, 1967.

Art. 9.07. Policy Forms and Premiums

Corporations organized under this Act, as well as foreign corporations and those created under Subdivision 57, Article 1302, of the Revised Civil Statutes of 1925, or under Chapter 8 of this Code, or any other law insofar as the business of either may be a title insurance business, shall operate in Texas under the control and supervision and under such uniform rules and regulations as to forms of policies and underwriting contracts and premiums therefor, and such underwriting standards and practices as may be from time to time prescribed by the Board; and no Texas or foreign corporation, whether incorporated under this Act or any other law of the State of Texas shall be permitted to issue any title policy of any character, or underwriting contract, on Texas property other than under this Act and under such rules and regulations. No policy of title insurance or guarantee of any character on Texas titles shall be issued or valid unless written by a corporation complying with all provisions of and authorized or qualified under this Act. Before any rate provided for herein shall be fixed or charged, reasonable notice shall issue, and a hearing afforded to the companies authorized or qualified under this Act. Under no circumstances may any company use any form until the same shall have been promulgated and approved by the Board.

The Board shall have the right and it shall be its duty to fix and promulgate the rates to be charged by corporations created or operating under this Act for premiums on policies or certificates, and underwriting contracts. The rates fixed by the Board shall be reasonable to the public and nonconfiscatory as to the company. For the purpose of collecting data on which to determine the proper rates to be fixed, the Board shall have the right to require the companies operating in Texas to submit such information in such form as it may deem proper, all information as to loss experience, expense of operation, and other material matter for its consideration.

Rates when once fixed shall not be changed until after a public hearing shall be had by the Board, after proper notice sent direct to all companies qualified or authorized to do business under this Act, and after public notice in such manner as to give fair publicity thereto for two (2) weeks in advance. The Board must call such hearing to consider rate changes at the request of a company writing title insurance, or if the Board thinks that a change in rates may be proper. Any company or other person interested, feeling injured by any action of the Board with regard to rates, shall have the right to file a suit in the District Court of Travis County, within thirty (30) days after the Board has made such order, to review the action. Such cases shall be tried de novo in the District Court in accordance with the provisions of Article 21.44 of the Insurance Code

and shall be governed by the same rules of evidence and procedure as other civil cases in said court; in which suit the court may enter a judgment setting aside the Board's order, or affirming, the action of the Board. Under no circumstances shall any rate or premium be charged for policies or underwriting contracts different from those fixed and promulgated by the Board.

Acts 1967, 60th Leg., p. 493, ch. 219, § 1, eff. Oct. 1, 1967.

**Art. 9.08. Prohibiting Guarantee of Payment of Obligations of Others
—and “Insuring Around”**

Title insurance companies, domestic or foreign, operating under this chapter shall not have the right to guarantee the payment of mortgages which cover real estate, and if any such corporation shall do so it shall forthwith forfeit and surrender its permit to do business.

“Insuring around” is defined as the willful issuance of a title binder or title insurance policy showing no outstanding enforceable recorded liens while the issuer knows that in fact a lien or liens are of record against the real property, and shall be prohibited, except under circumstances as the State Board of Insurance under its rule-making powers shall approve.

Any person who willfully violates the provisions of this Article 9.08, or who disobeys an order of the Board refusing to approve an application to insure around, shall, upon proof thereof to the satisfaction of the District Court of Travis County, Texas, forfeit and pay to the State of Texas a sum not to exceed \$5,000, which may be recovered in a civil action.

The Board, upon giving thirty (30) days' notice by registered mail, and upon hearing had for that purpose, may forfeit the Certificate of Authority to do business of any company violating the provisions of this Article 9.08.

Acts 1967, 60th Leg., p. 494, ch. 219, § 1, eff. Oct. 1, 1967.

**Art. 9.09. Prohibiting Transacting of Other Kinds of Insurance by Title
Insurance Companies or The Transacting of Title Insurance by
Other Types of Insurance Companies**

Corporations, domestic or foreign, operating under this Act, shall not transact, underwrite or issue any kind of insurance other than title insurance; nor shall title insurance be transacted, underwritten or issued by any company transacting any other kinds of insurance; provided, however, that the above prohibitions shall not apply as to any corporation, domestic or foreign, which on the effective date of this Act was transacting, underwriting and issuing within the State of Texas title insurance and any other kind of insurance. Any corporation now organized and doing business under the provisions of Chapter 8 and actively writing title insurance shall be subject to all the provisions of this Act except Article 9.18 relating to investments.

Acts 1967, 60th Leg., p. 494, ch. 219, § 1, eff. Oct. 1, 1967.

Art. 9.10. Foreign Corporations

Corporations organized under the laws of any other state shall be permitted to do business in this state on exactly the same basis and subject to the same rules, regulations and prices and supervision as fixed for Texas corporations doing business under this Act.

Acts 1967, 60th Leg., p. 495, ch. 219, § 1, eff. Oct. 1, 1967.

Art. 9.11. Revocation of License

Any foreign or domestic corporations issuing any form of policy or underwriting contracts, or charging any premium rates on either owners',

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mortgagee's or other policies, or on underwriting contracts on Texas properties other than forms and rates prescribed by the Board, under the provisions of this Act shall forfeit its right to do business in Texas; but this shall not be construed as intended to require the charge made by one title insurance company, qualified to do business under this Act and doing a general title insurance business for the public in this state, for reinsuring or underwriting all or any part of the business of another such company, to be the same as the charge to the public.

Acts 1967, 60th Leg., p. 495, ch. 219, § 1, eff. Oct. 1, 1967.

Art. 9.12. Deposits

All title insurance companies, domestic and foreign, engaged in the title insurance business must at all times have and keep on deposit with the State Treasury or such other depository in the State of Texas as may be named by such corporation and approved by the Board, either cash or such securities as are listed in Article 9.18 of this Act as approved investments for title insurance companies, to an amount equal to one-fourth of the authorized capital of such corporation; provided, however, that such deposit shall in no event exceed the sum of One Hundred Thousand Dollars (\$100,000). Such corporation, at its option may withdraw from time to time such securities or any part thereof, first having deposited in such depository in lieu thereof other securities of sufficient value to maintain the required deposit. Funds deposited under this provision shall never be used for the payment of any obligation other than those connected with title insurance, and in the event of the insolvency or dissolution of a corporation, the fund hereby provided shall be used to protect title insurance policyholders even though there be no accrued title insurance claims and even though there be unpaid obligations of other sorts; provided, however, that same shall be applied to the payment of other obligations and liabilities of said corporation and/or distribution to stockholders after complete payment of the obligations and liabilities of the corporation connected with title insurance business and the establishment of adequate reserves or reinsurance for the protection of any subsequently accruing or maturing title insurance obligations and liabilities, the amount of such reserves and the handling and distribution of same to be subject to the control and discretion of the Board, same to be reviewable in judicial proceedings to be governed by like rules as are applicable to review of rates under Article 9.07 of this Act. This deposit shall be for the benefit of all policyholders.

If a foreign title insurance company has on deposit with insurance regulatory bodies in the United States sums aggregating the amount of deposit required by this Article in such manner as to secure all policyholders wherever located, then no deposit shall be required in this state, but a certificate of deposit under the hand and seal of such insurance regulatory body or bodies with whom the deposits have been made shall be filed with the Board.

Acts 1967, 60th Leg., p. 495, ch. 219, § 1, eff. Oct. 1, 1967.

Art. 9.13. Fees

The general laws applicable to payment of filing fees of corporations having a capital stock are hereby made applicable to corporations coming under the provisions of this Act.

Acts 1967, 60th Leg., p. 495, ch. 219, § 1, eff. Oct. 1, 1967.

Art. 9.14. Charter and Amendments

The original charter of corporations doing a title insurance business and incorporated under the provisions of this Act, and the amendments to charters of corporations doing a title insurance business and incorporated under the provisions of this Act, or under Subdivision 57, Article 1302,

Revised Civil Statutes of 1925, or under Article 1302a Texas Civil Statutes (Acts 1929, 41st Legislature, page 383, Chapter 245, Section 1) or under any other law regardless of the nature of such amendment, shall be certified only to and filed only with the Board, and only the Board shall collect from the said companies filing fees required under the law. All other laws or parts of laws, to the extent that the same are in conflict with the provisions of this Article, shall not hereafter apply to such corporations.

Acts 1967, 60th Leg., p. 496, ch. 219, § 1, eff. Oct. 1, 1967.

Art. 9.15. Certificate of Authority

The Board after having satisfied itself by such investigation as it may deem proper with reference to the payment of capital stock and surplus as required by Article 9.06 and the value of the assets offered in payment thereof (the expense of which examination shall be borne by the company), shall issue to such company a certificate of authority to transact the characters of business provided for in this Act on either an annual or a continuing basis. No title insurance company, domestic or foreign, shall transact business under this Act unless it shall hold a valid certificate of authority.

Acts 1967, 60th Leg., p. 496, ch. 219, § 1, eff. Oct. 1, 1967.

Art. 9.16. Reserves

(1) Every domestic title insurance company doing a title insurance business under the provisions of this Chapter shall establish and maintain an unearned premium reserve during the period and for the uses and purposes hereafter provided, which shall at all times and for all purposes be deemed and shall constitute unearned portions of the original premium, and shall be charged as a reserve liability of such company in determining its financial condition.

(2) Such reserve shall be cumulative and shall be established and shall consist of the following:

(a) The reserve which has been established as has been required to be established by such companies up to the effective date of this Act, pursuant to Article 9.11 of the Insurance Code, Acts of the 52nd Legislature, Regular Session, 1951, Chapter 491 as amended by the Acts of the 54th Legislature, Regular Session, 1955, Chapter 489, and the Acts of the 56th Legislature, 1959, Chapter 219; and

(b) Beginning on January 1, 1959, each insurer which has accumulated the maximum unearned premium reserve of One Hundred Thousand dollars (\$100,000) required by Article 9.11, Chapter 9 of the Insurance Code, as amended by Acts of the 54th Legislature, Regular Session, 1955, and Acts of the 56th Legislature, 1959, shall reserve a sum equal to three (3%) percent of the premiums charged for title insurance contracts; and

(c) Beginning on January 1, 1959, each insurer which has not accumulated the maximum unearned premium reserve of One Hundred Thousand Dollars (\$100,000) required by Article 9.11, Chapter 9 of the Insurance Code, as amended by Acts of the 54th Legislature, Regular Session, 1955, and Acts of the 56th Legislature, 1959, shall reserve a sum equal to five (5%) percent of the premiums charged for title insurance contracts until the unearned premium reserve shall have reached a total of One Hundred Thousand Dollars (\$100,000) and thereafter such insurer shall reserve a sum equal to three (3%) percent of the premium charged for title insurance contracts; and

(d) Beginning on January 1, 1959, each domestic insurer shall reserve a sum equal to ten (10%) percent of the risk rate charged for title insurance contracts on property outside the State of Texas. This require-

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ment shall be cumulative of, and not in addition to, the reserve requirement that might be imposed upon such insurer in such other state or states.

(3) The term "premium" as used herein means the total amount of premium as fixed and promulgated by the State Board of Insurance in accordance with Article 9.07 of this Code for title insurance contracts covering property in this state.

(4) The reserves as provided in Subdivision (2) of this Article shall be reduced in the following manner, which reduction may be used for any corporate purpose:

(a) As to insurers which have accumulated the maximum unearned premium reserve of One Hundred Thousand Dollars (\$100,000) under the provisions of (2) (a) above, as of the effective date of this Act, such unearned premium shall be reduced at the rate of one-twentieth ($\frac{1}{20}$) thereof per year beginning at the end of calendar year 1959 and a like amount at the end of each calendar year thereafter for nineteen (19) consecutive years.

(b) As to insurers which have accumulated reserves as provided in (2) (b) and (2) (d) above, such unearned premium shall be reduced at the end of each calendar year in which the title insurance contract was issued at the rate of one-twentieth ($\frac{1}{20}$) of such sum for the first year and a like amount at the end of each calendar year thereafter for nineteen (19) consecutive years.

(c) As to insurers which have accumulated reserves as provided in (2) (c) above, such unearned premium shall be reduced at the rate of one-twentieth ($\frac{1}{20}$) of such sum per year beginning at the end of the calendar year in which such One Hundred Thousand Dollars (\$100,000) shall have been accumulated and a like amount at the end of each calendar year thereafter for nineteen (19) consecutive years.

(5) Any foreign title insurance company doing business in this state shall be required to comply with the provisions of this Article unless by the laws of its state of domicile, it is required to set aside and maintain unearned premium reserve in substantially the same amount as required by this Article.

(6) Such reserve fund shall be held in cash or invested in first mortgage notes or such securities as are admissible for investment by life insurance companies under the laws of this state.

(7) In the event of the insolvency or dissolution of any such insurer, such reserve fund shall be used to protect title insurance contract holders, even though there be no accrued title insurance claims and even though there be unpaid obligations of other sorts.

Acts 1967, 60th Leg., p. 496, ch. 219, § 1, eff. Oct. 1, 1967.

Art. 9.17. Reserve for Unpaid Losses and Loss Expenses

(a) All title insurance companies operating under the provisions of this Act shall at all times establish and maintain, in addition to other reserves, a reserve against (1) unpaid losses, and (2) loss expense, and shall calculate such reserves by making a careful estimate in each case of the loss and loss expense likely to be incurred, by reason of every claim presented, pursuant to notice from or on behalf of the insured, of a title defect in or lien or adverse claim against the title insured, that may result in a loss or cause expense to be incurred for the proper disposition of the claim. The sums of items so estimated shall be the total expenses of such title insurance company.

(b) The amounts so estimated may be revised from time to time as circumstances warrant, but shall be redetermined at least once each year.

(c) The amounts set aside in such reserve in any year shall be deducted in determining the net profits for such year of any title insurance company.

Acts 1967, 60th Leg., p. 497, ch. 219, § 1, eff. Oct. 1, 1967.

Art. 9.18. Admissible Investments for Title Insurance Companies

Investments of all title insurance companies operating under the provisions of this Act shall be held in cash or may be invested in the following:

(a) Any corporation organized under this Act having the right to do a title insurance business may invest as much as fifty (50%) percent of its capital stock in an abstract plant or plants, provided that the valuation to be placed upon such plant or plants shall be approved by the Board; provided, however, that if such corporation maintains with the Board the deposit of One Hundred Thousand Dollars (\$100,000) in securities as provided in Article 9.12 of this Act, such of its capital in excess of fifty (50%) percent, as deemed necessary to its business by its board of directors may be invested in abstract plants; and provided further, that no such corporation created or operating under the provisions of this Act may either directly or through ownership of a portion of the capital stock of another corporation, or otherwise, hereafter own or acquire more than one abstract plant in any one county.

(b) Those securities set forth in Article 3.39, Insurance Code, as authorized investments for life insurance companies and in authorized investments for title insurance companies under the laws of any other state in which the affected company may be authorized to do business from time to time.

(c) Real estate or any interest therein which may be:

(1) required for its convenient accommodation in the transaction of its business with reasonable regard to future needs;

(2) acquired in connection with a claim under a policy of title insurance;

(3) acquired in satisfaction or on account of loans, mortgages, liens, judgments or decrees, previously owing to it in the course of its business;

(4) acquired in part payment of the consideration of the sale of real property owned by it if the transaction shall result in a net reduction in the company's investment in real estate;

(5) reasonably necessary for the purpose of maintaining or enhancing the sale value of real property previously acquired or held by it under Subparagraphs (1), (2), (3) or (4) of this Section; provided, however, that no title insurance company shall hold any real estate acquired under Subparagraphs (2), (3) or (4) for more than ten (10) years without written approval of the Board.

(d) First mortgage notes secured by:

(1) abstract plants and connected personalty;

(2) stock of title insurance agents;

(3) construction contract or contracts for the purpose of building an abstract plant and connected personalty;

(4) any combination of two or more of items (1), (2), and (3).

In no event shall the amount of any first mortgage note exceed eighty (80%) percent of the appraised value of the security for such note as set out above.

Any investments which do not now qualify under the provisions of Subsections (a), (b), (c), or (d) above and which are owned as of the effective date of this Act shall continue to qualify.

If any otherwise valid investment which qualifies under the provisions of this Article shall exceed in amount any of the limitations on investment contained in this Article, it shall be inadmissible only to the extent that it exceeds such limitation.

Acts 1967, 60th Leg., p. 498, ch. 219, § 1, eff. Oct. 1, 1967.

Art. 9.19. Maximum Liability

No company operating under the provisions of this Act shall issue any policy of title insurance on any real property in Texas involving a contingent liability on said policy of more than fifty (50%) percent of the capital stock and surplus of the company unless the excess shall be simultaneously reinsured in some other company licensed to do business in Texas. Such company may reinsure any or all of its policies and contracts issued on real property in Texas provided the reinsuring company shall be licensed to do business in Texas and the form of reinsurance contract shall be first approved by the Board.

After the Board has approved one or more forms of reinsurance contract for a company, such company may thereafter continue using such form or forms without submitting individual reinsurance contracts to the Board; provided, however, that the Board shall retain the right to change the form of reinsurance contract for future use after giving written notice to the title insurance companies to be affected.

When it appears advisable, in the discretion of the Board, that reinsurance should be permitted with a company not licensed to do business in the State of Texas but otherwise qualified, application may be made to the Board, and the Board shall be authorized to grant or deny permission to reinsure with such unlicensed company on an individual policy or facultative basis. An unlicensed company reinsuring in accordance with this provision shall not thereby be deemed to be doing business in Texas. Acts 1967, 60th Leg., p. 498, ch. 219, § 1, eff. Oct. 1, 1967.

Art. 9.20. Capital Stock and Minimum Surplus Impairment

The capital stock and minimum surplus requirement of every title insurance company, domestic or foreign, operating under the provisions of the Act must be maintained intact over and above all its outstanding liabilities, except contingent liabilities on policies of title insurance, and if such company shall suffer the impairment of its capital stock, or minimum surplus requirements it shall report such impairment forthwith to the Board.

Acts 1967, 60th Leg., p. 499, ch. 219, § 1, eff. Oct. 1, 1967.

Art. 9.21. Authority of Board of Insurance of The State of Texas

If any company operating under the provisions of this Act shall engage in the characters of business described in Subdivisions (2) and (3) of Article 9.03 of this Act, in such manner as might bring it within the provision of any other regulatory statute now or hereafter to be in force within the State of Texas, all examination and regulation shall be exercised by the Board rather than any other state agency which may be named in such other laws, so long as such corporation engages in the title guaranty or insurance business.

The Board is hereby vested with power and authority under this Act to promulgate and enforce rules and regulations prescribing underwriting standards and practices upon which title insurance contracts are to be issued, and is hereby further vested with the power and authority to define risks which may not be assumed under title insurance contracts. In addition, the Board is hereby vested with power and authority to promulgate and enforce all other such rules and regulations which in the discretion of the Board are deemed necessary to accomplish the purposes of this Act.

Acts 1967, 60th Leg., p. 499, ch. 219, § 1, eff. Oct. 1, 1967.

Art. 9.22. Annual Statement of Title Insurance Companies; Examination

Every title insurance company, domestic and foreign, operating under the provisions of this Act shall, on or before the first of March every year,

file with the Board a verified statement, in such form as the Board may require, setting forth the statement of the business done by it during the preceding year, and the condition of its affairs as of December 31st preceding. It shall be the duty of the Board, biennially, or oftener if it shall be deemed advisable, in person or through a duly appointed representative, to make a thorough examination of the company's books and affairs and the transactions in which it is engaged at the expense of said company, for which purpose the Board or its representatives shall have access to the books and records of the said company, and shall have the right to interrogate and require answer under oath from any officer, agent or employee of the said company concerning any matters pertaining to the business thereof.

Acts 1967, 60th Leg., p. 499, ch. 219, § 1, eff. Oct. 1, 1967.

Art. 9.23. Regulating of Names

Corporations chartered or operating under the provisions of this Act may use in their corporate name the words "Title and Trust Company" but they shall not use the word "Trust" alone, and where the word "Trust" appears, when in letterheads and literature used by them, they shall print the words "Without Banking Privileges."

Acts 1967, 60th Leg., p. 500, ch. 219, § 1, eff. Oct. 1, 1967.

Art. 9.24. Foreign Corporations; Permits

Any foreign corporations desiring to transact the character of business provided for in this Act in this state shall make an application for permit or certificate of authority to the Board in such form as the Board shall prescribe and shall submit a financial statement showing its condition in such form as the Board shall prescribe.

Acts 1967, 60th Leg., p. 500, ch. 219, § 1, eff. Oct. 1, 1967.

Art. 9.25. Capital and Surplus Required; Foreign Corporations

No foreign corporation shall be permitted to do business in this state unless it shall show from its financial statement and such other examination as the Board may desire to make, an unimpaired capital of not less than Two Hundred Fifty Thousand Dollars (\$250,000) and surplus of not less than One Hundred Thousand Dollars (\$100,000), provided, however, that the minimum unimpaired capital and surplus requirements for a foreign corporation operating under a permit or certificate of authority on the effective date of this Act, which corporation on such date had an unimpaired capital of less than Two Hundred Fifty Thousand Dollars (\$250,000) and surplus of less than One Hundred Thousand Dollars (\$100,000) shall be as follows:

(a) One Hundred Thousand Dollars (\$100,000) capital until July 1, 1968 (no requirement as to minimum surplus during this period);

(b) From July 1, 1968, to July 1, 1969, One Hundred Thirty Thousand Dollars (\$130,000) capital and Twenty Thousand Dollars (\$20,000) surplus;

(c) From July 1, 1969, to July 1, 1970, One Hundred Sixty Thousand Dollars (\$160,000) capital and Forty Thousand Dollars (\$40,000) surplus;

(d) From July 1, 1970, to July 1, 1971, One Hundred Ninety Thousand Dollars (\$190,000) capital and Sixty Thousand Dollars (\$60,000) surplus;

(e) From July 1, 1971, to July 1, 1972, Two Hundred Twenty Thousand Dollars (\$220,000) capital and Eighty Thousand Dollars (\$80,000) surplus; and

(f) After July 1, 1972, every foreign corporation permitted to do business in this state shall be required to have and maintain unimpaired capital of not less than Two Hundred Fifty Thousand Dollars (\$250,000)

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and surplus of not less than One Hundred Thousand Dollars (\$100,000) as otherwise required by this Article.

Acts 1967, 60th Leg., p. 500, ch. 219, § 1, eff. Oct. 1, 1967.

Art. 9.26. Power of Attorney

Each such foreign corporation engaged in doing or desiring to do business in this state shall file with the Board an irrevocable power of attorney, duly executed, constituting and appointing the Chairman of the Board and his successors in office, or any officer or Board which may hereafter be clothed with the powers and duties now devolving upon said Chairman of the Board, its duly authorized agent and attorney in fact for the purpose of accepting service for it or being served with citation in any suit brought against it in any court of this state, by any person, or by or to or for the use of the State of Texas, and consenting that the service of any civil process upon him as its attorney for such purpose in any suit or proceeding shall be taken and held to be valid, waiving all claim and right to object to such service, and such appointment, agency and power of attorney shall, by its terms and recitals, provide that it shall continue and remain in force and effect so long as such company continues to do business in this state or to collect premiums of insurance from citizens of this state, and so long as it shall have outstanding policies in this state, and until all claims of every character held by the citizens of this state, or by the State of Texas, against such company, shall have been settled. Said power of attorney shall be signed by the president or by a vice president and the secretary of such company, whose signature shall be attested by the seal of the company; and said officer signing the same acknowledge its execution before an officer authorized by the laws of this state to take acknowledgements. The said power of attorney shall be embodied in, and approved by, a resolution of the board of directors of such company, and a copy of such resolution duly certified to by the proper officer of said company, shall be filed with the said power of attorney in the office of the Chairman of the Board and shall be recorded by him in a book kept for that purpose, there to remain a permanent record of the Board.

Acts 1967, 60th Leg., p. 500, ch. 219, § 1, eff. Oct. 1, 1967.

Art. 9.27. Service of Process

Whenever the Chairman of the Board shall accept service or be served with citation in any suit pending against any title insurance company in this state, he shall immediately enclose the copy of the citation served upon him, or a substantial copy thereof, in a letter properly addressed to the general manager or general agent of the company against whom such service is had, if it shall have a general manager or general agent within this state, and, if not, then to the home office of the company, and shall forward the same by registered mail, postage prepaid. No judgment by default shall be taken in any such cause until after the expiration of at least ten (10) days after the general agent or general manager of such company, or the company at its home office, as the case may be, shall have received such copy of such citation; and the presumption shall obtain, until rebutted, that such notice was received by such agent or company in due course of mail after being deposited in the mail in Austin, Texas.

Acts 1967, 60th Leg., p. 501, ch. 219, § 1, eff. Oct. 1, 1967.

Art. 9.28. Authority Revoked; when

If any corporation, domestic or foreign, while holding a certificate of authority to transact business in this state, shall fail or refuse to comply with any of the provisions or requirements of this Chapter, the Board, upon ascertaining this fact, shall notify such company by actual notice in writing delivered to an executive officer of such company, of his intention

to revoke its certificate of authority to transact business in this state at the expiration of thirty (30) days after the mailing of such registered letter, or the date upon which such actual notice is served. If such provisions or requirements are not fully complied with upon the expiration of said thirty (30) days, it shall be the duty of the Board to revoke the certificate of authority of such company. In case of such revocation, such company shall not be entitled to receive another certificate of authority for a period of one year, and until it shall have fully and in good faith complied with all such provisions and requirements of this Chapter. Any company feeling itself aggrieved by the action of the Board in revoking its certificate of authority to do business in this state may bring suit against it in Travis County, Texas, to annul and vacate the order revoking such certificate.

Acts 1967, 60th Leg., p. 501, ch. 219, § 1, eff. Oct. 1, 1967.

Art. 9.29. Supervision, Conservation and Liquidation of Title Insurance Companies

Part I

Section A. If, upon examination or at any other time, it shall appear to the Board that any of the following conditions exist relative to any company organized under the laws of this state and doing a title insurance business in this state:

(1) the minimum surplus requirements of said company are impaired to the extent of fifty (50%) percent and have remained in such state of impairment continuously for at least sixty (60) days; or

(2) the capital stock of said company is impaired; or

(3) the company is issuing policies of title insurance contrary to law or regulations promulgated by the Board; or

(4) the company has refused to permit the examination of its books and records by the Board or by its duly commissioned examiners, and has failed and refused to answer inquiries made by the commissioner; or

(5) in the opinion of the Board, the condition of the company is such as to render the continuance of its business hazardous to the public or to its policyholders; or

(6) the business of a company is being conducted fraudulently; then the Board shall notify the company of its determination that such condition or conditions exist, and such company shall have thirty (30) days under the supervision of the Board in which to correct such condition in accordance with the requirements of the Board.

During the period of supervision, the Board may appoint a supervisor to supervise such company and may provide that the company shall not do any or all of the following things during the period of supervision without the prior approval of the Board or its supervisor:

(1) Dispose of, convey or encumber any of its assets;

(2) Withdraw any of its bank accounts;

(3) Lend any of its funds;

(4) Invest any of its funds;

(5) Transfer any of its property;

(6) Incur any debt, obligation or liability; or

(7) Merge or consolidate with another company.

Sec. B.

1. The Board after hearing and notice to any company organized under the laws of this state and doing a title insurance business in this state, may appoint the liquidator designated under the provisions of Article 21.28 of the Texas Insurance Code as conservator of any such company if it finds, based upon substantial evidence, any of the following:

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(a) The company has failed within the thirty-day time set out in any notice provided under this Article to correct any aforesaid condition set out in the notice in accordance with the requirements of the Board.

(b) The company has had its certificate of authority to do business in the State of Texas revoked or suspended or has voluntarily surrendered such certificate of authority.

2. The Board may without notice and hearing appoint the liquidator designated under the provisions of Article 21.28 of the Texas Insurance Code as conservator of any company organized under the laws of this state and doing a title insurance business in this state when requested to do so by the board of directors of said company. The board of directors of any such company shall also have the right to waive any notice provision provided in this Article by filing with the Board a written instrument in the form of a resolution passed by them or by an instrument signed by a majority of them specifically stating such waiver of notice.

Sec. C. After appointment, the conservator shall immediately take charge of such company and all of the property, books, records and effects thereof, and conduct the business thereof, and take such steps toward the removal of the causes and conditions, which have necessitated such order, as the Board may direct. During the pendency of conservatorship, the conservator shall make such reports to the Board from time to time as may be required by the Board, and shall be empowered to take all necessary measures to preserve, protect and recover any assets or property of such title insurance company, and to deal with the same in his own name as conservator including claims or causes of action belonging to or which may be asserted by such title insurance company, and shall be empowered to file, prosecute and defend any suit or suits which have been filed or which may thereafter be filed by or against such title insurance company which are deemed by the conservator to be necessary to protect all of the interested parties or any property affected thereby. If, at the time of appointment of a conservator or at any time during the pendency of such conservatorship, it appears that the interest of the policyholders or certificate holders of such title insurance company can best be protected by reinsuring the same, the conservator may, with the approval of or at the direction of the Board, reinsure all or any part of such company's policies or certificates of insurance with some solvent title insurance company or association authorized to transact title insurance business in this state, and to the extent that such title insurance company in conservatorship is possessed of funds and assets, including reserves and deposits, the conservator may transfer to the reinsuring title company such funds and assets or any portion thereof as may be required to consummate the reinsurance of such policies, and any such funds and assets so transferred shall not be deemed a preference of creditors.

If, upon the appointment of a conservator or at any time during the pendency of conservatorship, the Board finds that such title insurance company is not in condition to satisfactorily continue business in the interest of its policyholders or certificate holders under a conservatorship as above provided, the Board may proceed to liquidate such title insurance company through such conservator or request the Attorney General of Texas to institute proceedings to liquidate and dissolve the title insurance company.

Sec. D. The cost incident to the supervisor's or conservator's services shall be fixed and determined by the Board and shall be a charge against the assets and funds of the company to be allowed and paid as the Board may determine.

Part II

Section A. If, upon examination or at any other time, it shall appear to the Board that any of the conditions enumerated in Section A of Part

I of this Article exist relative to any company not organized under the laws of this state and conducting a title insurance business in this state, then the Board shall notify the company of its determination that such condition or conditions exist, and such company shall have thirty (30) days under the supervision of the Board in which to correct such condition in accordance with the requirements of the Board.

During the period of supervision, the Board may appoint a supervisor to supervise the assets in the State of Texas, and the policy liabilities owed to residents of the State of Texas and may provide, with reference to any of such assets and liabilities that such company shall not do any or all of the following things during the period of supervision without the prior approval of the Board or its supervisor:

- (1) Dispose of, convey or encumber any of its assets;
- (2) Withdraw any of its bank accounts;
- (3) Lend any of its funds;
- (4) Invest any of its funds;
- (5) Transfer any of its property;
- (6) Incur any debt, obligation or liability; or
- (7) Merge or consolidate with another company.

Sec. B.

1. The Board, after hearing and notice to any company not organized under the laws of this state or any person or noncorporate firm doing a title insurance business in this state, may appoint the liquidator designated under the provisions of Article 21.28 of the Texas Insurance Code as conservator of any such company if it finds, based upon substantial evidence, any of the following:

(a) The company has failed within the thirty-day time set out in any notice provided under this Article to correct any aforesaid condition set out in the notice in accordance with the requirements of the Board.

(b) The company has had its certificate of authority to do business in the State of Texas or the state of its domicile revoked or suspended or has voluntarily surrendered either of such certificates.

(c) The company, person or noncorporate firm does not have a certificate of authority to do business in this state.

2. The Board may without notice and hearing appoint the liquidator designated under the provisions of Article 21.28 of the Texas Insurance Code as conservator of any such company, person or noncorporate firm doing a title insurance business in this state when requested to do so by the Board of Directors or the governing body of such noncorporate firm or by the person conducting the business or at the request of any receiver or conservator of such company, noncorporate firm or person.

Sec. C. The conservator as to records and assets in the State of Texas of such company, noncorporate firm and person and policyholder liabilities owed to residents of this state shall have the same rights, obligations and duties as provided to a conservator appointed under the provisions of Part I of this Article.

Sec. D. The cost incident to the supervisor's or conservator's services shall be fixed and determined by the Board and shall be a charge against the assets and funds in the State of Texas of the company to be allowed and paid as the Board may determine.

Part III

Section A. In all actions and proceedings brought by or against the supervisor or conservator because of or as the result of his being appointed under the provisions of this Article or against assets in his possession or under his control as the result of his being appointed conservator under

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the provisions of this Article or brought by or against a company while subject to an order of conservatorship, venue shall be in Travis County, Texas.

Sec. B. The provisions of this Article shall be cumulative of all other laws, general and special, relating to the subject matter hereof.

Sec. C. The provisions of Article 21.28 of the Texas Insurance Code shall apply to all companies subject to Chapter Nine of the Texas Insurance Code and the same shall not be deemed to be restricted in any way by the provisions of this Article.

Acts 1967, 60th Leg., p. 501, ch. 219, § 1, eff. Oct. 1, 1967.

Art. 9.30. Rebates and Discounts

No commissions, rebates, discounts, or other device shall be paid, allowed or permitted by any company, domestic or foreign, or by any agent doing the business provided for in this Act, relating to title policies or underwriting contracts and no portion of any premium shall be paid to anyone for soliciting or referring title insurance business; provided this shall not prevent any title insurance company, domestic or foreign, from appointing as its representative in any county any person, firm, or corporation owning and operating an abstract plant of such county and making such arrangements for division of premiums as may be approved by the Board.

Acts 1967, 60th Leg., p. 504, ch. 219, § 1, eff. Oct. 1, 1967.

Art. 9.31. Fees and Occupation Tax on Foreign Corporations

Any corporation organized and incorporated under the laws of any other state, territory or country for the purpose of transacting a title insurance or title guaranty business shall be required to pay the same filing fees and occupation tax as any foreign casualty company is required to pay in order to procure a permit to do business in Texas. Such foreign title companies will not be required to pay a franchise tax.

Acts 1967, 60th Leg., p. 505, ch. 219, § 1, eff. Oct. 1, 1967.

Art. 9.32. Prohibiting Further Chartering of Corporations Under Article 1302

No corporation shall be chartered under Subdivision 57, Article 1302, Revised Statutes of Texas, 1925, but all corporations heretofore incorporated and now doing business in Texas shall be permitted to continue in business and shall be subject to all the provisions of this Act, and such companies shall be required to comply with the requirements of this Act with reference to investments and deposits.

Stockholders in a company acting under this Act shall not be liable in the event of default in the payment of any debt or liability of such company beyond their subscription for such stock.

Acts 1967, 60th Leg., p. 505, ch. 219, § 1, eff. Oct. 1, 1967.

Art. 9.33. To Cancel License; Appeals by Companies

The terms and provisions of this Act are conditions upon which corporations doing the business provided for in this Act may continue to exist, and failure to comply with any of them or a violation of any of the terms of this Act shall be proper cause for revocation of the permit and forfeiture of charter of a domestic corporation or the permit of a foreign corporation.

Any company qualified or seeking to qualify under this Act, feeling aggrieved by any action of the Board, especially, but not limited to, any action against such company, shall have the right to file a suit in the District Court of Travis County, within thirty (30) days after the Board

has made its order or ruling; provided, however, that if the order or ruling is directed against such company, whether or not directed against other companies, such company shall have thirty (30) days after receipt of official notice of such ruling from the Board to review such action of the Board. Such cases shall be tried de novo in such District Court in accordance with the provisions of Article 21.44 of the Insurance Code and shall be governed by the same rules of pleading, including rights of amendments thereof, evidence, and procedure as are applicable to other civil cases in the original jurisdiction of a District Court.
Acts 1967, 60th Leg., p. 505, ch. 219, § 1, eff. Oct. 1, 1967.

Art. 9.34. Determination of Insurability

No policy or contract of title insurance shall be written unless and until the title insurance company (a) has caused a search of title to be made from the title evidence prepared from an abstract plant as herein defined, or if no such abstract plant of the county exists, or the owner of such plant refuses to furnish the title insurance company desiring to insure, such title evidence at its regular charge and within a reasonable period of time, then such policy or contract of title insurance shall be based upon the best title evidence available, and (b) has caused to be made a determination of insurability of title in accordance with sound title underwriting practices. Evidence thereof shall be preserved and retained in the files of the title insurance company or its agent for a period of not less than fifteen (15) years after the policy or contract of title insurance has been issued. In lieu of retaining the original copy, the title insurance company or the agent of the title insurance company, may in the regular course of business establish a system whereby all or part of these writings are recorded, copied or reproduced by any photographic, photostatic, microfilm, micro-card, miniature photographic, or other process which accurately reproduces or forms a durable medium for reproducing the original. This Article shall not apply to (a) a company assuming no primary liability in a contract of reinsurance, or (b) a company acting as a co-insurer if one of the other co-insuring companies has complied with this Article.

Acts 1967, 60th Leg., p. 505, ch. 219, § 1, eff. Oct. 1, 1967.

Art. 9.35. Requirements for Agents

No person, firm, association or corporation shall act within this state as agent for any title insurance company, domestic or foreign, without first having been (1) licensed as an agent by the Board and (2) filing a bond or cash deposit in lieu thereof as required in Article 9.38; and no title insurance company shall allow or permit any person, firm, association or corporation to act as its agent within the state unless said person, firm, association or corporation shall first have obtained a license, and filed a bond as required by this Act.

Acts 1967, 60th Leg., p. 506, ch. 219, § 1, eff. Oct. 1, 1967.

Art. 9.36. Agent's Licenses: Application, Issuance, Renewal and Cancellation

A. Before an initial license is issued to any person, firm, association or corporation to act as agent within the State of Texas for any title insurance company, there shall first be filed by the title insurance company with the Board an application for agent's license, on forms to be provided by the Board, accompanied by a fee of Two Dollars (\$2). The application shall be signed and duly sworn to by the title insurance company and the proposed agent. Such application shall contain the following:

(1) That the proposed agent, if an individual, is a bona fide resident of Texas; or if a firm or association, that it is composed wholly of Texas

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residents; or if a corporation, that it is a Texas corporation or a foreign corporation which has been authorized to do business in Texas; and

(2) That the proposed agent (and if a corporation, its managerial personnel) has reasonable experience or instruction in the field of title insurance; and

(3) That the proposed agent is known to the title insurance company to have a good business reputation and is worthy of the public trust and said title insurance company knows of no fact or condition which would disqualify him from receiving a license; and

(4) That the proposed agent qualified as a title insurance agent as defined in this Act.

The Board shall grant such license if it determines from the application and its own investigation that the foregoing requirements have been met.

B. On or before the first day of June of each year, every title insurance company, domestic or foreign, operating under the provisions of this Act, shall certify to the Board, on forms provided by the Board, the names and addresses of every title insurance agent of said company within the state, and shall apply for and pay a fee of \$2.00 for an annual license in the name of each such agent included in said list; if any such company shall terminate any licensed agent, it shall immediately notify the Board in writing of such act and request cancellation of such license, notifying the agent of such action. No such title insurance company shall permit any agent appointed by it to write, sign, or deliver title insurance within the state until the foregoing conditions have been complied with, and the Board has granted said license. The Board shall deliver such license to the title insurance company for transmittal to the Agent.

Licenses shall continue until the first day of the next June unless previously cancelled; provided, however, that if any title insurance company surrenders or has its certificate of authority revoked by the Board, all existing licenses of its title insurance agents shall automatically terminate without notice.

Any title insurance agent may be licensed to represent one or more such title insurance companies, with a separate license granted for each.

The Board shall keep a record of the names and addresses of all licensed agents in such manner that the agents appointed by any company authorized to transact title insurance business within the State of Texas may be conveniently ascertained and inspected by any person upon request.

C. If a title insurance company terminates its contract with a title insurance agent or gives notice of termination to the title insurance agent, then any such agent may, within thirty (30) days after either occurrence apply to the Board for continuation of his license with an amendment thereto showing the name of another title insurance company for whom he is or will be authorized to act.

Acts 1967, 60th Leg., p. 506, ch. 219, § 1, eff. Oct. 1, 1967.

Art. 9.37. Agent's Licenses: Surrender, Forfeiture; Grounds for Revocation; Notice, Hearing and Appeal

A. Any title insurance agent may voluntarily surrender his license at any time by giving notice to the Board and to the title insurance company concerned. Any agent shall automatically forfeit the license under the title insurance company represented if he shall terminate his agency contract with such company.

B. The license of any agent may be denied, or a license duly issued may be suspended or revoked or a renewal thereof refused by the Board,

if, after notice and hearing as hereafter provided, it finds that the applicant for or holder of such license:

- (1) Has wilfully violated any provision of this Act; or
- (2) Has intentionally made a material misstatement in the application for such license; or
- (3) Has obtained, or attempted to obtain, such license by fraud or misrepresentation; or
- (4) Has misappropriated or converted to his own use or illegally withheld money belonging to a title insurance company, an insured or any other person; or
- (5) Has otherwise demonstrated lack of trustworthiness or competence to act as an agent; or
- (6) Has been guilty of fraudulent or dishonest practices; or
- (7) Has materially misrepresented the terms and conditions of title insurance policies or contracts; or
- (8) Is not of good character or reputation; or
- (9) Has failed to maintain a separate and distinct accounting of escrow funds, and has failed to maintain an escrow bank account or accounts separate and apart from all other accounts.

C. Before the license of any title insurance agent shall be denied, or suspended or revoked, or the renewal thereof refused hereunder, the Board shall give notice of its intention so to do, by registered mail, to the applicant for, or holder of such license and to the title insurance company or companies who desire that such license be granted or continued in effect, and shall set a date not less than twenty (20) days from the date of mailing such notice when the applicant or licensee and a duly authorized representative of the title insurance company may appear to be heard and produce evidence. In the conduct of such hearing, the Commissioner or any regular salaried employee specially designated by him for such purpose shall have power to administer oaths, to require the appearance of and examine any person under oath, and to require the production of books, records or papers relevant to the inquiry upon his own initiative or upon the request of the applicant or licensee. Upon termination of such hearing, findings shall be reduced to writing and, upon approval by the Commissioner, shall be filed in his office and notice of the findings sent by registered mail to the applicant or licensee and the title company or companies concerned.

D. No applicant or licensee whose license has been denied, refused or revoked hereunder shall be entitled to file another application for a license as an agent within one year from the effective date of such denial, refusal or revocation, or, if judicial review of such denial, refusal or revocation is sought, within one year from the date of final court order or decree affirming such action. Such application, when filed after one year, may be refused by the Board unless the applicant shows good cause why the denial, refusal or revocation of his license shall not be deemed a bar to the issuance of a new license.

E. If the Board shall refuse an application for any license provided for in this Act, or shall suspend, revoke or refuse to renew any such license at said hearing, then any such applicant or licensee, and any title insurance company or companies concerned, may appeal from said order by filing suit against the Board as defendant in any of the District Courts of Travis County, Texas, and not elsewhere, within twenty (20) days from the date of the order of said Board. Said action shall have precedence over all other causes of a different nature on the docket. The action shall not be limited to questions of law and shall be tried and determined upon a trial de novo to the same extent as now provided for in the case of an appeal from the justice court to the county court. Any party to said action may appeal to the appellate court having jurisdiction of said cause, and

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said appeal shall be at once returnable to said appellate court having jurisdiction of said cause and said action so appealed shall have precedence in said appellate court over all causes of a different character therein pending. The Board shall not be required to give any appeal bond in any cause arising hereunder.

Acts 1967, 60th Leg., p. 507, ch. 219, § 1, eff. Oct. 1, 1967.

Art. 9.38. Bonds for Agents

(a) Every person, firm, association, or corporation which has been licensed as a title insurance agent shall make, file, and pay for a surety bond with a corporate surety company authorized to write surety bonds in this state, payable to the State Board of Insurance in the sum of Seven Thousand Five Hundred Dollars (\$7,500) which bond shall obligate the principal and surety to pay such pecuniary losses as may result to any participant in an insured real estate transaction which shall be sustained through acts of fraud, dishonesty, theft, embezzlement, or wilful misapplication on the part of any title insurance agent. In lieu of such bond any title insurance agent may deposit with the Board cash (or securities approved by the Board) which cash and securities shall be in the amount of Seven Thousand Five Hundred Dollars (\$7,500) and subject to the same conditions as provided for in said bond.

(b) If at any time it appears to the Board that the terms of any agent's bond may have been violated, the Board may require the agent to appear in Travis County with such records as the Board deems proper on a named date not earlier than ten (10) days nor later than fifteen (15) days from service of notice, and there conduct an examination into the matter. If upon such examination the Board is satisfied that the terms of said bond have been violated, the Board shall immediately notify the surety and prepare a written statement covering the facts and deliver it to the Attorney General of Texas, whose duty it shall be to investigate the charges, and if satisfied that the terms of said bond have been violated, then to enforce the liability against cash or securities, or by suit on said bond in Travis County in the name of the Board for the benefit of all parties who have suffered any loss because of breach of the terms of said bond.

Acts 1967, 60th Leg., p. 508, ch. 219, § 1, eff. Oct. 1, 1967.

Art. 9.39. Annual Audit and Report of Agents

Every title insurance agent shall have an annual audit, at its or his expense, made of trust fund accounts, and within ninety (90) days from the termination of its fiscal year, shall send by certified mail, postage prepaid, to the Board one copy of such audit report with a letter of transmittal, and each such agent, shall also send a copy of such letter of transmittal and audit report to every title insurance company which it represents.

The Board shall promulgate regulations setting forth the standards of audit and the form of audit report required.

Said audit shall be made by an independent certified public accountant or licensed public accountant, or a firm composed of either, recommended by said agent and approved by each title insurance company represented by said agent.

Each title insurance company shall examine and analyze the audit report furnished by each of its agents, and shall within three (3) months of receipt of same report to the Board on forms to be furnished by the Board the findings and results of its examination and analysis of such audit report. If a title insurance company fails to receive an audit report from any of its agents within the time specified above, it shall forthwith report such omission to the Board.

All such reports and analyses furnished by the title insurance company to the Board shall, at the election of the Commissioner, be classed as confidential and privileged after having been filed with the Board.

If any agent shall fail or refuse to furnish an audit report within the time required, or shall furnish an audit report which reveals any shortage or other irregularity, or any practice not in keeping with sound, honest business practices, the Board may, after notice to the agent and each title insurance company involved and after a hearing at which the agent and title insurance company may offer evidence explaining or excusing such omissions or irregularity, revoke the license of such agent.

Any agent or title insurance company feeling aggrieved by any action of the Board hereunder shall have the right to file a suit in the District Court of Travis County in the time and manner provided in Article 9.37. Acts 1967, 60th Leg., p. 509, ch. 219, § 1, eff. Oct. 1, 1967.

Art. 9.40. Right of Title Insurance Company to Examine Agent's Trust Fund Accounts and to Require Reports

Any title insurance company may at such time or times as it sees fit, through its examiners or auditors or through independent certified public accountants commissioned by it, examine the trust fund accounts and records pertaining thereto of any of its title insurance agents, such examination to be made at the expense of the title insurance company; or the title insurance company may require special reports from any such agent regarding any of its transactions.

Acts 1967, 60th Leg., p. 509, ch. 219, § 1, eff. Oct. 1, 1967.

Art. 9.41. Requirements for Escrow Officers

No person shall act in the capacity of escrow officer without (1) being licensed by the Board, and (2) obtaining and maintaining a surety bond as required by Article 9.45; and no title insurance agent shall employ any person as escrow officer who is not licensed and bonded in accordance with the provisions of this Act.

Acts 1967, 60th Leg., p. 509, ch. 219, § 1, eff. Oct. 1, 1967.

Art. 9.42. List of Escrow Officers must be Filed

Every title insurance agent licensed and operating under the provisions of this Act shall on or before the first day of June of each year, certify to the Board on forms provided by the Board the names and addresses of every person employed by it to serve in the capacity of escrow officer within the state, and shall apply for and pay an annual license fee of Two Dollars (\$2) for each such person included in said list. If it shall terminate any licensed escrow officer, it shall immediately notify the Board in writing of such act and request cancellation of the license, notifying such escrow officer of such action. No agent shall permit any person to act as escrow officer within the state until the foregoing conditions have been complied with, and the Board has granted the said license.

Licenses shall continue until the first day of the next June, unless previously cancelled. Provided, however, that if any title insurance agent surrenders all its licenses, or has all its licenses revoked by the Board, all existing licenses of its escrow officers shall automatically terminate without notice.

The Board shall keep a record of the names and addresses of all escrow officers licensed by it in such manner that the escrow officers employed by any title insurance agent within the state may be conveniently determined.

Acts 1967, 60th Leg., p. 509, ch. 219, § 1, eff. Oct. 1, 1967.

For Annotations and Historical Notes, see V.A.T.S.

Art. 9.43. Application for Escrow Officer's License

A. Before an initial license is issued to any person to act as escrow officer within the State of Texas for any title insurance agent, there shall be first filed by such title insurance agent with the Board an application for an escrow officer's license on forms provided by the Board, accompanied by a fee of Two Dollars (\$2). The application shall be signed and duly sworn to by such title insurance agent and by the proposed escrow officer.

B. Such application shall contain the following:

(1) that the proposed escrow officer is a natural person and a bona fide resident of the State of Texas;

(2) that the proposed escrow officer has reasonable experience or instruction in the field of title insurance;

(3) that the proposed escrow officer is known to the agent to have a good business reputation and is worthy of the public trust and the agent knows of no fact or condition which would disqualify him from receiving a license;

(4) that the proposed escrow officer qualifies as an escrow officer as defined in this Act.

The Board shall grant such license, if it determines from the application and its own investigation that the foregoing requirements have been met.

Acts 1967, 60th Leg., p. 510, ch. 219, § 1, eff. Oct. 1, 1967.

Art. 9.44. Annual License of Escrow Officers; Surrender and Cancellation

A. Any escrow officer may voluntarily surrender his license at any time by giving notice to the Board. An escrow officer shall likewise automatically forfeit his license if he shall fail to be employed as an escrow officer.

B. The license of any escrow officer may be denied, or a license duly issued may be suspended or revoked or a renewal thereof refused by the Board, if, after notice and hearing as hereafter provided, it finds that the applicant for or holder of such license:

(1) has wilfully violated any provision of this Act; or

(2) has intentionally made a material misstatement in the application for such license; or

(3) has obtained, or attempted to obtain, such license by fraud or misrepresentation; or

(4) has misappropriated or converted to his own use or illegally withheld money belonging to a title insurance company, agent, or any other person; or

(5) has otherwise demonstrated lack of trustworthiness or competence to act as escrow officer; or

(6) has been guilty of fraudulent or dishonest practices; or

(7) has materially misrepresented the terms and conditions of title insurance policies or contracts; or

(8) is not of good character or reputation.

C. Before the license of any escrow officer shall be denied, or suspended or revoked, or the renewal thereof refused hereunder, the Board shall give notice of its intention so to do, by registered mail, to the applicant for, or holder of such license and to the title insurance agent which is either the employer of the holder of such license or desires that such license be granted, continued or renewed and shall set a date not less than twenty (20) days from the date of mailing such notice when the applicant or licensee and a duly authorized representative of the title insurance

agent may appear to be heard and produce evidence. In the conduct of such hearing, the Commissioner or any regular salaried employee specially designated by him for such purpose shall have power to administer oaths, to require the appearance of and examine any person under oath, and to require the production of books, records or papers relevant to the inquiry upon his own initiative or upon the request of the applicant or licensee. Upon termination of such hearing, findings shall be reduced to writing and, upon approval by the Commissioner shall be filed in his office and notice of the findings sent by registered mail to the applicant or licensee and the agent concerned.

D. No applicant or licensee whose license has been denied, refused or revoked hereunder shall be entitled to file another application for a license as an escrow officer within one year from the effective date of such denial, refusal or revocation, or, if judicial review of such denial, refusal or revocation is sought, within one year from the date of final court order or decree affirming such action. Such application, when filed after one year, may be refused by the Board unless the applicant shows good cause why the denial, refusal or revocation of his license shall not be deemed a bar to the issuance of a new license.

E. If the Board shall refuse an application for any license provided for in this Article, or shall suspend, revoke or refuse to renew any such license at said hearing, then any such applicant may appeal from said order by filing suit against the Board as defendant in any of the District Courts of Travis County, Texas, and not elsewhere, within twenty (20) days from the date of the order of said Board. Said action shall have precedence over all other causes of a different nature on the docket. The action shall not be limited to questions of law and shall be tried and determined upon a trial de novo to the same extent as now provided for in the case of an appeal from the justice court to the county court. Either party to said action may appeal to the appellate court having jurisdiction of said cause, and said appeal shall be at once returnable to said appellate court having jurisdiction of said cause and said action so appealed shall have precedence in said appellate court over all causes of a different character therein pending. The Board shall not be required to give any appeal bond in any cause arising hereunder.

Acts 1967, 60th Leg., p. 510, ch. 219, § 1, eff. Oct. 1, 1967.

Art. 9.45. Bonds for Escrow Officers

(a) Every title insurance agent shall procure at its expense for its escrow officers, a bond of such type as may be approved by the State Board of Insurance with a surety licensed by the Board to do business in Texas, in an amount to be determined by multiplying the number of escrow officers by Five Thousand Dollars (\$5,000) but not exceeding Fifty Thousand Dollars (\$50,000) payable to the State Board of Insurance, which bond shall obligate the principal and surety to pay such pecuniary loss as the agent shall sustain through acts of fraud, dishonesty, forgery, theft, embezzlement, or wilful misapplication on the part of such escrow officer, either directly and alone, or in connivance with others. In lieu of such bond, cash (or securities approved by the Board) in multiples of Five Thousand Dollars (\$5,000) per escrow officer employed but not exceeding Fifty Thousand Dollars (\$50,000) may be deposited by the agent with the Board, subject to the same conditions as provided for in said bond.

(b) If at any time it appears to the Board that the terms of any such bond as provided in Paragraph (a) of this Article 9.45 may have been violated, the Board may require the escrow officer to appear in Travis County with such records as the Board deems proper on a named date not earlier than ten (10) days nor later than fifteen (15) days from service of notice, copies of which notice shall also be sent to any title insurance

For Annotations and Historical Notes, see V.A.T.S.

agent concerned, and there conduct an examination into the matter. If upon such examination the Board is satisfied that the terms of said bond have been violated by an escrow officer, the Board shall immediately notify the surety and agent concerned and prepare a written statement covering the facts and deliver it to the Attorney General of Texas, whose duty it shall be to investigate the charges, and if satisfied that the terms of said bond have been violated, then to enforce the liability against cash or securities, or by suit on said bond in Travis County in the name of the Board for the benefit of all parties who have suffered any loss because of breach of the terms of said bond.

Acts 1967, 60th Leg., p. 511, ch. 219, § 1, eff. Oct. 1, 1967.

Art. 9.46. Maintenance Tax on Gross Premiums; Disposition of Unexpended Balance

To defray the expense of carrying out the provisions of this Act the State of Texas shall assess and collect not exceeding an additional one (1%) percent of the gross premiums collected by every insurer on all title insurance premiums according to the reports made to the Board as required by law. Said taxes when collected shall be deposited with the State Treasurer to the credit of a special fund to be designated as the Title Insurance Fund, which fund shall be kept separate and apart from all other funds and moneys in his hands, to be used for the sole purpose of administering the provisions of this chapter; and to be expended only on warrants issued by the Comptroller upon vouchers drawn by the Board, such vouchers to be accompanied by itemized sworn statements of the expenditures, and to be in addition to all taxes now imposed, or which may hereafter be imposed, not in conflict with this Article. Should there be an unexpended balance at the end of any year in said fund, the Board shall reduce the assessment for the succeeding year so that the amount produced and paid into the Treasury will not exceed the amount necessary for the current year to pay all expenses of maintaining the division of the Board administering the provisions of this Act.

Acts 1967, 60th Leg., p. 512, ch. 219, § 1, eff. Oct. 1, 1967.

Art. 9.47. Exceptions

Section 1. Unless title insurance companies or the business of title insurance is expressly mentioned, no provision of this Code, except as contained in this Chapter, shall be applicable to corporations incorporated or doing business exclusively under this Chapter, or to the title insurance business conducted by corporations created under Subdivision 57, Article 1302 of the Revised Statutes of 1925, or under Chapter 8 of this Code, or under any other law, and no law hereafter enacted shall apply to such title insurance companies or to such title insurance business unless such subsequent enactment expressly states that it shall so apply.

Sec. 2. Regardless of Section 1 of this Article, where applicable to title insurance companies, Article 1.01 through 1.25; Article 2.01; Article 2.02, Sections 1, 2 and 3; Article 2.03, except Section 5; Article 2.04; Article 2.05; Article 2.06; Article 3.01, Section 10(a), (b) and (c); Article 3.12, except Section (c); Article 3.13; Article 3.14; Article 21.21; Article 21.21-1; Article 21.25; Article 21.26; Article 21.31; Article 21.36; Article 21.37; Article 21.43; Article 21.46; and Article 21.47 shall apply to and govern title insurance companies where applicable thereto. In case of conflict between provisions of any of the foregoing articles and the provisions of this Chapter Nine, the latter shall govern.

Acts 1967, 60th Leg., p. 512, ch. 219, § 1, eff. Oct. 1, 1967.

CHAPTER ELEVEN—MUTUAL LIFE INSURANCE COMPANIES

Art. 11.20	Mergers and Consolidations [New].	Art. 11.21	Total Direct Reinsurance Agreements [New].
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Art. 11.19. Other Laws to Govern

The provisions of Chapter 3 of this Code, when not in conflict with the Articles of this Chapter, shall apply to and govern mutual life insurance companies organized under the provisions of this Chapter, provided, however, that when any mutual life insurance company organized under the provisions of this Chapter has a surplus equal to or greater than the minimum of capital and surplus required of capital stock companies under the provisions of Article 3.02 of Chapter 3, Insurance Code of the State of Texas, Revised Civil Statutes of Texas of 1925, the following provisions of Chapter 11 only shall apply to such mutual companies: 11.01, 11.02, 11.03, 11.04, 11.05, 11.06, 11.07, 11.10, 11.11, 11.12, 11.14, 11.16, 11.17, 11.18, 11.19, 11.20, and 11.21. On all other matters the provisions of said Chapter 3 shall apply to and govern such mutual life insurance companies.

Amended by Acts 1963, 58th Leg., p. 1117, ch. 434, § 11, eff. Aug. 23, 1963; Acts 1967, 60th Leg., p. 219, ch. 121, § 1, emerg. eff. May 5, 1967.

Section 2 of the 1967 amendatory act is codified as article 11.20; section 3 thereof is codified as article 11.21; sections 4 and 5 thereof provided for a severability clause and repealed conflicting laws and are set out as a note under article 11.20.

Art. 11.20. Mergers and Consolidations

Section 1. Any two or more mutual life insurance companies may merge into one of such companies, domestic or foreign, or consolidate into a new mutual life insurance company, domestic or foreign, by compliance with the procedures provided in this Article.

Sec. 2. When it shall be determined by a majority vote of the Board of Directors, respectively, of two or more mutual life insurance companies, to either merge or consolidate, said Boards of Directors shall prepare a plan of merger or consolidation, as the case may be, and file such plan with the Commissioner of Insurance for approval. Such plan may contain provisions for future apportionment of then existing or prospective accumulations, or both, of divisible surplus, or any other equitable arrangement, whereby the equitable interests, if any, of affected policyholders may be adjusted.

Sec. 3. As soon as practicable after such filing, the Commissioner of Insurance shall hold a hearing on the question of whether he should approve such plan. As soon as practicable after such hearing, said Commissioner shall approve such plan unless he finds that such plan:

(1) is contrary to law, or

(2) effectuation of such plan would not be in the best interest of the policyholders of any one or more domestic mutual life insurance company which is a party to such plan, or

(3) effectuation of such plan would substantially reduce the security of or service to be rendered to policyholders, whether residents of this state or elsewhere, of any domestic mutual insurance company which is a party to such plan.

In making such decision, the Commissioner of Insurance may consider all facts, elements, matters and financial conditions relating thereto, including but not limited to past, present and prospective operations and accumulations of said companies desiring to merge or consolidate.

For Annotations and Historical Notes, see V.A.T.S.

If the Commissioner of Insurance disapproves such plan, he shall within a reasonable time after such hearing specify in detail his reasons therefor and so notify all of the parties to such plan. If the Commissioner of Insurance approves such plan, he shall so notify all of the parties thereto, whereupon each board of directors of each domestic company party thereto shall proceed to submit such plan for adoption or rejection to its respective policyholders as hereinafter provided.

Sec. 4. As soon as practicable after receipt of notice of approval of a plan of merger or consolidation to which a company is a party, each domestic party thereto shall cause such plan to be submitted to a vote of its policyholders at a meeting thereof, which meeting may be either an annual or a special meeting. Written or printed notice shall be given to each policyholder, addressed to his last known address, in accordance with the applicable bylaws, but not less than fifteen (15) days before such meeting. And each such notice shall specifically state that at least one of the purposes of such meeting is to vote upon such plan, a copy of which shall accompany such notice. At each such meeting of policyholders of a domestic party to such plan, each policyholder shall: (i) be entitled to a number of votes determined as provided in Article 11.04 of this Chapter of this Code, and (ii) may vote in person, by proxy to whomever the policyholder may designate in writing, or by mailed ballot. The plan of merger or consolidation shall be considered approved by the policyholders of such company upon receiving the affirmative vote of at least two-thirds ($\frac{2}{3}$) of the votes cast at such meeting on such question.

Sec. 5. (a) Upon the required approval of such plan by the policyholders of each domestic company which is a party to such plan and, if one or more foreign companies is a party thereto, upon the approval thereof in compliance with such foreign law or laws as may be applicable thereto, the president or a vice-president and the secretary or an assistant secretary of each company which is a party to such plan shall execute and file with the Commissioner of Insurance an affidavit that such plan has been approved as herein required.

(b) If the Commissioner of Insurance finds that such affidavit conforms to law, he shall endorse thereon the word "Filed," and the date of filing thereof; and

(1) if the plan be a plan of merger, the Commissioner shall then execute and deliver a Certificate of Merger to the surviving company or its representative; or

(2) if the plan be a plan of consolidation, the Commissioner shall execute and deliver a Certificate of Consolidation to the new company when such new company shall be issued a charter and license upon submission of proper articles of incorporation to the Commissioner of Insurance, and upon his approval together with approval of the Attorney General in accordance with the procedure now required for the issuance of a new charter, and proof that the new company has surplus of not less than the surplus of the mutual life insurance company involved in such consolidation having the largest surplus.

Sec. 6. Upon the issuance by the Commissioner of a Certificate of Merger or Consolidation, as the case may be, the merger or consolidation referred to in such certificate shall thereupon be deemed effective unless some subsequent date be specifically stated as the effective date thereof in the plan therefor.

Sec. 7. As of the time that such merger or consolidation is deemed effective:

(1) All policies of insurance outstanding against any company so merged or consolidated shall be deemed to be assumed by the new or surviving mutual life insurance company on the same terms and under

the same conditions as if such policies had continued in force against the original issuer thereof and the new or surviving company shall carry out the terms of such policies and be entitled to all the rights and privileges thereof and the reserves and surplus accumulating on such policy prior to such merger or consolidation.

(2) All the rights, franchises and interests of the companies so merged or consolidated, in and to every species of property, real, personal and mixed, and the things in action thereunto belonging, shall be deemed as transferred to and vested in the surviving or new mutual life insurance company, without any other deed or transfer; and simultaneously therewith the surviving or new mutual life insurance company shall be deemed to have assumed all of the liabilities of the merged or consolidated companies;

(3) All investments of each mutual life insurance company which was a party to such merger or consolidation that were authorized when made by the laws of the state in which such mutual life insurance company was organized, as proper securities or assets, including real property, for investment of funds of any mutual life insurance company and which investments are taken over by the surviving or new company by virtue of such merger or consolidation under the provisions of this Act, shall be, under the laws of this state, considered as valid securities or assets, including real property, of such new or surviving company, provided such investments are approved by the Commissioner of Insurance in this state, and the same are taken over on terms satisfactory to said Commissioner; provided, however, that in the event the new or surviving company acquires by virtue of such merger or consolidation real estate or property beyond or in excess of that permitted by the applicable Articles pertaining to owning or holding real estate, such company shall sell or dispose of all such excess real estate within the time specified in such applicable Articles unless it shall procure a certificate from said Commissioner that the interest of such company will materially suffer from the forced sale or disposition thereof, in which event the time for the sale or disposition thereof may be extended to such time as the Commissioner of Insurance shall direct in such certificate. Provided further, that this Section will not preclude the designation and use of such acquired excess real estate as branch offices in accordance with the applicable provisions of this Code.

(4) The divisible surplus of each company which is a party to such merger or consolidation which was available for apportionment to policyholders in accordance with the provisions of Article 11.12 of this Chapter of this Code immediately prior to the effectiveness of such merger or consolidation shall continue to be available to the policyholders of the surviving or new company in accordance with the provisions of such Article.

Sec. 8. Nothing herein shall be construed as affecting, modifying, amending or repealing in any manner the Anti-Trust Statutes of this state.

Added by Acts 1967, 60th Leg., p. 219, ch. 121, § 2, emerg. eff. May 5, 1967.

Section 1 of the act of 1967 amended article 11.19; section 3 thereof is codified as article 11.21; sections 4 and 5 provided:

"Sec. 4. If any Section, paragraph or provision of this Act be declared unconstitutional or invalid for any reason, such holding shall not in any manner affect the

remaining Sections, paragraphs or provisions of this Act, but the same shall remain in full force and effect.

"Sec. 5. All laws or parts of laws in conflict with the provisions of this Act are hereby repealed to the extent of such conflict only."

Art. 11.21. Total Direct Reinsurance Agreements

Section 1. Total direct reinsurance agreements may be made and entered into between any domestic mutual life insurance company and any other life insurance company, domestic or foreign, provided: (a)

For Annotations and Historical Notes, see V.A.T.S.

the assuming company is authorized to transact the kinds of insurance provided by the policies assumed; and (b) no total direct reinsurance agreement shall be made until the contract therefor has been submitted to and approved by the Commissioner of Insurance as protecting fully the interests of the policyholders of any domestic insurer.

Sec. 2. Total direct reinsurance agreements, whereby all policies of any ceding domestic mutual life insurance company, are totally assumed by another company, must first be so approved by the Commissioner of Insurance and thereafter by such affected policyholders of the domestic company in like mode and manner as is required under the provisions of Article 11.20 of this Chapter of this Code for policyholder approval of a merger or consolidation agreement. Upon consummation of any such total direct reinsurance agreement, the assuming company shall be entitled to all the rights, privileges and benefits accorded under Section 7, of Article 11.20 of this Chapter of this Code, the same as though such business had been assumed by merger or consolidation.

Added by Acts 1967, 60th Leg., p. 221, ch. 121, § 3, emerg. eff. May 5, 1967.

Section 1 of the act of 1967 amended article 11.19; section 2 thereof is codified as article 11.20; sections 4 and 5 thereof provided a severability clause and repealed conflicting laws and are set out as a note under article 11.20.

CHAPTER TWELVE—LOCAL MUTUAL AID ASSOCIATIONS

Art. 12.03. Territorial Limitation of Association

Any local mutual aid association or association defined in Article 14.37, Chapter 14, of this code, shall be permitted to operate in any county in this State. If the Articles of Association of such association provides for its operation in a limited portion or area of this State, such local mutual aid association or association defined in Article 14.37, Chapter 14, of this code, may hereafter amend such Articles of Association so as to permit it to operate and do business on a statewide basis, and after such amendment it shall be entitled to receive a certificate of authority covering all such territory, provided such association shall not be possessed of a permissive deficiency reserve as provided in Article 14.15 of this Chapter 14 of this Code.

Amended by Acts 1967, 60th Leg., p. 1830, ch. 708, § 1, emerg. eff. June 17, 1967.

Acts 1967, 60th Leg., p. 1830, ch. 708, § 2 amended article 22.05, and section 3 thereof provided: "If any section, paragraph, or provision of this Act be declared unconstitutional or invalid for any reason, such holding shall not in any manner affect the remaining sections, paragraphs or provisions of this Act, but the same shall remain in full force and effect."

CHAPTER SEVENTEEN—COUNTY MUTUAL INSURANCE COMPANIES

Art. 17.22. Exemption from Insurance Laws

County Mutual insurance companies shall be exempt from the operation of all insurance laws of this state, except as in this Chapter specifically provided. In addition to such Articles as may be made to apply by other Articles of this Chapter, county mutual insurance companies shall not be exempt from and shall be subject to all the provisions of Article 2.04 and of Article 2.05 and of Article 2.08 and of Article 2.10 and of Article 5.12 and of Article 5.37 and of Article 5.38 and of Article 5.39 and

of Article 5.40 and of Article 5.49 and of Article 21.28B of this Code, and the provisions of Article 7064 of the Revised Civil Statutes of Texas. Amended by Acts 1967, 60th Leg., p. 432, ch. 196, § 2, emerg. eff. May 15, 1967.

Section 1 of Acts 1967, 60th Leg., p. 431, ch. 196, is codified as article 21.28B and section 3 of the act is a severability clause and is set out as a note under article 21.28B.

CHAPTER TWENTY ONE—GENERAL PROVISIONS

SUBCHAPTER A. AGENTS AND AGENTS' LICENSES

Art. 21.07—3 Managing General Agents' Licensing Act [New].

SUBCHAPTER D. CONSOLIDATION LIQUIDATION, REHABILITATION, REORGANIZATION OR CONSERVATION OF INSURERS

Art. 21.28—A. Insurer Delinquencies and Prevention of Insurer Delinquencies; Supervision of Insurers and Proceedings, Conservatorships, Liquidations—Additional and Alternate Provisions [New]. 21.28B Loss Claimant's Priorities Act [New].

SUBCHAPTER A. AGENTS AND AGENTS' LICENSES

Art. 21.07—1. Legal Reserve Life Insurance Agents; Examination; Licenses

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Sec. 9. Expiration and Renewal of License.

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(e) The appointment or appointments given under Section 4 or Section 8 of this Act authorizing the agents to act as a life insurance agent for a legal reserve life insurance company or companies, shall continue in full force and effect, without the necessity of renewal, until terminated and withdrawn by the companies in accordance with Section 11 of this Act, or otherwise terminated in accordance with this Act, and each renewal license issued to the agent shall authorize him to represent and act for the companies for which he holds an appointment until the appointment is so terminated, and the agent shall prima facie be deemed, for the purpose of this Article, to be the agent of the appointing companies, provided that on or before April 1st of each and every calendar year, commencing on or before April 1, 1968, each such company so appointing such life insurance agent shall file with the Commissioner a certificate, upon forms promulgated by the Commissioner, certifying that such legal reserve life insurance company desires to continue the appointment of such life insurance agent, and if such company shall for any reason fail to file such certificate for any year as relates to such agent, it shall be deemed and considered for all purposes that such company has terminated the appointment of such life insurance agent in like manner as if compliance has been made by such company with Section 11 of this Act.

Sec. 9(e) amended by Acts 1967, 60th Leg., p. 711, ch. 294, § 1, emerg. eff. May 25, 1967.

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Art. 21.07—3. Managing General Agents' Licensing Act

Section 1. Name of Act.—This Act may be referred to as the "Managing General Agents' Licensing Act."

For Annotations and Historical Notes, see V.A.T.S.

Sec. 2. Definitions.—The following words and phrases when used in this Act shall be defined and construed as follows:

(a) "Managing General Agent" shall mean any person, firm or corporation who has supervisory responsibility for the local agency and field

operations of an insurance company or carrier within this state, or any part thereof, and who may perform any of the following acts for a company or carrier: receive and pass upon daily reports and monthly accounts; receive and be responsible for agency balances; handle the adjustment of losses; or, appoint or direct local recording agents, state agents, or special agents within this state, or any part thereof.

(b) "Company" or "Carrier" shall mean any insurance company, corporation, inter-insurance exchange, mutual, reciprocal, association, Lloyds, or other insurance carrier licensed to transact business in the State of Texas, excepting, however, those which write only life, health and accident insurance.

(c) "Commissioner" shall mean the Commissioner of Insurance.

(d) "Board" shall mean the State Board of Insurance.

Sec. 3. Acting without License Prohibited.—It shall be unlawful for any person, firm or corporation to act as a managing general agent in behalf of any insurance company or carrier without having in force the license provided for herein.

Sec. 4. Application for License; To Whom License May be Issued.—Each applicant for license shall be a resident of Texas and file a written sworn application on forms furnished by the Commissioner.

(a) The Commissioner shall issue a license to an applicant upon successful completion of the examination and compliance with the other requirements of this Act.

(b) The Commissioner shall issue a license to a partnership where each of the partners has qualified for a license under this Act.

(c) The Commissioner shall issue a license to a corporation if it finds:

(1) That the corporation is a Texas corporation organized or existing under the Texas Business Corporation Act having its principal place of business in the State of Texas and having as one of its purposes the authority to act as a managing general agent; and

(2) That every officer, director, and shareholder of the corporation is individually licensed as a managing general agent under the provisions of this Insurance Code; provided, however, that in the event ownership of the shares of such corporation is transferred to an unlicensed shareholder, the corporation shall still be entitled to a license if such unlicensed shareholder qualifies as a licensed managing general agent within 90 days from the date of such transfer.

(d) Nothing contained herein shall be construed to permit any unlicensed shareholder or any employee or agent of any corporation to perform any act of a managing general agent without obtaining a managing general agent's license.

(e) Since all officers, directors, and shareholders must be licensed as managing general agents in order for a corporation to receive a license as a managing general agent, the Commissioner shall not require a corporation to take the examination provided in Section 6 of this Act.

(f) If at any time, any officer, director, or shareholder of any corporation holding a managing general agent's license does not qualify as a licensed managing general agent, or if any unlicensed shareholder does not qualify within the 90-day period as herein provided, the license of such corporation to act as a managing general agent shall be cancelled or denied in accordance with the other provisions of this Act. Each corporation licensed as a managing general agent shall file, under oath, a list

of the names and addresses of all of its officers, directors, and shareholders with its yearly application for renewal license.

(g) Each corporation licensed as a managing general agent shall immediately notify the Commissioner upon any change in its officers, directors, or shareholders.

(h) Nothing in this section shall prevent any shareholder from selling or otherwise transferring his stock in any corporation to a company, carrier or managing general agency licensed to do business in Texas, nor prevent any such company or carrier from owning all or any portion of the stock of such corporation.

Sec. 5. Issuance of Licenses to Those Presently Acting as Managing General Agents; Renewals.—(a) Any person, partnership, or corporation having a certificate of authority under Article 21.01 of the Insurance Code to operate as a managing general agent in this state, and who was, in fact, acting as a managing general agent for one or more companies or carriers in this state on the effective date of this Act, shall be entitled to receive a license without having to comply with the requirements of Sections 4 and 6 of this Act, but shall be subject to the other provisions of this Act.

(b) Any such person, partnership, or corporation shall file a written sworn application on forms provided by the commissioner within 60 days from the effective date of this Act.

(c) Any corporation applying for or receiving a license under this section shall file, under oath, a list of names and addresses of its officers, directors, and agency manager with its application for license or renewal and the commissioner may require information, under oath, on forms provided by him as to the officers, directors, and agency manager of such corporation so as to satisfy himself concerning the provisions of Section 12 of this Act.

(d) Those applicants meeting the requirements of this section shall be issued licenses by the commissioner within 90 days from the effective date of this Act and shall be permitted to continue to act during said 90-day period without having a license.

(e) Any such licensee shall be entitled to the renewal of such license from year to year without reference to the provisions of Sections 4 and 6 of this Act, but shall be subject to all other provisions of this Act.

(f) No corporate licensee qualifying under this section, nor any shareholder owning stock in such corporation, shall ever issue or transfer any stock in said corporation to any person, partnership, corporation or other entity for the purpose of inducing the placement of any policy of insurance with said licensee.

(g) No individual or partnership qualifying for a license under this section shall ever transfer any interest in said proprietorship or partnership to any person, partnership, corporation or other entity for the purpose of inducing the placement of any policy of insurance with said licensee.

Sec. 6. Examination Required; Exceptions.—Each applicant for a license shall submit to, and must pass to the satisfaction of the commissioner, a written examination compiled and administered by the commissioner testing applicant's competence with respect to insurance and familiarity with the insurance laws of this state.

Sec. 7. Emergency License without Examination.—In the event of death or disability of a managing general agent or for other good cause satisfactory to the commissioner, he may issue to an applicant a temporary or emergency license for a period not longer than six months, without requiring an examination, provided the other requirements of this Act are met.

Sec. 8. Conduct of Examinations.—All examinations provided hereunder shall be conducted by the commissioner at such times and places

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as prescribed by the commissioner, but not less than four times annually. Applicants shall be given ten days' notice of the time and place of such examinations. All examinations shall be in writing.

Sec. 9. Expiration of License; Renewal.—Every license issued hereunder shall expire one year from the date of its issue, unless an application to qualify for renewal of such license shall be filed with the commissioner and fee paid on or before such date, in which event the license sought to be renewed shall continue in full force and effect until renewed or renewal is denied.

Sec. 10. Fees.—Any applicant for a managing general agent's license shall pay a fee of \$25 at the time application is made.

Any application for the renewal of a managing general agent's license shall pay a fee of \$15 at the time application is made.

Sec. 11. Only One License Required—Notices of Appointment by Company Required.—

(a) Any license issued under this Act shall entitle the licensee to represent or act for one or more companies or carriers as a managing general agent. A separate license for each individual company or carrier represented by a licensee shall not be required.

(b) Any license issued under this Act shall not lapse, nor shall an application for renewal be denied, for the reason that a licensee may not then be appointed to represent any company or carrier.

(c) Each appointment to act as a managing general agent must be reported to the commissioner on forms required by him.

Sec. 12. Denial, Refusal, Suspension, or Revocation of Licenses.—A license may be denied, suspended for a period of time, revoked or the renewal thereof refused by the commissioner if, after notice and hearing as hereinafter provided, he finds that the applicant for, or holder of such license:

(a) has wilfully violated or participated in the violation of any provisions of this Act or any of the insurance laws of this state; or

(b) has intentionally made a material misstatement in the application for such license; or

(c) has obtained, or attempted to obtain such license by fraud or misrepresentation; or

(d) has misappropriated or converted to his own use or has illegally withheld moneys required to be held in a fiduciary capacity; or

(e) has with intent to deceive materially misrepresented the terms or effect of any contract of insurance, or has engaged in any fraudulent transaction; or

(f) has been convicted of a felony, or of any misdemeanor of which criminal fraud is an essential element; or

(g) has shown himself to be, and is so deemed by the commissioner, incompetent, or untrustworthy, or not of good character and reputation.

Sec. 13. Notice and Hearings.—(a) Before any license shall be denied (except for the failure to pass any examination required pursuant to this Act), or suspended or revoked, or the renewal thereof refused hereunder, the commissioner shall give notice of his intention so to do by certified mail to the applicant for, or holder of such license, and shall set a date not less than 20 days nor more than 30 days from the date of mailing of such notice when the applicant or licensee may appear to be heard and to produce evidence. Such notice of hearing shall contain specific reasons for such hearing and a listing of matter to be heard at such hearing. In the conduct of such hearing, the commissioner or any regular employee thereof designated by him for such purpose shall have the power to administer oaths, to require the appearance of and examine any person under

oath, and to require the production of books, records, or papers relevant to the inquiry upon his own initiative or upon the request of the applicant or licensee. Upon the termination of such hearing, findings shall be reduced to writing, and upon approval by the commissioner, shall be filed in his office and notice of the findings contained in an order of the commissioner shall be sent by certified mail to the licensee or applicant. Such applicant or licensee shall then, if he so desires, appeal to the State Board of Insurance, as provided in the Insurance Code, from any order of the commissioner.

(b) No applicant or licensee whose license has been denied, refused or revoked hereunder (except for failure to pass any examination required by this Act) shall be entitled to file another application for license herein provided within one year from the effective date of such denial, refusal, or revocation, or, if judicial review of such denial, refusal, or revocation is sought, within one year from the date of final court order or decree affirming such action. Such application, when filed after one year, may be refused by the commissioner unless the applicant shows good cause why such denial, refusal, or revocation of his license shall not be deemed a bar to the issuance of a new license.

Sec. 14. Judicial Review of Acts of Commissioner and the Board.—If the commissioner shall refuse an application for license as provided in this Act, or shall suspend, revoke or refuse to renew any license at a hearing as hereinbefore provided, and such action is upheld upon review to the board as in this Code provided, and if the applicant or accused thereafter be dissatisfied with the action of the commissioner and the board he may appeal from such action by filing suit against the commissioner and the board as defendants in any of the district courts of Travis County, Texas, or in any district court in the county of applicant's residence, and not elsewhere, within 20 days from the date of the order and action of the said board.

Said action shall have precedence over all other causes of a different nature on the docket. Upon the filing and perfection of such appeal, orders of the commissioner and the board shall be suspended and held for naught until a final court order or decree affirming such action. This appeal shall not be limited to questions of law and shall be tried and determined upon trial de novo to the same extent as now provided in the case of an appeal from the justice court to the county court. Either party to said action may appeal to the appellate court having jurisdiction of said cause, and said appeal shall be at once returnable to said appellate court having jurisdiction of said cause and said action so appealed shall have precedence in said appellate court over all causes of a different character therein pending. The commissioner and the board shall not be required to give any appeal bond in any cause arising hereunder.

Sec. 15. Notice to Last Address.—Where notice to the applicant or accused is provided for in any part of this Act, notice by certified mail to his last known address shall be sufficient.

Sec. 16. Act Inapplicable to.—No provisions of this Act shall apply to the transaction of the Life, Health and Accident Insurance business nor shall it apply to any of the following:

(a) Any actual full-time salaried employee of any insurance company or carrier licensed to do business in Texas while acting for, and in connection with the insurance business of, such company or carrier.

(b) Any adjuster of losses, or inspector of risks, for an insurance company or carrier licensed to do business in Texas.

Sec. 17. Fees Collected.—The fees herein provided for, when collected, shall be placed with the state treasurer in a separate fund, which shall be known as the managing general agents' fund, provided that no expenditures shall be made from said fund except under authority of the Legis-

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lature as set forth in the general appropriations bill; provided further that no appropriation shall ever be made out of the general revenue fund for the purpose of administering this Act or any provision thereof.

Sec. 18. Repeal.—All laws or parts of laws pertaining to any phase of the insurance business, which are in conflict with this Act, shall be and the same are hereby repealed; but all laws, civil and criminal, affecting insurance agents, insurance companies or insurance carriers or the insurance business, which are not in conflict herewith, shall not be affected by the provisions of this Act; but this Act shall be deemed cumulative of such laws.

Sec. 19. Violations of Act.—Any person, firm, or corporation who violates any of the provisions of this Act shall be guilty of a misdemeanor, and upon conviction in a court of competent jurisdiction, shall be fined not more than \$200.

Sec. 20. Enforcement of Act.—The attorney general, or any district or county attorney, or the commissioner or board may institute any injunction proceeding or such other proceeding to enforce the provisions of this Act, and to enjoin any person, firm or corporation from engaging or attempting to engage in any of the business in violation of this Act or any of the provisions thereof. The provisions of this section are cumulative of the other penalties or remedies provided for in this Act.

Sec. 21. Administration of Act.—The administration of this Act shall be vested in the State Board of Insurance who may establish, and from time to time amend, reasonable rules and regulations for the administration of this Act.

Acts 1967, 60th Leg., p. 2048, ch. 757, eff. Aug. 28, 1967.

Article 21.07—3 was not enacted as part of the Insurance Code of 1951.

Acts 1967, 60th Leg., p. 2048, ch. 757, § 22, provided: "Constitutionality and Severability. If any section, sentence, clause, or part of this Act is for any reason held to be unconstitutional, such decision shall not affect the remaining portions of this Act. The Legislature hereby declares that it would have passed this Act and each section, sentence, clause, and part thereof despite the fact that one or more sections,

sentences, clauses, or parts thereof be declared unconstitutional."

Title of Act:

An Act relating to the licensing of managing general agents of certain insurance companies or carriers by the State Board of Insurance; providing penalties; and declaring an emergency. Acts 1967, 60th Leg., p. 2048, ch. 757.

SUBCHAPTER D. CONSOLIDATION, LIQUIDATION, REHABILITATION, REORGANIZATION OR CONSERVATION OF INSURERS

Art. 21.28—A. Insurer Delinquencies and Prevention of Insurer Delinquencies; Supervision of Insurers and Proceedings, Conservatorships, Liquidations—Additional and Alternate Provisions

Section 1. Purposes and Findings.—It is the sense of the Legislature that existing provisions and conditions of law and the ordered procedures of law are sometimes not adequate, nor appropriate under all circumstances, in respect of a need to remedy the financial condition and the management of certain insurers. Neither are the laws adequate for the rehabilitation of insurers who voluntarily request rehabilitation. A void exists in the laws with respect to those insurers most susceptible to rehabilitation or the regaining of solvency. The Legislature finds and determines that the placing of an insurer in receivership often destroys or diminishes, or is likely to destroy or diminish, one or more of the following values or assets: (a) the value of the insurance account or in-force business of the insurer, (b) the value of the insurer as a going concern, (c) the value of its agency force, and (d) the value of other of its assets. The Legislature declares that such values and assets should be

preserved if the circumstances of the insurer's financial condition warrant an attempt to conserve or rehabilitate such insurer and such rehabilitation or conservation is otherwise feasible. It is the purpose of the Legislature to provide for rehabilitation and conservation of insurers by authorizing and requiring the additional facility of supervision and conservatorship by the State Board of Insurance, to authorize action to resolve whether an attempt be made to rehabilitate and conserve an insurer, and to avoid, if possible and feasible, the necessity of temporary or permanent receivership. It is the further purpose of this Act to provide for protection of the assets of an insurer pending determination of whether or not an insurer can be successfully rehabilitated. It is not the sense of the Legislature that rehabilitation will be accomplished in every case, but it is the purpose of this Article to provide a facility and direction for attempting the rehabilitation without immediate resort to the harsher remedy of receivership. In the event that receivership ultimately becomes necessary, it is nevertheless the belief and finding of the Legislature that the preliminary supervision and conservatorship is preventive of a dissipation of assets and will thus benefit policyholders, creditors and owners; and the State Board of Insurance is directed, in its discretion, to the use of this authorization. The Legislature further finds that an insurer delinquency, or the state's incapacity to properly proceed in a threatened delinquency, directly or indirectly affects other insurers by creating a lack of public confidence in insurance and in insurance companies. As respects the state, insurer delinquencies are destructive of public confidence in the capacity of the state to regulate insurers. These and other harmful results of insurer delinquency are properly minimized by a further enactment designed to protect and in aid of insureds, creditors and owners. The Legislature intends and expects that the inappropriate as well as the appropriate concerns in respect of insurance and insurers will be reduced by the existence and operation of this law. The Legislature declares that it is a proper concern of this state and proper policy to attempt to correct or remedy insurer misconduct, ineptness or misfortune. It is the purpose of the Legislature to express, or to imply from context when not expressed, an authorization, provision and enabling of the promulgation of rules and regulations by the State Board of Insurance as directed in these legislative findings and in the augmentation of this law; and to provide also for any other requisite administrative action. In consequence of the foregoing, the substance and procedure of this Article is here declared to be the public policy of this state and necessary to the public welfare. Such policy and welfare requires the availability of this law and the application of this law whenever circumstances warrant; and it is therefore a condition of doing an insurance business in this state; and it is made applicable and is a consequence of any other transactions in respect of an insurer or insurance. And in conjunction with existing law, the rationale is effected in the provision herein for a generally ordered sequence, and review at each such step, of supervision, concurrent conservation and rehabilitation (including reinsurance), and, as may at any time or ultimately be indicated or determined, cessation of the conservation by accomplishment of rehabilitation or by receivership and liquidation.

Sec. 2. Definition, Application and Scope.—As used in this Article, the following words, terms and phrases (in single quotes in this Section of the Article but not in quotes in other Sections) include the meanings, significance or application described in this Section, except as another meaning is clearly requisite from the purposes or is otherwise clearly indicated by the context.

(a) "Insurance Company" (used interchangeably with "insurer") is any person, organization, association or company, (authorized or unauthorized, admitted or non-admitted) acting as an insurer, or as principal or agent of an insurer, including stock companies, reciprocals or inter-

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insurance exchanges, Lloyds associations, fraternal benefit societies, stipulated premium companies, and mutual companies of all kinds, including state-wide mutual assessment corporations, local mutual aids, burial associations, and county mutual insurance companies and farm mutual insurance companies.

(b) In respect of an insurance company or insurer, "insolvent" or "insolvency" and the phrases in further identity of insurer delinquency and threatened insurer delinquency, mean and include, and the conditions to which this Article is applicable include, but are not limited to, any one or more of the following circumstances or conditions.

(1) if an insurance company's required surplus, capital, or capital stock is impaired to an extent prohibited by law, or

(2) if an insurance company continues to write new business when it is not possessed of the surplus, capital or capital stock which is required of it by law to permit it to do so, or

(3) if the business of any such insurance company is being conducted fraudulently, or

(4) if any such insurance company attempts to dissolve or liquidate without first having made provisions, satisfactory to the Commissioner of Insurance, for liabilities arising from policies of insurance issued by such company.

(c) 'Exceeded its Powers' includes and means but is not limited to the following circumstances:

(1) if an insurance company has refused to permit examination of its books, papers, accounts, records, or affairs by the Commissioner of Insurance, his deputy, or duly commissioned examiners; or if any insurance company, organized in the State of Texas, has removed from the state such books, papers, accounts or records necessary for an examination of such insurance company, or

(2) if an insurance company has failed to promptly answer inquiries authorized by Article 1.25 of this Code, or

(3) if an insurance company has neglected or refused to observe an order of the Commissioner to make good, within the time prescribed by law, any prohibited deficiency in its capital, capital stock, or surplus, or

(4) if an insurance company without first having obtained written approval of the Commissioner has by contract or otherwise: (i) totally reinsured its entire outstanding business, or (ii) merged or consolidated substantially its entire property or business with another insurer; or

(5) if any insurance company is continuing to write business after its license has been revoked or suspended.

(d) "Consent," as used in this Act, includes and means agreement to either supervision or conservatorship by the insurance company.

Notice to comply with written requirements of commissioner;
noncompliance; taking charge as conservator

Sec. 3. If upon examination or at any other time it appears to or is the opinion of the Commissioner of Insurance that any insurance company is insolvent, or its condition is such as to render the continuance of its business hazardous to the public or to holders of its policies or certificates of insurance, or if such company appears to have exceeded its powers (as defined herein) or has failed to comply with the law, or if such insurance company gives its consent (as defined herein), then the Commissioner of Insurance shall upon his determination (a) notify the insurance company of his determination, and (b) furnish to the insurance company a written list of the Commissioner's requirements to abate his determination, and (c) if the Commissioner makes a further determination to supervise he shall notify the insurance company that it is under the supervision of the Commissioner of Insurance and that the Commis-

sioner is applying and effecting the provisions of this Article. Such insurance company shall comply with the lawful requirements of the Commissioner of Insurance and if placed under supervision shall under supervision have sixty (60) days from the date of notice within which to comply with the requirements of the Commissioner, subject however to the provisions of this Article. In the event of such insurance company's failure to comply within such time, the Commissioner of Insurance, acting for himself, or through a conservator appointed by the Commissioner of Insurance for that purpose, shall immediately, after due and proper notice and hearing, take charge as conservator of the insurance company and all of the property and effects thereof.

Sec. 4. (a) Prohibited Acts During Sixty (60) Day Period of Supervision.—During the period of supervision, the Commissioner may appoint a supervisor to supervise such insurance company and may provide that the insurance company may not do any of the following things, during the period of supervision, without the prior approval of the Commissioner or his supervisor:

- (1) Dispose of, convey or encumber any of its assets or its business in force;
- (2) Withdraw any of its bank accounts;
- (3) Lend any of its funds;
- (4) Invest any of its funds;
- (5) Transfer any of its property;
- (6) Incur any debt, obligation or liability;
- (7) Merge or consolidate with another company; or
- (8) Enter into any new reinsurance contract or treaty.

(b) The Liquidator of the State Board of Insurance, or his duly appointed deputy, may be appointed to serve as the supervisor.

Sec. 5. Conservatorship or Liquidation.—If, after notice, and after hearing, at the conclusion of said sixty (60) day period, it is determined that such insurance company has failed to comply with the lawful requirements of the Commissioner, or upon consent by an insurance company, the Commissioner may appoint a conservator, who shall immediately take charge of such insurance company and all of the property, books, records, and effects thereof, and conduct the business thereof, and take such steps toward the removal of the causes and conditions, which have necessitated such order, as the Commissioner may direct. During the pendency of conservatorship, the conservator shall make such reports to the Commissioner from time to time as may be required by the Commissioner, and shall be empowered to take all necessary measures to preserve, protect, and recover any assets or property of such insurance company, including claims or causes of action belonging to or which may be asserted by such insurance company, and to deal with the same in his own name as conservator, and shall be empowered to file, prosecute, and defend any suit or suits which have been filed or which may thereafter be filed by or against such insurance company which are deemed by the conservator to be necessary to protect all of the interested parties or any property affected thereby. If at the time of appointment of a conservator or at any time during the pendency of such conservatorship it appears that the interest of the policyholders or certificate holders of such insurance company can best be protected by reinsuring the same, the conservator may, with the approval of or at the direction of the Commissioner: (1) reinsure all or any part of such insurance company's policies or certificates of insurance with some solvent insurance company authorized to transact business in this state, and (2) to the extent that such insurance company in conservatorship is possessed of reserves attributable to such policies or certificates of insurance, the conservator may transfer to the reinsuring company such reserves or any portion thereof as may be required to con-

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summate the reinsurance of such policies, and any such reserves so transferred shall not be deemed a preference of creditors. The liquidator of the State Board of Insurance, or his duly appointed deputy, may be appointed to serve as the conservator. If the Commissioner of Insurance, however, is satisfied that such insurance company is not in condition to continue business in the interest of its policy or certificate holders, under the conservator as above provided, the Commissioner of Insurance shall give notice to the Attorney General who shall thereupon apply to any Court in Travis County, Texas, having jurisdiction thereof for leave to file a suit in the nature of quo warranto to forfeit the charter of such insurance company or to require it to comply with the law or to satisfy the Commissioner of Insurance as to its solvency, and to satisfy the requirement that its condition is such as to render the continuance of its business not hazardous to the public or to the holders of its policies or certificates of insurance. It shall be in the discretion of the Commissioner of Insurance to determine whether or not he will operate the insurance company through a conservator, as provided above, or report it to the Attorney General, as herein provided. When all the policies of an insurance company are reinsured or terminated, and all of its affairs concluded, as herein provided, the Commissioner of Insurance shall report the same to the Attorney General, who shall take such action as may be necessary to effect the forfeiture or cancellation of the charter of the insurance company so reinsured and liquidated. Where the Commissioner of Insurance lends his approval to the merger, consolidation or reinsurance of all the policies of one insurance company with that of another, the same shall be reported to the Attorney General who shall proceed to effect the forfeiture or cancellation of the charter of the insurance company from which the policies were merged, consolidated or reinsured, in the same manner as is provided for the charters of companies totally reinsured or liquidated. The cost incident to the supervisor's and conservator's service shall be fixed and determined by the Commissioner of Insurance and shall be a charge against the assets and funds of the insurance company to be allowed and paid as the Commissioner of Insurance may determine.

Sec. 6. Out of State Companies.—This Article shall apply to insurance companies doing an insurance business but not domiciled in the State of Texas, whether authorized to do business in this state or not. In the event that the Commissioner of Insurance makes any of the findings provided for in Section 3 of this Article concerning any such insurance company or finds that any such insurance company is not possessed of the minimum surplus or capital or capital stock required by the Insurance Code of the State of Texas for similar type domestic companies, or if a conservator, rehabilitator, receiver, or liquidator has been appointed in the state of domicile, or if the insurance company gives its consent as defined herein, the Commissioner of Insurance shall have the same power and jurisdiction to appoint a supervisor or conservator as to the assets of such out of state insurer located in this state as provided herein for domestic insurance companies. In the event that any such out of state insurance company shall fail to comply with the provisions of Section 4 of this Article with respect to any of its assets or policies located within this state during any sixty (60) day period of supervision, such act or violation shall constitute sufficient grounds for the immediate revocation of its certificate of authority to do business in this state and for the immediate appointment of a conservator to take charge of its assets located within this state. Any supervisor or conservator appointed with respect to assets located in this state belonging to an out of state insurance company shall have all of the powers and authority provided for in Section 5 of this Article with respect to such assets located in this state and, in addition, may reinsure all or any part of such insurance company's policyholders or certificate holders located within this state with some

solvent insurance company authorized to transact business in this state and may transfer to the reinsuring company, as reserve funds, assets or any portion thereof in his possession as may be required to consummate the reinsurance of such policies and any of such assets transferred as reserve funds shall not be deemed a preference of creditors.

Sec. 7. Review and Stay of Action.—During the period of supervision and during the period of conservatorship, the insurance company may request the Commissioner of Insurance or in his absence, the duly appointed deputy for such purpose, to review an action taken or proposed to be taken by the supervisor or conservator, specifying wherein the action complained of is believed not to be in the best interests of the insurance company, and such request shall stay the action specified pending review of such action by the Commissioner or his duly appointed deputy. Any order entered by the Commissioner appointing a supervisor and providing that the insurance company shall not do certain acts as provided in Section 4 of this Article, any order entered by the Commissioner appointing a conservator, and any order by the Commissioner following the review of an action of the supervisor or conservator as hereinabove provided shall be immediately reviewed by the State Board of Insurance upon the filing of an appeal by the insurance company. The Board shall review the action complained of in a public hearing and render its decision at the earliest possible date thereafter, and the requirement of ten (10) days notice set out in Article 1.04(d) of this Code may be waived by the parties of record. The Board may stay the effectiveness of any order of the Commissioner, pending its review of such order. Such appeal shall have precedence over all other business of a different nature pending before the Board, and in the public hearing any and all evidence and matters pertaining to the appeal may be submitted to the Board, whether included in the appeal or not, and the Board shall make such other rules and regulations with regard to such applications and their consideration as it deems advisable. If such insurance company be dissatisfied with any decision, regulation, order, rule, act or administrative ruling adopted by the State Board of Insurance, such dissatisfied insurance company after failing to get relief from the State Board of Insurance, may file a petition setting forth the particular objection to such decision, regulation, order, rule, act or administrative ruling, or to either or all of them, in the District Court of Travis County, Texas, and not elsewhere, against the State Board of Insurance as defendant. Said action shall have precedence over all other causes on the docket of a different nature. The action shall not be limited to questions of law and the substantial evidence rule shall not apply, except as interpretation of the Constitution may require, but such action shall be tried and determined upon a trial de novo to the same extent as now provided for in the case of an appeal from the Justice Court to the County Court. Either party to said action may appeal to the Appellate Court having jurisdiction of said cause and said appeal shall be at once returnable to said Appellate Court having jurisdiction of said cause and said action so appealed shall have precedence in said Appellate Court over all causes of a different character therein pending. The Board shall not be required to give any appeal bond in any cause arising hereunder.

Sec. 8. Venue.—Except for causes of action based upon terms of an insurance policy or policy or policies issued by an insurance company placed in conservatorship, any suit filed against an insurance company or its conservator, after the entrance of an order by the Commissioner of Insurance placing such insurance company in conservatorship and while such order is in effect, shall be brought in a court of competent jurisdiction in Travis County, Texas, and not elsewhere. The conservator appointed hereunder for such company may file suit in any court of competent jurisdiction in Travis County, Texas, against any person for the

purpose of preserving, protecting, or recovering any assets or property of such insurance company including claims or causes of action belonging to or which may be asserted by such insurance company.

Sec. 9. Duration of Conservatorship.—As respects a conservatorship, the conservator shall serve for such time as is necessary to accomplish the purposes of the conservatorship as intended by this Act. If rehabilitated, the rehabilitated insurance company shall be returned to management or new management under such reasonable conditions as will best tend to prevent the defeat of the purposes for which it was placed in conservatorship.

Sec. 10. Administrative Election of Proceedings.—(a) If the Commissioner determines to act under authority of this Article, or is directed by the State Board of Insurance or a court of competent jurisdiction to act under this Article, the sequence of his acts and proceedings shall be as set forth herein. However, it is a purpose and substance of this Article to authorize administrative discretion—to allow the State Board of Insurance and the Commissioner administrative discretion in the event of insurance company delinquencies—and in furtherance of that purpose, the Commissioner is hereby authorized in respect of insurance company delinquencies or suspected delinquencies to proceed and administer either under this Article or under any other applicable law, or under this law in conjunction with other law, either as such law is now existing or as is hereafter enacted, and it is so provided.

Sec. 11. Rules and Regulations.—The State Board of Insurance shall be empowered to adopt and promulgate such reasonable rules and regulations as may be necessary for the augmentation and accomplishment of this Act, including its purposes.

Other laws; conflicts

Sec. 12. Other statutes authorized for use and application in conjunction with this Article are Section 14 of Article 17.25, and Articles 14.33 and 22.22 of the Insurance Code. Also authorized for use, in conjunction with this Article, in delinquency proceedings or threatened insolvencies of insurers, or any other statutes or laws possible of application with this Act or in the procedures of this Act, or in augmentation of this Act whether or not directed as applicable by such other statute; but in the event of conflict between this Article and any other Article, the provisions of this Article shall govern.

Added by Acts 1967, 60th Leg., p. 671, ch. 281, § 1, eff. Aug. 28, 1967.

Acts 1967, 60th Leg., p. 677, ch. 281, §§ 2, 3 provided:

"Sec. 2. This Act shall be cumulative of all other laws, general and special, relating to the subject matter hereof, and if in conflict with any other laws, general and special, the provisions hereof shall control and govern.

"Sec. 3. If any provision of this Act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable."

Art. 21.28B. Loss Claimant's Priorities Act

Title

Section 1. This Article shall be known as the Loss Claimant's Priorities Act.

Sec. 2. Purpose.—The purpose of this Article as amendatory of the Insurance Code is to provide for the protection of the person with a loss claim against an insurer subject to an insolvency, liquidation, or bankruptcy proceeding, by creating a preference in payment of his loss claim prior to, during or in respect of that proceeding. It is the sense of the Legislature that the purpose of insurance as an instrument of progress and as an invention of society is for the many to share the financial burdens of the few who suffer loss. An individual bands together with other

individuals by the purchase of insurance to assure that the financial burdens incurred by his loss which he alone cannot bear will be shared by others; the private insurer accomplishes this purpose by collecting premiums from its policyholders for distribution to those policyholders who suffer a loss. The purpose for which private insurers exist and the reason for which an individual purchases insurance are defeated by the failure to give preference in the payment of loss claims over other claims. It is the purpose of this Article to establish a preference in the payment of the whole of the amount of loss claims against an insurer that is the subject of an insolvency, liquidation, or bankruptcy proceeding.

Definition

Sec. 3. As used in this Article, loss claim is the claim of an insured, a third party beneficiary, or any other person entitled thereto, under a contract of insurance or indemnification, for a loss arising within the terms of coverage provided in a contract of insurance or indemnification for an amount within the express limits of such insurance policy, but excluding a claim for unearned premium.

Sec. 4. Scope and Application.—The provisions of this Article shall apply to all loss claims arising within the terms of coverage provided in any type of property-casualty insurance policy, including, but not limited to, insurance policies issued for the purpose of insuring those losses or risks mentioned or enumerated in the Insurance Code in Articles 6.03, 7.19—1, 8.01 (except Section 10 thereof), 16.01, and 17.01. The provisions of this Article shall apply to loss claims under all insurance policies issued by insurers organized or operating under Chapters 16, 17, 18, and 19 of the Insurance Code, any provisions of these Chapters to the contrary notwithstanding.

Consonant with the provision of Section 15, Article 1.10, Insurance Code, loss claims under insurance policies issued by insurers either organized or operating under Chapters 3, 9, 10, 11, 12, 13, 14, 20, and 22 of the Insurance Code, shall be excluded from the provisions of this Article. Provided, however, that the preceding exclusion shall not apply to loss claims under workmen's compensation insurance policies, and liability insurance policies issued by the insurers enumerated in the preceding exclusion, and loss claims under these insurance policies shall be entitled to the preference in payment of loss claims as provided in this Article.

Sec. 5. Preference of Loss Claims.—The whole of the amount legally or lawfully determined to be due upon the loss claim, or any award or judgment thereon, shall be entitled to the same preference in payment in a liquidation proceeding, insolvency proceeding, or bankruptcy proceeding, or in the administration of liquidation, as is given by any law of this state or by the Federal Bankruptcy Act to claims for wages. The expenses necessary to the administration of a liquidation proceeding, insolvency proceeding, or bankruptcy proceeding, shall be met before payment of loss claims. To the extent that any other law is in conflict with or inconsistent with the provisions of this Article, the provisions of this Article shall take precedence and be effected.

Sec. 6. Unconstitutional Application Prohibited.—This Article and law does not apply to any insurer or other person to whom, under the Constitution of the United States or the Constitution of the State of Texas, it cannot validly apply.

Added by Acts 1967, 60th Leg., p. 431, ch. 196, § 1, emerg. eff. May 15, 1967.

Section 2 of Acts 1967, 60th Leg., p. 432, ch. 196 amended article 17.22; section 3 thereof provides: "Severability Clause. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not

affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable."

SUBCHAPTER E. MISCELLANEOUS PROVISIONS

Art. 21.38. Repealed. Act 1967, 60th Leg., p. 400, ch. 185, §§ 2, 4.
 Emerg. eff. May 12, 1967

Acts 1967, 60th Leg., p. 414, ch. 185, § 4, set out as a note under article 1.14—2, made licenses issued under article 21.38 effective until expiration according to their terms and made taxes, which accrued un-

der article 21.38, payable at rates and in accordance with the provisions of article 21.38 as they existed before the act of 1967 became effective.
 See, now, article 1.14—2.

**CHAPTER TWENTY TWO—STIPULATED PREMIUM
 INSURANCE COMPANIES**

Art. 22.05. Original Examination and Certificate

When the first meeting of the stockholders shall be held and the officers of the company elected, the President or Secretary shall notify the State Board of Insurance and such Board shall thereupon immediately make or cause to be made at the expense of the company a full and thorough examination thereof. If it finds that all of the capital stock of the company amounting to not less than the minimum amount required by law has been fully paid up and is in the custody of the officers either in cash or securities of the class such companies are authorized by this Chapter to invest or loan their funds, it shall issue forthwith to such stipulated premium company a temporary certificate of authority limiting the activities of such stipulated premium company solely to the negotiating and obtaining of a direct reinsurance agreement with a company chartered and doing business under the provisions of Chapter 14 of the Insurance Code of Texas on the effective date of this Act. Such certificate of authority shall terminate twelve (12) months from its date, unless renewed by the State Board of Insurance for an additional period of twelve (12) months, provided that such stipulated premium company has not theretofore consummated a direct reinsurance agreement with such a company doing business under the provisions of Chapter 14 of the Insurance Code.

Before such temporary certificate of authority is issued, not less than two (2) officers of such company shall execute and file with the State Board of Insurance a sworn schedule of all the assets of the company exhibited to the Board upon such examination showing the value thereof, together with a sworn statement that the same are bona fide, the unconditional and unencumbered property of the company, and are worth the amount stated in such schedule.

In the event a direct reinsurance agreement be not so consummated within such twelve (12) months period, unless renewed by the State Board of Insurance for an additional period of twelve (12) months, the certificate of authority shall automatically terminate and the incorporators of such stipulated premium company shall forthwith surrender its charter to the State Board of Insurance for cancellation.

In the event a direct reinsurance agreement as provided in this Chapter is consummated with such a company doing business under the provisions of Chapter 14 of this code, the State Board of Insurance shall forthwith and in accordance with the provisions of Article 22.15 of this Code issue to such a company a regular certificate of authority to transact business in the State of Texas. Likewise, such certificate of authority shall provide for the type of insurance business which may be written by the stipulated premium company; if the Chapter 14 company was engaged in the life business or was a burial association, the stipulated premium company shall be entitled and authorized to write life insurance policies as

regulated by the provisions of this Chapter, and if the Chapter 14 company was permitted by its charter to write accident insurance, or health and accident insurance, or life, health and accident insurance, then the stipulated premium company shall be so permitted.

As such stipulated premium company thereafter directly reinsures additional Chapter 14 companies chartered and doing business under the provisions of Chapter 14 of the Insurance Code of Texas, its regular certificate of authority shall be amended to write any type of such insurance coverage as those authorized for any such Chapter 14 company whose policies are so assumed by the stipulated premium company.

Any stipulated premium company holding a permanent certificate of authority on the effective date of this Act, and which permanent certificate of authority limits the territory of operation or writing of business of such company to an area or territory less than the entire State of Texas may, at any time thereafter, make application for, and thereafter be entitled to receive a permanent certificate of authority to operate and issue policies of insurance as so previously authorized (or as may thereafter be authorized by compliance with the provisions of this Chapter 22), anywhere within the State of Texas.

Amended by Acts 1967, 60th Leg., p. 1831, ch. 708, § 2, emerg. eff. June 17, 1967.

Acts 1967, 60th Leg., p. 1830, ch. 708, § 1 severability clause, is set out as a note amended article 12.03, section 3 thereof, a under article 12.03.

Art. 22.18. Other Laws to Govern

Section 1. The following Articles of this Code, to wit: Article 1.14, Article 1.15, Article 1.16, Article 1.19, Article 1.24, Article 3.13, Article 3.39, Article 3.40, Article 3.61, Article 3.62, Article 3.63, Article 3.67, Article 21.21, Article 21.25, Article 21.26, Article 21.28, Article 21.32, Article 21.39, Article 21.45, and Article 21.47, shall apply to and govern stipulated premium companies and each company shall comply with the provisions thereof.

Sec. 1 amended by Acts 1967, 60th Leg., p. 816, ch. 343, § 1, eff. Aug. 28, 1967.

* * * * *

**TITLE 79—INTEREST—CONSUMER CREDIT—
CONSUMER PROTECTION**

Subtitle	Article
1. Interest	5069-1.01
2. Consumer Credit	5069-2.01
3. Consumer Protection	5069-9.01
Chapter	
50. Miscellaneous Provisions	5069-50.01

Title 79, Interest, Revised Civil Statutes, 1925, consisting of articles 5069 to 5074a, as amended by Acts 1963, 58th Leg., p. 550, ch. 205, §§ 26-28, was rearranged, reorganized, revised and amended by Acts 1967, 60th Leg., p. 609, ch. 274.

Title 79, Interest—Consumer Credit—Consumer Protection, as herein set out, consisting of articles 5069—1.01 to 5069—50.06, was enacted by Acts 1967, 60th Leg., p. 609, ch. 274.

DECLARATION OF LEGISLATIVE INTENT

Section 1. DECLARATION OF LEGISLATIVE INTENT

The Legislature finds as facts and determines:

(1) Many citizens of our State are being victimized and abused in various types of credit and cash transactions. These practices impose a great hardship upon the people of our State.

(2) Credit in its various forms is one of the most essential and vital elements of our economy. It can be truly said that credit affects every citizen every day. Credit transactions in our State amount to many billions of dollars per year.

(3) Credit abuses now existing in our State stem from the fact that many types of credit transactions are not now subject to effective public regulation and control and the penalties imposed for usury do not provide effective or workable safeguards in this vital area of economic activity.

(4) Such abuses are especially prevalent in the area of consumer transactions both cash and credit. Unscrupulous operators, lenders and vendors, many of whom are transient to our State, are presently engaged in many abusive and deceptive practices in the conduct of their businesses. These unregulated practices bring great social and economic hardship to many citizens of our State. They impose intolerable burdens on those segments of our society which can least afford to bear them—the uneducated, the unsophisticated, the poor and the elderly.

(5) These facts conclusively indicate a need for a comprehensive code of legislation to clearly define interest and usury, to classify and regulate loans and lenders, to regulate credit sales and services, and place limitations on charges imposed in connection with such sales and services, to provide for consumer education and debt counseling, to prohibit deceptive trade practices in all types of consumer transactions, and to provide firm and effective penalties for usury and other prohibited practices.

(6) It is the intent of the Legislature in enacting this revision of Title 79 of the Revised Civil Statutes of Texas, 1925, to protect the citizens of Texas from abusive and deceptive practices now being perpetrated by unscrupulous operators, lenders and vendors in both cash and credit consumer transactions and to implement the mandate of Section II of Article XVI of the Constitu-

tion of Texas which authorizes the Legislature to classify loans and lenders, license and regulate lenders, define interest and fix maximum rates of interest, and thus serve the public interest of the people of this State.

Acts 1967, 60th Leg., p. 608, ch. 274, § 1, eff. Oct. 1, 1967.

SUBTITLE ONE—INTEREST

Chapter	Article
1. Interest	5069-1.01

CHAPTER 1—INTEREST

Art.	Art.
5069—1.01. Definitions.	5069—1.04. Limit on rate.
5069—1.02. Maximum rates of interest.	5069—1.05. Rate of judgments.
5069—1.03. Legal rate applicable.	5069—1.06. Penalties.

Chapter 1, Interest, consisting of articles 5069—1.01 to 5069—1.06, was enacted by Acts 1967, 60th Leg., p. 609, ch. 274, § 2, effective October 1, 1967.

Art. 5069—1.01. Definitions

(a) "Interest" is the compensation allowed by law for the use or forbearance or detention of money; provided however, this term shall not include any time price differential however denominated arising out of a credit sale.

(b) "Legal Interest" is that interest which is allowed by law when the parties to a contract have not agreed on any particular rate of interest.

(c) "Conventional Interest" is that interest which is agreed upon and fixed by the parties to a written contract.

(d) "Usury" is interest in excess of the amount allowed by law.

(e) "Person" means an individual, partnership, corporation, joint venture, trust, association or any legal entity, however organized.

Acts 1967, 60th Leg., p. 609, ch. 274, § 2, eff. Oct. 1, 1967.

Provisions of this article were formerly covered by art. 5069 (repealed).

Art. 5069—1.02. Maximum rates of interest

Except as otherwise fixed by law, the maximum rate of interest shall be ten percent per annum. A greater rate of interest than ten percent per annum unless otherwise authorized by law shall be deemed usurious. All contracts for usury are contrary to public policy and shall be subject to the appropriate penalties prescribed in Article 1.06 of this Subtitle.

Acts 1967, 60th Leg., p. 609, ch. 274, § 2, eff. Oct. 1, 1967.

Provisions of this article were formerly covered by art. 5069 (repealed).

Art. 5069—1.03. Legal rate applicable

When no specified rate of interest is agreed upon by the parties, interest at the rate of six percent per annum shall be allowed on all written contracts ascertaining the sum payable, from and after the time when the sum is due and payable; and on all open accounts, from the first day of January after the same are made.

Acts 1967, 60th Leg., p. 609, ch. 274, § 2, eff. Oct. 1, 1967.

Provisions of this article were formerly covered by art. 5070 (repealed).

For Annotations and Historical Notes, see V.A.T.S.

Art. 5069—1.04. Limit on rate

The parties to any written contract may agree to and stipulate for any rate of interest not exceeding ten percent per annum on the amount of the contract; and all other written contracts whatsoever, except those otherwise authorized by law, which may in any way, directly or indirectly, provide for a greater rate of interest shall be subject to the appropriate penalties prescribed in this Subtitle.

Acts 1967, 60th Leg., p. 609, ch. 274, § 2, eff. Oct. 1, 1967.

Provisions of this article were formerly covered by art. 5071 (repealed).

Art. 5069—1.05. Rate of judgments

All judgments of the courts of this State shall bear interest at the rate of six percent per annum from and after the date of the judgment, except where the contract upon which the judgment is founded bears a specified interest greater than six percent per annum, in which case the judgment shall bear the same rate of interest specified in such contract, but shall not exceed ten percent per annum, from and after the date of such judgment.

Acts 1967, 60th Leg., p. 610, ch. 274, § 2, eff. Oct. 1, 1967.

Provisions of this article were formerly covered by art. 5072 (repealed).

Art. 5069—1.06. Penalties

(1) Any person who contracts for, charges or receives interest which is greater than the amount authorized by this Subtitle, shall forfeit to the obligor twice the amount of interest contracted for, charged or received, and reasonable attorney fees fixed by the court provided that there shall be no penalty for a violation which results from an accidental and bona fide error.

(2) Any person who contracts for, charges or receives interest which is in excess of double the amount of interest allowed by this Subtitle shall forfeit as an additional penalty, all principal as well as interest and all other charges and shall pay reasonable attorney fees set by the court; provided further that any such person violating the provisions of this section shall be guilty of a misdemeanor and upon conviction thereof shall be punished by fine of not more than One Thousand Dollars. Each contract or transaction in violation of this section shall constitute a separate offense punishable hereunder.

(3) All such actions brought under this Article shall be brought in any court of this State having jurisdiction thereof within four years from the date when the usurious charge was received or collected in the county of the defendant's residence, or in the county where the interest in excess of the amount authorized by this Subtitle has been received or collected, or where such transaction had been entered into or where the parties who paid the interest in excess of the amount authorized by this Subtitle resided when such transaction occurred, or where he resides.

Acts 1967, 60th Leg., p. 610, ch. 274, § 2, eff. Oct. 1, 1967.

Provisions of this article were formerly covered by art. 5073 (repealed).

SUBTITLE TWO—CONSUMER CREDIT

Chap.	Art.
2. General Provisions	5069—2.01
3. Regulated Loans	5069—3.01
4. Installment Loans	5069—4.01
5. Secondary Mortgage Loans	5069—5.01
6. Retail Installment Sales	5069—6.01
7. Motor Vehicle Installment Sales	5069—7.01
8. Penalties	5069—8.01

CHAPTER 2—GENERAL PROVISIONS

Art.	Art.
5069—2.01. General definitions.	5069—2.04. Hearings and review.
5069—2.02. Creation of the office of consumer credit commissioner.	5069—2.05. Credit unions.
5069—2.03. Investigation and enforcement.	5069—2.06. Advertising.

Chapter 2, General Provisions, consisting of articles 5069—2.01 to 5069—2.06, was enacted by Acts 1967, 60th Leg., p. 609, ch. 274, § 2, effective October 1, 1967.

Art. 5069—2.01. General definitions

The following words and terms used in this Subtitle shall, unless the context clearly requires a different meaning, have the following meanings. The meanings applied to the singular forms shall also apply to the plural.

(a) "Person" means an individual, partnership, corporation, joint venture, trust, association or any legal entity however organized.

(b) "License" means the authority to do business under Chapter 3 of this Subtitle.

(c) "Licensee" means any person to whom one or more licenses have been issued.

(d) "Bank" shall mean any person doing business under the authority of and as permitted by the Texas Banking Code of 1943, as amended, or any person organized under the provisions of Title 12, United States Code, Section 21 (U.S.Rev.Statutes 5133) and the amendments thereto.

(e) "Savings and Loan Association" means any person doing business under the authority of and as permitted by the "Texas Savings and Loan Act" or any person incorporated under the provisions of the Home Owners' Loan Act of 1933 and the amendments thereto.¹

(f) "Credit Union" means any person doing business under the authority of and as permitted by Articles 2461 through 2484, Revised Civil Statutes of Texas, 1925, as amended and the amendments thereto, and Section 5 of House Bill No. 47, Acts of the 46th Legislature, Regular Session, 1939, and Chapter 173, Acts of the 51st Legislature, Regular Session, 1949,² relating to Credit Unions and the amendments thereto, or any person organized under the provisions of the Federal Credit Union Act and the amendments thereto.

(g) "Cash advance" means the amount of cash or its equivalent the borrower actually receives and shall also include that paid out at his direction or request, on his behalf or for his benefit.

(h) "Interest" is the compensation allowed by law for the use or forbearance or detention of money; provided, however, this term shall not include any time price differential however denominated arising out of a credit sale.

(i) "Amount of loan" means the cash advance plus the interest.

(j) "Month" means that period of time from one date in a calendar month to the corresponding date in the following calendar month, but if

For Annotations and Historical Notes, see V.A.T.S.

there is no such corresponding date then the last day of such following calendar month, and when computations are made for a fraction of a month a day shall be one-thirtieth of a month.

(k) "Finance Commission" means the Finance Commission of Texas created by the Texas Banking Code of 1943, or any subcommittee created by any rule or regulation of the Finance Commission.

(l) "Consumer Credit Commissioner" or "Commissioner" when used in general application shall mean the Consumer Credit Commissioner; provided however, the terms "Consumer Credit Commissioner" or "Commissioner" in their relation and application to state chartered banks operating under the authority of this Subtitle shall mean the Banking Commissioner of the State of Texas and in their relation and application to federally chartered banks operating under the authority of this Subtitle shall mean that official exercising authority over the operations of such banks equivalent to the authority exercised by the Banking Commissioner of the State of Texas; and provided further that the terms "Consumer Credit Commissioner" or "Commissioner" in their relation and application to state chartered savings and loan associations operating under the authority of this Subtitle shall mean the Savings and Loan Commissioner of the State of Texas, and in their relation and application to federally chartered savings and loan associations operating under the authority of this Subtitle shall mean that official exercising authority over the operation of such savings and loan associations equivalent to the authority exercised by the Savings and Loan Commissioner of the State of Texas; and provided further, that the terms "Consumer Credit Commissioner" or "Commissioner" in their relation and application to credit unions operating under the authority of this Subtitle shall mean the Credit Union Supervisor of the State Banking Department and when used in application to federally chartered credit unions shall mean that official exercising authority equivalent to the authority exercised by the Credit Union Supervisor of the State Banking Department; except however, that all duties to be performed and powers to be exercised regarding issuance of licenses in accordance with the provisions of this Subtitle, promulgation of annual report forms, receipt of annual reports and compilation of information contained therein in accordance with this Subtitle, and promulgation of rules and regulations for licensees, adopted by the Finance Commission, in accordance with this Subtitle, shall be performed by the Consumer Credit Commissioner as to all persons holding licenses hereunder.

Acts 1967, 60th Leg., p. 611, ch. 274, § 2, eff. Oct. 1, 1967.

¹ 12 U.S.C.A. § 1461 et seq.

² Article 2462.

Provisions of this article were formerly covered by art. 6165b, § 3 (repealed).

Art. 5069—2.02. Creation of the office of consumer credit commissioner

(1) There is hereby created the Office of Consumer Credit Commissioner of the State of Texas. The Commissioner shall be appointed by the Finance Commission and shall serve at the pleasure of the Finance Commission. The Consumer Credit Commissioner shall be an employee of the Finance Commission, subject to its orders and directions.

(2) The Consumer Credit Commissioner shall, from time to time, as directed by the Finance Commission, submit to the Finance Commission a full and complete report of the receipts and expenditures of this Office, and the Finance Commission may, from time to time, examine the financial records of the Office of Consumer Credit Commissioner, or cause them to be examined. In addition, the Office of Consumer Credit Commissioner shall be audited from time to time by the state auditor in the same manner as state departments, and the actual costs of such audit shall be paid to the state auditor from the funds of the Office of the Consumer Credit Com-

missioner. The Finance Commission shall report to the Governor of the State of Texas the receipts and disbursements of the Office of Consumer Credit Commissioner for each calendar year.

(3) The Consumer Credit Commissioner shall have authority to appoint and remove, and prescribe the duties of, such assistant commissioners, examiners and employees as may be necessary to maintain and operate the Office of the Consumer Credit Commissioner and to enforce the provisions of Subtitles Two and Three of this Title.

(4) The Consumer Credit Commissioner, assistant commissioners, examiners and employees shall, before entering upon the duties of office, take an oath of office and make a fidelity bond in the sum of Ten Thousand Dollars payable to the Finance Commission and its successors in office, in individual, schedule or blanket form, executed by a surety appearing upon the list of approved sureties acceptable to the Finance Commission. The bond shall be in form approved by the Finance Commission.

(5) The Consumer Credit Commissioner shall enforce the provisions of Subtitles Two and Three of this Title in person through assistant commissioners or any examiner or employee. The Consumer Credit Commissioner, each assistant commissioner, each examiner and each employee shall not be personally liable for damages occasioned by his official act or omissions except when such acts or omissions are corrupt or malicious. The Attorney General shall defend any action brought against any of the above-mentioned officers or employees by reason of his official act or omission whether or not at the time of the institution of the act the defendant has terminated his services with the Office of the Consumer Credit Commissioner.

(6) The Consumer Credit Commissioner shall also have responsibility to coordinate, encourage, aid and assist public and private agencies, organizations and groups, and consumer credit institutions in the development and operation of voluntary educational and debt counseling programs designed to promote the prudent and beneficial use of consumer credit by citizens of the State.

Acts 1967, 60th Leg., p. 612, ch. 274, § 2, eff. Oct. 1, 1967.

Provisions of this article were formerly covered by art. 6165b, § 4 (repealed).

Art. 5069—2.03. Investigation and enforcement

(1) Upon receipt of written complaint or other reasonable cause to believe that any provision of Subtitles Two or Three of this Title are being violated by any person, the Consumer Credit Commissioner may request such person to furnish information in regard to a specific loan or retail transaction or business practice alleged to be in violation of Subtitles Two or Three of this Title.

(2) If any such person shall fail to comply with such a request the Consumer Credit Commissioner shall have the authority to conduct an investigation to determine whether the provisions of Subtitles Two or Three of this Title are being violated.

(3) In the course of any investigation looking to the enforcement or administration of any provision of Subtitles Two or Three of this Title, the Consumer Credit Commissioner may require by subpoena or summons, issued by the Consumer Credit Commissioner addressed to any peace officer within this State, the attendance and testimony of witnesses, and the production of books, accounts, papers, correspondence, or records (excepting such as are absolutely necessary for the continued course of business which shall not be removed from the office or place of business) which such books, accounts, papers, correspondence, or records the Consumer Credit Commissioner shall have the right to examine, or cause to be examined, at the office, or place of business, and to require copies of such portions thereof as may be deemed necessary touching the matter in

For Annotations and Historical Notes, see V.A.T.S.

question, which copies shall be verified by affidavit of such concern or an officer of such concern, and shall, when certified by the Consumer Credit Commissioner, be admissible in evidence in any investigation or hearing under Subtitles Two and Three of this Title or in an appeal to the District Court as provided by Subtitles Two and Three of this Title and for this purpose the Consumer Credit Commissioner may sign subpoenas, administer oaths and affirmations, examine witnesses and receive evidence. In case of disobedience of any subpoena, or of the contumacy of any witness appearing before the commissioner, the Consumer Credit Commissioner may invoke the aid of the district court within whose jurisdiction any witness may be found, and such court may thereupon issue an order requiring the person subpoenaed to obey the subpoena or give evidence, or produce books, accounts, correspondence, records and other documents touching the matter in question. Upon the filing of such application to enforce such subpoena, which application shall be treated in the same manner as a motion in a civil suit pending in said court, the court shall forthwith set such application for hearing and shall cause a notice of the filing of such application and of such hearing to be served upon the party to whom such subpoena is directed. Such notice may be served by any peace officer in the State of Texas. Such application shall take precedence over all other matters of a different nature pending before such court. Any failure to obey such order of the court may be punished by such court as contempt thereof.

(4) In the course of any investigation described in Section (3) of this Article, the Consumer Credit Commissioner may appoint a hearing officer to conduct such investigation and such hearing officer shall be vested for the purpose of such investigation with the power and authority as the Consumer Credit Commissioner would have if he were personally conducting such investigation, provided that such hearing officer shall not be authorized to make any order upon the subject matter of such investigation; and provided further, that the record of any investigation conducted before the hearing officer may be considered by the Consumer Credit Commissioner in the same manner and to the same extent as evidence that is adduced before him personally in any investigation.

(5) The fee for serving the subpoena shall be the same as that paid a sheriff or constable for similar services. Each witness required to attend before the Commissioner shall receive for each days attendance, the sum of Two Dollars and shall receive in addition the sum of Ten Cents for each mile traveled by such witness by the usual route going to or returning from the place where his presence is required, provided that such fees shall not become payable until the witness has actually appeared at such hearing. All disbursements made in the payment of such fees shall be included in and paid in the same manner as is provided for other expenses incident to the administration and enforcement of Subtitles Two and Three of this Title.

(6) The fees, expenses and costs incurred at or in connection with any hearing may be imposed by the Consumer Credit Commissioner upon any party in interest to the record or may be divided between any and all parties in interest to the record in such proportion as the Commissioner may determine.

(7) Whenever the Consumer Credit Commissioner has reasonable cause to believe that any person is violating any provisions of Subtitles Two and Three of this Title he may in addition to all actions provided for, and without prejudice thereto, enter an order requiring such person to desist or to refrain from such violation; and an action may be brought in any district court of this State having jurisdiction and venue, on the relation of the Attorney General at the request of the Commissioner, to enjoin such person from engaging in or continuing such violation or from doing any act or acts in furtherance thereof. In any such action, an order or judgment may be entered awarding such preliminary or final injunction

as may be deemed proper. In addition to all other means provided by law for the enforcement of a restraining order or injunction, the court in which such action is brought shall have power and jurisdiction to impound, and to appoint a receiver for, the property and business of the defendant, including books, papers, documents and records pertaining thereto or so much thereof as the court may deem reasonably necessary to prevent violations of Subtitles Two and Three of this Title through or by means of the use of said property and business. Such receiver, when appointed and qualified, shall have such powers and duties as he would have under Articles 2293 through 2319, inclusive, Revised Civil Statutes of Texas, 1925, as amended, if he had been appointed pursuant to paragraph four of Article 2293.

Acts 1967, 60th Leg., p. 612, ch. 274, § 2, eff. Oct. 1, 1967.

Provisions of this article were formerly covered by art. 6165b, § 12(c)-(g) (repealed).

Art. 5069—2.04. Hearings and review

(1) At all hearings before the Consumer Credit Commissioner, parties in interest shall have the right to appear in person and by counsel, and to present oral and written evidence. If requested by a party in interest, a record shall be made of all evidence offered by such party and all other evidence considered by the Consumer Credit Commissioner.

(2) Any party in interest aggrieved by any order, ruling or decision of the Consumer Credit Commissioner may, within thirty days after the date of entry, file in the District Court of Travis County, Texas, a petition against the Consumer Credit Commissioner officially as defendant, alleging therein in brief detail the order, ruling or decision complained of and praying for a reversal or modification thereof. The Consumer Credit Commissioner shall, within twenty days after the service upon him of such petition, certify to said District Court the record of the proceedings to which the petition refers, or such portion thereof as may be required by the petitioner. The cost of preparing and certifying such record shall be paid to the Consumer Credit Commissioner by the petitioner and taxed as a part of the costs of the case. Upon the filing of an answer by the Consumer Credit Commissioner, the case before the District Court shall be at issue, without further pleadings, and upon application of either party shall be advanced and heard without further delay. The order of the Consumer Credit Commissioner shall be sustained unless the hearing was conducted in a manner contrary to the rudiments of a fair hearing; or the order was based upon an error of law which affected petitioner's substantial rights; or was arbitrary, capricious or unreasonable; or the findings of fact were not reasonably supported by substantial evidence in the record, considered as a whole, adduced before the Consumer Credit Commissioner. Provided, however, that any appeal to the District Court of Travis County, Texas, of an order, ruling or decision of the Consumer Credit Commissioner, refusing to grant a license or licenses to an applicant or revoking the license or licenses of a licensee, such appeal shall be upon trial de novo as that term is used in appealing from justice of the peace courts to county courts.

(3) Upon a showing of good cause therefor by a party in interest, the Consumer Credit Commissioner or the court may enter an order staying, pending appeal, the effect of an order of the Consumer Credit Commissioner from which the party in interest desires to appeal.

Acts 1967, 60th Leg., p. 614, ch. 274, § 2, eff. Oct. 1, 1967.

Provisions of this article were formerly covered by art. 6165b, § 23 (repealed).

For Annotations and Historical Notes, see V.A.T.S.

Art. 5069—2.05. Credit unions

Notwithstanding any provisions to the contrary contained in this subtitle, credit unions shall not contract for or receive interest in excess of the amount set forth in Section 5 of Article 2462, Revised Civil Statutes of Texas, 1925, as amended, and Section 1757 of Chapter 14 of Title 12 of the United States Code, as amended.

Acts 1967, 60th Leg., p. 615, ch. 274, § 2, eff. Oct. 1, 1967.

Art. 5069—2.06. Advertising

No person shall advertise or cause to be advertised, in any manner whatsoever, any false, misleading or deceptive statement or representation with regard to the rates, terms or conditions of any loan or credit transaction regulated by Subtitle Two. If rates or charges are stated in advertising they shall be stated fully and clearly.

Acts 1967, 60th Leg., p. 615, ch. 274, § 2, eff. Oct. 1, 1967.

CHAPTER 3—REGULATED LOANS

Art.		Art.	
5069—3.01.	Scope.	5069—3.10.	Records.
5069—3.02.	Application for license, fees, bond, appointment of statutory agent.	5069—3.11.	Annual reports.
5069—3.03.	Issuance or denial of license.	5069—3.12.	Regulations, copies, public record.
5069—3.04.	Issuance of license to banks, savings and loan associations, and credit unions.	5069—3.13.	Advertising.
5069—3.05.	License, annual fee, minimum assets.	5069—3.14.	More than one business in single office.
5069—3.06.	Offices, removal.	5069—3.15.	Maximum rates of interest.
5069—3.07.	Revocation, suspension, surrender, reinstatement of licenses.	5069—3.16.	Alternative rates of interest authorized.
5069—3.08.	Examination of licensees, access to records, investigation.	5069—3.17.	Loans secured by pledge of tangible personal property.
5069—3.09.	Investigation.	5069—3.18.	Insurance.
		5069—3.19.	Licensee's duty to borrower.
		5069—3.20.	Prohibited practices.
		5069—3.21.	Limitation loan period.

Chapter 3, Regulated Loans, consisting of articles 5069—3.01 to 5069—3.21, was enacted by Acts 1967, 60th Leg., p. 609, ch. 274, § 2, effective October 1, 1967.

Art. 5069—3.01. Scope

(1) On or after the effective date of this Chapter, no person shall, without first obtaining a license from the Consumer Credit Commissioner, engage in the business of making loans with cash advances of Two Thousand, Five Hundred Dollars or less, and contract for, charge or receive, directly, or indirectly, on or in connection with any such loan, any charges, whether for interest, compensation, consideration or expense or other thing or otherwise, which in the aggregate are greater than such person would be permitted by law to charge if he were not a licensee under this Chapter.

(2) The provisions of Section 3.01(1) shall apply to any person who seeks to evade its application by any device, subterfuge or pretense whatsoever.

Acts 1967, 60th Leg., p. 615, ch. 274, § 2, eff. Oct. 1, 1967.

Provisions of this article were formerly covered by art. 6165b, § 5 (repealed).

Art. 5069—3.02. Application for license, fees, bond, appointment of statutory agent

(1) Application for a license shall be under oath, shall give the approximate location from which the business is to be conducted, and

shall contain such relevant information as the Consumer Credit Commissioner may require, including identification of the principal parties in interest, to provide the basis for the findings necessary under Article 3.03. When making application, for one or more licenses, the applicant shall pay Two Hundred Dollars to the Consumer Credit Commissioner as an investigation fee and One Hundred Dollars for each license as the annual fee provided in this Chapter for the current calendar year, provided if a license is granted after June 30th in any year, such fee shall be Fifty Dollars for that year.

(2) Every licensee shall maintain on file with the Consumer Credit Commissioner a written appointment of a resident of this State as his agent for service of all judicial or other process or legal notice, unless the licensee has appointed an agent under another statute of this State. In case of noncompliance, such service may be made on the Consumer Credit Commissioner.

(3) Every applicant shall, also, at the time of filing any such application, file with the Consumer Credit Commissioner, if he so requires, a bond satisfactory to him and in an amount not to exceed Five Thousand Dollars for the first license and One Thousand Dollars for each additional license with a surety company qualified to do business in this State as surety, whose total liability in the aggregate shall not exceed the amount of such bond so fixed. The said bond shall run to the State for the use of the State and of any person or persons who may have cause of action against the obligor of said bond under the provisions of this Chapter. Such bond shall be conditioned that said obligor will faithfully conform to and abide by the provisions of this Chapter and of all rules and regulations lawfully made by the Consumer Credit Commissioner hereunder, and will pay, to the State and to any such person or persons any and all amounts of money that may become due or owing to the State or to such person or persons from said obligor under and by virtue of the provisions of this Chapter during the calendar year for which said bond is given.

Acts 1967, 60th Leg., p. 615, ch. 274, § 2, eff. Oct. 1, 1967.

Provisions of this article were formerly covered by art. 6165b, § 7 (repealed).

Art. 5069—3.03. Issuance or denial of license

(1) On filing of such application, bond, and payment of the required fees, the Consumer Credit Commissioner shall investigate the facts and if he shall find the financial responsibility, experience, character and general fitness of the applicant are such as to command the confidence of the public and to warrant belief the business will be operated lawfully and fairly, within the purposes of this Chapter, and the applicant has available for the operation of such business net assets of at least Twenty-five Thousand Dollars, he shall grant such application and issue to the applicant a license which shall be his license and authority to make loans under the provisions of this Chapter.

(2) If the Consumer Credit Commissioner shall not so find, he shall notify the applicant, who shall, on request within thirty days, be entitled to a hearing on such application within sixty days after the date of said request. The investigation fee shall be retained by the Consumer Credit Commissioner, but the annual fee shall be returned to the applicant in the event of denial.

(3) The Consumer Credit Commissioner shall grant or deny each application for a license within sixty days from its filing with the required fees, or, from the hearing thereon, if any, unless the period is extended by written agreement between the applicant and the Consumer Credit Commissioner.

Acts 1967, 60th Leg., p. 616, ch. 274, § 2, eff. Oct. 1, 1967.

Provisions of this article were formerly covered by art. 6165b, § 8 (repealed).

For Annotations and Historical Notes, see V.A.T.S.

Art. 5069—3.04. Issuance of license to banks, savings and loan associations, and credit unions

(1) Any bank, savings and loan association or credit union doing business under the laws of this State or of the United States shall receive a license upon notification to the Consumer Credit Commissioner of its intention to operate under the provisions of this Chapter. The Consumer Credit Commissioner shall forthwith issue a license to any such bank, savings and loan association or credit union.

(2) Examination fees, and other charges, imposed upon banks, savings and loan associations and credit unions operating under the laws of this State, or of the United States, constitute the equivalent of the investigation fee and annual license fee otherwise imposed in this Chapter, and any bank, savings and loan association, or credit union, holding a license under this Chapter, shall not be required to pay such investigation fee or annual license fee.

(3) Funds required to be maintained as reserves by banks, savings and loan associations and credit unions operating under the laws of this State, or of the United States, constitute an adequate reserve for the payment of any claim arising out of operations under this Chapter, and any bank, savings and loan association, or credit union, holding a license under this Chapter, need not provide the bond otherwise required by this Chapter. Acts 1967, 60th Leg., p. 617, ch. 274, § 2, eff. Oct. 1, 1967.

Art. 5069—3.05. License, annual fee, minimum assets

(1) Each license shall state the address of the office from which the business is to be conducted and the name of the licensee. The license shall be displayed at the place of business named in the license. The license shall not be transferable or assignable except upon approval by the Consumer Credit Commissioner.

(2) Each license shall remain in full force and effect until relinquished, suspended, revoked or expired. Every licensee shall, on or before each December 1st, pay the Consumer Credit Commissioner One Hundred Dollars for each license held by him, as the annual fee for the succeeding calendar year. If the annual fee remains unpaid fifteen days after written notice of delinquency has been given to the licensee by the Consumer Credit Commissioner, the license shall thereupon expire but not before December 31st of any year for which an annual fee has been paid.

(3) (a) Every licensee shall maintain net assets of at least Twenty-five Thousand Dollars, either used or readily available for use, in the conduct of the business of each licensed office.

(b) Provided, however, any person holding a license under the Texas Regulatory Loan Act as of the effective date of this Chapter shall only be required to maintain net assets of at least Fifteen Thousand Dollars either used or readily available for use in the conduct of the business of each such licensed office. If such license is transferred to any other person, such other person shall be required to maintain minimum assets required under Subsection (a) of this Section.

(c) Provided further, that any person who has paid prior to April 1, 1967, the pawnbroker's occupational tax imposed under the terms of Article 19.01(4) of Title 122A, Taxation—General, Revised Civil Statutes of Texas, 1925, and who has applied for a license to operate under the authority of this Chapter within thirty days of the effective date of this Chapter shall not be required to meet the requirement of minimum assets imposed in Subsection (a) herein; provided, however, if any license issued on the basis of the payment of such tax is transferred, the person to

whom such license is transferred shall be required to meet the minimum assets required under Subsection (a) of this section.
Acts 1967, 60th Leg., p. 617, ch. 274, § 2, eff. Oct. 1, 1967.

Provisions of this article were formerly covered by art. 6165b, § 9 (repealed).

Art. 5069—3.06. Offices, removal

(1) A separate license shall be required for each office operated under this Chapter. The Consumer Credit Commissioner may issue more than one license to any one person upon compliance with this Chapter as to each license. Nothing contained herein, however, shall be construed to require a license for any place of business devoted to accounting or other recordkeeping and where loans under this Chapter are not made.

(2) When a licensee wishes to move his office to another location he shall give thirty days' written notice to the Consumer Credit Commissioner, who shall amend the license accordingly.

(3) The Consumer Credit Commissioner may issue more than one license but not more than sixty licenses to any one person on compliance with this Chapter as to each license. And it shall be unlawful for any person, after the effective date of this Chapter, directly or indirectly, or through subsidiaries or holding companies, to hold or have an interest in more than sixty licenses, the business thereof, or any interest in such license. Any person holding a license under this Chapter which shall violate any provision hereof shall be subject to forfeiture of his license, and if a corporation, its charter shall be subject to forfeiture, and it shall be the duty of the Attorney General, when any such violation is called to his attention, to file suit for such forfeiture of charter and cancellation of the license in a District Court in Travis County, Texas.

Acts 1967, 60th Leg., p. 617, ch. 274, § 2, eff. Oct. 1, 1967.

Provisions of this article were formerly covered by art. 6165b, § 10 (repealed).

Art. 5069—3.07. Revocation, suspension, surrender, reinstatement of licenses

(1) The Consumer Credit Commissioner may, after notice and hearing, suspend or revoke any license if he finds that:

(a) The licensee has failed to pay the annual license fee imposed by this Chapter or an examination fee, investigation fee or other fee or charge imposed by the Consumer Credit Commissioner under the authority of this Chapter, or that

(b) The licensee, either knowingly or without the exercise of due care to prevent the same, has violated any provision of this Chapter or any regulation or order lawfully made pursuant to and within the authority of this Chapter; or that

(c) Any fact or condition exists which, if it had existed or had been known to exist at the time of the original application for such license, clearly would have justified the Consumer Credit Commissioner in refusing to issue such license.

(2) The hearing shall be held upon twenty days' notice in writing setting forth the time and place thereof and a concise statement of the facts alleged to sustain the suspension or revocation. The hearing shall be full, fair and public. Such suspension or revocation and its effective date shall be set forth in a written order accompanied by findings of fact and a copy thereof shall be forthwith delivered to the licensee. Such order, findings, and the evidence considered by the Consumer Credit Commissioner shall be filed with the public records of the Consumer Credit Commissioner.

For Annotations and Historical Notes, see V.A.T.S.

(3) Any licensee may surrender any license by delivering it to the Consumer Credit Commissioner with written notice of its surrender, but such surrender shall not affect his civil or criminal liability for acts committed prior thereto.

(4) No revocation, suspension, or surrender of any license shall impair or affect the obligation of any pre-existing lawful contract between the licensee and any borrower.

(5) The Consumer Credit Commissioner may reinstate suspended licenses or issue new licenses to a person whose license or licenses have been revoked if no fact or condition then exists which clearly would have justified the Consumer Credit Commissioner in refusing originally to issue such license under this Chapter.

Acts 1967, 60th Leg., p. 618, ch. 274, § 2, eff. Oct. 1, 1967.

Provisions of this article were formerly covered by art. 6165b, § 11 (repealed).

Art. 5069—3.08. Examination of licensees, access to records, investigation

(1) At such times as the Commissioner shall deem necessary, the Commissioner, or his duly authorized representative shall make an examination of the place of business of each licensee and shall inquire into and examine the loans, transactions, books, accounts, papers, correspondence, and records of such licensee insofar as they pertain to the business regulated by this Chapter. In the course of such examination, the Commissioner or his duly authorized representative shall have free access to the office, place of business, files, safes and vaults of such licensee, and shall have the right to make copies of such books, accounts, papers, correspondence and records. The Commissioner or his duly authorized representative may, during the course of such examination, administer oaths and examine any person under oath upon any subject pertinent to any matter about which the Commissioner is authorized or required by this Chapter to consider, investigate, or secure information. Any licensee who shall fail or refuse to let the Commissioner or his duly authorized representative examine or make copies of such books, or other relevant documents shall thereby be deemed in violation of this Chapter and such failure or refusal shall constitute grounds for the suspension or revocation of such license. The information obtained in the course of such examination shall be confidential. Each licensee shall pay to the Commissioner an amount assessed by the Commissioner to cover the direct and indirect cost of such examination and a proportionate share of general administrative expense, and the total cost so assessed and charged a licensee in any one calendar year shall not exceed Two Hundred Fifty Dollars for each licensed office.

Acts 1967, 60th Leg., p. 618, ch. 274, § 2, eff. Oct. 1, 1967.

Provisions of this article were formerly covered by art. 6165b, § 12(a) (repealed).

Art. 5069—3.09. Investigation

For the purpose of discovering violations of this Chapter or of securing information required hereunder, the Consumer Credit Commissioner or his duly authorized representatives may investigate the books, accounts, papers, correspondence and records of any licensee or other person whom the Consumer Credit Commissioner has reasonable cause to believe is violating any provision of this Chapter whether or not such person shall claim to be within the authority or scope of this Chapter. For the purposes of this Article any person who advertises for, solicits or holds himself out as willing to make loans with cash advances in the amount or the value of Two Thousand, Five Hundred Dollars or less,

shall be presumed to be engaged in the business described in Article 3.01 of this Chapter.

Acts 1967, 60th Leg., p. 619, ch. 274, § 2, eff. Oct. 1, 1967.

Provisions of this article were formerly covered by art. 6165b, § 12(b) (repealed).

Art. 5069—3.10. Records

(1) Each licensee shall keep or make available in this State such books and records relating to loans made under this Chapter as are necessary to enable the Commissioner to determine whether the licensee is complying with this Chapter. Such books and records shall be consistent with accepted accounting practices.

(2) Each licensee shall preserve or make available such books and records in this State for four years from the date of the loan, or two years from the date of the final entry made thereon, whichever is later. Each licensee's system of records shall be accepted if it discloses such information as may be reasonably required under Section (1) of this Article. All obligations signed by borrowers shall be kept at an office in this State designated by the licensee, except when transferred under an agreement which gives the Commissioner access thereto.

Acts 1967, 60th Leg., p. 619, ch. 274, § 2, eff. Oct. 1, 1967.

Provisions of this article were formerly covered by art. 6165b, § 13(a) (repealed).

Art. 5069—3.11. Annual reports

Each licensee shall, annually on or before the first day of April or other date thereafter fixed by the Consumer Credit Commissioner file a report with the Consumer Credit Commissioner giving such relevant information as the Consumer Credit Commissioner may reasonably require concerning the business and operations during the preceding calendar year for each licensed place of business conducted by such licensee within the State. Such report shall be made under oath and shall be in the form prescribed by the Consumer Credit Commissioner, who shall make and publish annually a consolidated analysis and recapitulation of such reports, but the individual reports shall be held confidential.

Acts 1967, 60th Leg., p. 619, ch. 274, § 2, eff. Oct. 1, 1967.

Provisions of this article were formerly covered by art. 6165b, § 13(b) (repealed).

Art. 5069—3.12. Regulations, copies, public record

(1) The State Finance Commission may make regulations necessary for the enforcement of this Chapter and consistent with all of its provisions. Each such regulation shall refer to the Article, Section or Subsection to which it applies. Before making a regulation the Consumer Credit Commissioner shall give every licensee at least thirty days' written notice of a public hearing, stating the time and place thereof and the terms or substance of the proposed regulation. At the hearing, any licensee or other person may be heard and may introduce evidence, data, or arguments or place the same on file. The Consumer Credit Commissioner shall recommend, and the State Finance Commission, after consideration of all relevant matters presented, shall adopt and promulgate every regulation in written form stating the date of adoption and the date of promulgation. Each regulation shall be entered in a permanent book which shall be a public record and be kept in the Consumer Credit Commissioner's office. A copy of every regulation shall be mailed to each licensee and no regulation shall become effective until the expiration of at least twenty days after such mailing.

For Annotations and Historical Notes, see V.A.T.S.

(2) On application of any person and payment of the costs therefor, the Consumer Credit Commissioner shall furnish under his seal and signed by him or his assistants, a certificate of good standing or a certified copy of any license, regulation or order.

(3) Any transcript of any hearing held by the Consumer Credit Commissioner under this Chapter shall be a public record and open to inspection at all reasonable times.

Acts 1967, 60th Leg., p. 619, ch. 274, § 2, eff. Oct. 1, 1967.

Provisions of this article were formerly covered by art. 6165b, § 14 (repealed).

Art. 5069—3.13. Advertising

No licensee shall advertise or cause to be advertised, in any manner whatsoever, any false, misleading or deceptive statement or representation with regard to the rates, terms or conditions of any loan. If rates or charges are stated in advertising they shall be expressed in terms of a simple annual interest rate.

Acts 1967, 60th Leg., p. 620, ch. 274, § 2, eff. Oct. 1, 1967.

Provisions of this article were formerly covered by art. 6165b, § 15 (repealed).

Art. 5069—3.14. More than one business in single office

(1) A licensee may conduct the business of making loans under this Chapter within any offices, suite, room or place of business in which any other business is solicited or engaged in, or in association or conjunction with any other business, unless the Commissioner shall find, after a hearing, that the conduct by the licensee of such other business in the particular licensed office has concealed evasions of this Chapter and shall order such licensee, in writing, to desist from such conduct in such office.

(2) No licensee shall conduct the business of making loans provided for by this Chapter under any name, or at any place of business within this State, other than that stated in the license.

(3) Nothing in this Chapter shall be construed to limit the loans of any licensee to residents of the community in which the licensed office is situated or to prohibit the licensee from making loans by mail.

Acts 1967, 60th Leg., p. 620, ch. 274, § 2, eff. Oct. 1, 1967.

Provisions of this article were formerly covered by art. 6165b, § 16 (repealed).

Art. 5069—3.15. Maximum rates of interest

(1) Every licensee may contract for and receive on any loan made under this Chapter repayable in consecutive monthly installments, substantially equal in amount, an add-on interest charge computed on the cash advance for the full term of the loan contract in accordance with the following schedule:

Eighteen Dollars per One Hundred Dollars per annum on that part of the cash advance not in excess of Three Hundred Dollars, and Eight Dollars per One Hundred Dollars per annum on that part of the cash advance in excess of Three Hundred Dollars but not in excess of Twenty-five Hundred Dollars.

(2) Interest authorized in Section (1) of this Article shall be computed at the time the loan is made for the full term of the loan contract notwithstanding the requirement of the loan contract for payment in substantially equal regular installments and shall be computed on the basis of a full month for any fractional period in excess of fifteen days. Interest authorized by Section (1) of this Article shall be added to the cash advance and said sum shall be the amount of the loan.

(3) Notwithstanding the foregoing, a licensee may make loans which require repayment in irregular or unequal installments and may compute, contract for, charge or receive interest charges under any method or formula different from that prescribed in Section (1) of this Article, provided the total interest charge as scheduled shall not produce an interest yield in excess of that permitted under Section (1) of this Article for the time the loan is scheduled to be outstanding.

(4) Notwithstanding any other provision of this Chapter, a borrower and a licensee may enter into a written agreement pursuant to which one or more loans or advances to or for the account of the borrower may be made from time to time. The agreement shall contain the date of the agreement; the name and address of each borrower and of the licensee; the nature of the security, if any, the charges in addition to interest contracted for as authorized by this Chapter; and the charge for default and deferment authorized by this Chapter and shall be signed by the parties. A copy of the agreement shall be delivered to the borrower. The agreement may provide for a maximum loan charge on the unpaid principal amounts from time to time outstanding not in excess of a rate producing an interest yield equivalent to that which would be permitted on a similar loan made under Section (1) of this Article. The Commissioner shall prescribe monthly rates of charge which produce an interest yield equal to that permitted under Section (1) of this Article on a loan of the same amount. The loan agreement shall clearly set forth the maximum amount that may be borrowed; the method by which loans or advances are to be made, whether by check or draft drawn on the licensee or otherwise; a simple statement of the method by which the amount of the finance charge is to be calculated; the insurance coverages afforded the borrower through the lender and, if a charge for insurance is to be made, a simple statement of the amount of such charge or the method by which it will be calculated.

If during a billing cycle the licensee makes a loan or advance or the borrower makes a payment, the licensee shall in accordance with any rules and regulations prescribed by the Commissioner give to the borrower within a reasonable time after the end of the billing cycle a written statement of: (a) the outstanding balance at the beginning of the billing cycle; (b) loans or advances during the billing period excluding interest and other charges; (c) the amount of interest and other charges accrued or debited during the period; (d) payments made by the borrower; (e) the balance at the end of the billing cycle; (f) the amount which must be paid and the date it must be paid to avoid a default.

(5) Additional interest for default, if contracted for, may equal but shall not exceed Five Cents for each One Dollar of any scheduled installment when any portion of such installment continues unpaid for ten days or more following the date such payment is due, including Sundays and holidays. Interest for such default shall not be collected more than once on the same installment. If the payment date of each wholly unpaid installment, on which no interest for default has been collected is deferred as of an installment date for one or more full months and the maturity of the contract is extended for a corresponding period of time, the licensee may charge and collect additional interest for such deferment. The interest for such deferment may be equal to the difference between the refund which would be required for prepayment in full, as of the date of deferment and the refund which would be required for prepayment in full as one month prior to such date multiplied by the number of months in the deferment period as defined below. The portion of the interest contracted for under Section (1) of this Article applicable to each deferred balance and installment period following a deferment period shall remain the same as that applicable to such balance and period under the original contract of loan. If a loan is prepaid in full during the deferment period

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defined below, the borrower shall receive, in addition to the refund required under Section (6) of this Article, a pro-rata refund of that portion of the interest for deferment applicable to any unexpired full month or months of such period. The deferment period is that period beginning with the day following the due date of the scheduled installment preceding the first installment being deferred, and during which no payment is made or required by reason of such deferment. The interest for default or interest for deferment may be collected at the time of its accrual, or at any time thereafter.

(6) When any loan contract is prepaid in full by cash, a new loan, renewal, or otherwise, after the first installment due date but before the final installment due date, the licensee shall refund or credit the borrower with an amount which shall be as great a proportion of the total interest contracted for under Section (1) of this Article as the sum of the periodic balances scheduled to follow the installment date after the date of prepayment in full bears to the sum of all the periodic time balances under the schedule of payments set out in the loan contract. If such prepayment in full occurs before the first installment due date the licensee shall retain for each elapsed day from the date the loan was made, one-thirtieth of the portion of the interest which could be retained if the first installment period were one month and the loan were prepaid in full on the first installment period due date and the interest contracted for under Section (1) of this Article in excess of such amount shall be refunded or credited to the borrower. No refund shall be required for partial prepayments and no refund of less than One Dollar need be made.

(7) No licensee shall induce or permit any person, or husband and wife, to be obligated, directly or indirectly, under more than one loan contract under this chapter at the same time for the purpose, or with the effect, of obtaining a higher authorized charge than would otherwise be permitted by this chapter; but such limitation shall not apply to the acquisition by purchase of bona fide retail installment contracts or revolving charge agreements of the borrower incurred for goods, or services, or to pledged loans made pursuant to Article 3.17, and provided further, if a licensee purchases all or substantially all the loan contracts of another licensee hereunder and has at the time of purchase loan contracts with one or more of the borrowers whose loans are purchased, the purchaser shall be entitled to collect principal and authorized charges thereon according to the terms of each loan contract.

(8) In addition to the authorized charges provided in this chapter no further or other charge or amount whatsoever shall be directly, or indirectly, charged, contracted for, or received. This includes (but is not limited by) all charges such as fees, compensation, bonuses, commissions, brokerage, discounts, expenses and every other charge of any nature whatsoever, whether of the types listed herein or not. Without limitation of the foregoing, such charges may be any form of costs or compensation whether contracted for or not, received by the licensee, or any other person, in connection with (a) the investigating, arranging, negotiation, procuring, guaranteeing, making, servicing, collecting or enforcing of a loan; or (b) for the forbearance of money, credit, goods or things in action; or (c) for any other service or services performed or offered. However, the prohibition set out herein shall not apply to amounts actually incurred by a licensee as court costs; attorney fees assessed by a court; lawful fees for filing, recording, or releasing in any public office any security for a loan; the reasonable cost actually expended for repossessing, storing, preparing for sale, or selling any security; or fees for noting a lien on or transferring a certificate of title to any motor vehicle offered as security for a loan made under this Chapter, or premiums or identifiable

charge received in connection with the sale of insurance authorized under this Chapter.

Acts 1967, 60th Leg., p. 620, ch. 274, § 2, eff. Oct. 1, 1967.

Provisions of this article were formerly covered by art. 6165b, § 17(a) (repealed).

Art. 5069—3.16. Alternative rates of interest authorized

(1) On loans having a cash advance of One Hundred Dollars or less, a licensee may charge, in lieu of charges specified in Article 3.15, the following amounts:

(a) On any amount up to and including Twenty-nine Dollars and Ninety-nine Cents a charge may be added at the ratio of One Dollar for each Five Dollars advanced to the borrower.

(b) On any cash advance in an amount in excess of Twenty-nine Dollars and Ninety-nine Cents up to and including the amount of Thirty-five Dollars there shall be allowed an acquisition charge for making the advance not in excess of one-tenth of the amount of the cash advance. In addition thereto, an installment account handling charge shall be allowed not to exceed Three Dollars per month.

(c) On any cash advance of an amount in excess of Thirty-five Dollars but not more than Seventy Dollars there shall be allowed an acquisition charge for making the advance not in excess of one-tenth of the amount of the cash advance. In addition thereto, an installment account handling charge shall be allowed not to exceed Three Dollars and Fifty Cents per month.

(d) On any cash advance of an amount in excess of Seventy Dollars but not in excess of One Hundred Dollars there shall be allowed an acquisition charge for making the advance not in excess of one-tenth of the amount of the cash advance. In addition thereto, an installment account handling charge shall be allowed not to exceed Four Dollars per month.

(2) The maximum term of any loan made under the terms of this Article shall be one month for each Ten Dollars of cash advance up to a maximum term of six months.

(3) On such loans under this Article, no insurance charges or any other charges of any nature whatsoever shall be permitted.

(4) The acquisition charge authorized herein shall be deemed to be earned at the time a loan is made and shall not be subject to refund. On the prepayment of any loan under this Article the installment account handling charge shall be subject to the provisions of Article 3.15 as it relates to refunds. Provisions of Article 3.15 relating to default charges on loans and the deferment of loans shall apply to loans made under this Article.

(5) The Commissioner shall have authority to formulate schedules providing for repayment in weekly, bi-weekly or semi-monthly installments for use by licensees on loans made under the authority of this Article provided the ratio of charges permitted under such schedules do not exceed the maximum rates authorized in this Article.

Acts 1967, 60th Leg., p. 623, ch. 274, § 2, eff. Oct. 1, 1967.

Provisions of this article were formerly covered by art. 6165b, § 17(b) (repealed).

Art. 5069—3.17. Loans secured by pledge of tangible personal property

(1) Any licensee may make a loan on the security of tangible personal property deposited in the licensee's keeping only if the borrower or any other party to the contract has no liability for the repayment of the obligation.

For Annotations and Historical Notes, see V.A.T.S.

(2) Any licensee who in the general course of his business lends money on the security of tangible personal property deposited in his keeping may hold himself out to the public as a "pawnbroker."

(3) A licensee shall be liable for the loss of any security or part thereof deposited in his keeping pursuant to this Article, or for injury thereto, whether caused by fire, theft, burglary, or otherwise, resulting from his failure to exercise reasonable care in regard to it, but he shall not be liable, in the absence of an express written agreement to the contrary, for the loss of any security or part thereof deposited in his keeping, or for injury thereto which could not have been avoided by the exercise of such care.

(4) Upon default in the payment of any loan made pursuant to this Article, a licensee may sell any security deposited in his keeping thirty days after giving written notice by registered or certified mail addressed to the borrower at the address of the borrower as shown in the loan contract, or ninety days after the due date without the giving of any notice to the borrower. The loan contract shall contain as part of its provisions, the notice requirements of this section and shall be conclusive evidence that all parties to the contract had agreed to any such provisions.

(5) Any licensee holding as security tangible personal property pursuant to this Article upon written notice by any law enforcement agency of the State of Texas or of the United States to hold or retain such security shall do so without incurring any liability whatsoever, either civil or criminal, until disposition of the security is directed pursuant to an order of a court of competent jurisdiction, or such request to hold such security has been withdrawn by the agency originally making the request.

(6) The borrower may, by delivery of the loan contract, assign all his right, title and interest in the loan contract and the security described therein. Except as otherwise provided herein, the person presenting a loan contract to the licensee shall be presumed to be the borrower and shall be entitled to redeem the security, and the licensee shall deliver the security to the person presenting such loan contract upon payment of principal, interest and charges on the loan and upon surrender of the loan contract.

(7) On all loans made pursuant to this Article, notice of a loan contract which has been lost, destroyed or stolen shall be furnished to the licensee by the borrower in person or by registered mail. Upon receipt of notice by registered mail of a lost, destroyed or stolen loan contract or personal notice by the borrower of a lost, destroyed or stolen loan contract, the licensee shall stop payment of the loan and hold the security until the alleged borrower has furnished an affidavit as to the loss, destruction or theft of the loan contract. The licensee upon receipt of such affidavit shall permit the borrower to redeem the loan or shall furnish the borrower with a duplicate loan contract. The licensee shall not be liable for any security released on such affidavit or written statement unless previous written notice by registered mail or previous personal notice upon affidavit of an adverse claim was received by the licensee.

(8) On loans under this Article, no insurance charges shall be permitted.

Acts 1967, 60th Leg., p. 623, ch. 274, § 2, eff. Oct. 1, 1967.

Provisions relating to pawnbrokers were formerly covered by arts. 6146-6161; Vernon's Ann.P.C. art. 1126 and V.A.T.S. Tax-Gen. art. 19.01(4) (repealed).

Art. 5069—3.18. Insurance

(1) On any loan having a cash advance of One Hundred Dollars or more, made under the authority of this Chapter, a lender may request or require a borrower to provide credit life insurance and credit health and accident insurance as additional protection for such a loan. Only one

policy of life insurance and one policy of health and accident insurance on any one obligor may be in force with respect to any one loan contract at any one time.

(2) On any loan having a cash advance of Three Hundred Dollars or more, a lender may, in addition, request or require a borrower to insure tangible personal property offered as security for a loan. Such insurance and the premiums or charges therefor shall bear a reasonable relationship to the amount, term and conditions of the loan, the value of the collateral, the existing hazards or risk of loss, damage or destruction, and shall not provide for unusual or exceptional risks or coverages which are not ordinarily included in policies issued to the general public.

(3) When insurance is required in connection with a loan made under this Chapter, the lender shall furnish the borrower a statement which shall clearly and conspicuously state that insurance is requested or required in connection with the loan, and that the borrower shall have the option of furnishing the required insurance either through existing policies of insurance owned or controlled by him or of procuring and furnishing equivalent insurance coverages through any insurance company authorized to transact business in Texas. In addition when any requested or required insurance is sold or procured by the licensee at a premium or rate of charge not fixed or approved by the State Board of Insurance, the licensee shall include such fact in the foregoing statement, and the borrower shall have the option for a period of five days from the date of loan of furnishing the required insurance coverage either through existing policies of insurance owned or controlled by him or of procuring and furnishing equivalent insurance coverage through any insurance company authorized to transact business in Texas. Such statement or statements may be made in conjunction with or as part of the loan statement required by Article 3.19(1).

(4) Such insurance shall be written at lawful rates and in accordance with the provisions of the Texas Insurance Code by a company authorized to do business in this State.

(5) Where insurance written under this Article is to be procured by the lender, the lender shall within thirty days after execution of the loan contract deliver, mail, or cause to be mailed to the borrower at his address as specified in the contract, a policy, or policies, or certificates of insurance, clearly setting forth the amount of the premium, the kind or kinds of insurance, the coverages and all of the terms, options, limitations, restrictions and conditions of the policy or policies of insurance.

(6) If the insurance is cancelled, adjusted or terminated for any reason, the refund for unearned insurance premiums received by the lender shall be credited, except to the extent applied to the purchase by the lender of similar insurance, to any amounts then unpaid on the account and the balance shall be promptly refunded to the borrower; provided, however, that no cash refund shall be required if the amount thereof is less than One Dollar.

(7) In accepting insurance provided by this Article as protection for a loan, the lender, its officers, agents, or employees may deduct the premiums or identifiable charges for such insurance from the proceeds of the loan, which premiums or identifiable charges shall not exceed those authorized by this Article, and shall pay such premiums to the insurance company writing such insurance. Any gain, or advantage to the lender, or any employee, officer, director, agent, general agent, affiliate or associate from such insurance or its provision or sale shall not be considered as additional interest or further charge in connection with any loan made under this Chapter except as specifically provided herein. Arranging for, and collecting an identifiable charge, shall not be deemed a sale of insurance.

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(8) A lender shall not by any method, directly or indirectly, require the purchase of insurance from an agent or broker designated by the lender, nor shall the lender at any time decline existing coverages providing substantially equal benefits that comply with the provisions of this Article.

(9) Should any additional charge be made for insurance other than that authorized in this Article, the lender shall have no right to collect any charge for insurance or any interest on such charge and all charges collected for insurance and interest collected thereon shall be refunded to the borrower or credited to his account, provided that an overcharge which results from an accidental or bona fide error may be corrected as provided in Article 8.01 of Chapter 8 of this Subtitle. The provision is supplemental to and not exclusive of all other remedies and penalties provided in this Subtitle.

Acts 1967, 60th Leg., p. 624, ch. 274, § 2, eff. Oct. 1, 1967.

Provisions of this article were formerly covered by art. 6165b, § 18 (repealed).

Art. 5069—3.19. Licensee's duty to borrower

(1) When a loan is made under the authority of this Chapter, the licensee shall deliver to the borrower, or if more than one to one of them, a copy of the note and all other documents signed by the borrower and a statement in writing in the English language showing the following information:

- (a) The names and addresses of the borrower and of the licensee;
- (b) The date and the amount of the cash advance, the maturity date, and the agreed schedule of payments or a description of such payments;
- (c) The nature of the security, if any;
- (d) The fees for filing, recording, or releasing any security authorized by this Chapter;
- (e) The charges for default and deferment authorized by this Chapter;
- (f) The types of insurance, if any, provided in connection with the loan, and the premiums for such insurance;
- (g) The amount, in dollars and cents, of interest charges contracted for at the time the loan is made, or the percentage that the interest charges bears to the total amount of the loan expressed as the nominal rate on the average outstanding unpaid balance of the principal amount of the loan;
- (h) The total amount, in dollars and cents, of all the charges included in the amount of loan.

If the note or loan contract shows the information required above, a copy of such note or loan contract may be delivered rather than a separate statement.

(2) The licensee shall give a receipt to the person making a cash payment on any loan.

(3) At any time during regular business hours, the licensee shall permit any loan to be prepaid in full, or, if less than a prepayment in full, in an amount equal to one or more full installments.

(4) When a loan is repaid in full, the licensee shall cancel and return to the borrower, within a reasonable time, any note, assignment, security agreement, mortgage, property pledged, or other instrument securing such loan which no longer secures any indebtedness of the borrower to the licensee.

Acts 1967, 60th Leg., p. 626, ch. 274, § 2, eff. Oct. 1, 1967.

Provisions of this article were formerly covered by art. 6165b, § 19 (repealed).

Art. 5069—3.20. Prohibited practices

(1) No licensee shall take an assignment of wages as security for any loan made under this Chapter, but warrants drawn against any state fund, or any claim against a state fund or a state agency, may be assigned as security for any such loan.

(2) No licensee shall take a lien upon real estate as security for any loan made under this Chapter, except such lien as is created by law upon the recording of an abstract of judgment.

(3) No licensee shall take any confession of judgment or any power of attorney running to himself or to any third person to confess judgment or to appear for a borrower in a judicial proceeding. This prohibition shall not apply to powers of attorney contained in insurance premium finance contracts when limited to the authority to cancel casualty insurance financed under such contract.

(4) No licensee shall take any promise to pay or loan obligation that does not disclose the amount of the cash advance, the time for which it is made, the schedule of payments, the maturity date, the amount of authorized charges and the types of insurance, if any, provided in connection with the loan, and the premiums for such insurance.

(5) Except as specifically provided in Article 3.15(4) no licensee shall take any instrument in which blanks are left to be filled in after the loan is made.

(6) No licensee shall take any instrument whereby a borrower waives any right accruing to him under the provisions of this Chapter.

Acts 1967, 60th Leg., p. 626, ch. 274, § 2, eff. Oct. 1, 1967.

Provisions of this article were formerly covered by art. 6165b, §§ 20, 22 (repealed).

Art. 5069—3.21. Limitation loan period

(1) No licensee shall enter any contract of loan having a cash advance of Fifteen Hundred Dollars or less under this Chapter, under which the borrower agrees to make any scheduled payment of principal more than thirty-seven calendar months from the date of making such contract.

(2) No licensee shall enter any contract of loan having a cash advance in excess of Fifteen Hundred Dollars under this Chapter, under which the borrower agrees to make any scheduled payment of principal more than forty-three calendar months from the date of making such contract.

Acts 1967, 60th Leg., p. 627, ch. 274, § 2, eff. Oct. 1, 1967.

Provisions of this article were formerly covered by art. 6165b, § 21 (repealed).

CHAPTER 4—INSTALLMENT LOANS

Art.
5069—4.01. Installment loans authorized.
5069—4.02. Insurance.

Art.
5069—4.03. Lender's duty to borrower.
5069—4.04. Prohibited practices.

Chapter 4, Installment Loans, consisting of articles 5069—4.01 to 5069—4.03, was enacted by Acts 1967, 60th Leg., p. 609, ch. 274, § 2, effective October 1, 1967.

Art. 5069—4.01. Installment loans authorized

(1) Any bank, savings and loan association or credit union doing business under the laws of this State or of the United States, and any person licensed to do business under the provisions of Chapter 3 of this Subtitle relating to regulated loans may contract for and receive on any loan made under the authority of this Chapter repayable in consecutive monthly installments, substantially equal in amount, an add-on interest charge of

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Eight Dollars per One Hundred Dollars per annum for the full term of the loan contract.

(2) Interest authorized in Section (1) of this Article shall be computed on the cash advance at the time the loan is made for the full term of the loan contract notwithstanding the requirement of the loan contract for payment in substantially equal regular installments and shall be computed on the basis of a full month for any fractional period in excess of fifteen days. Interest authorized by Section (1) of this Article shall be added to the cash advance and said sum shall be the amount of the loan.

(3) Notwithstanding the foregoing, a lender may make loans which require repayment in irregular or unequal installments and may compute, contract for, charge or receive interest charges under any method or formula different from that prescribed in Section (1) of this Article, provided the total interest charge as scheduled shall not produce an interest yield in excess of that permitted under Section (1) of this Article for the time the loan is scheduled to be outstanding.

(4) Notwithstanding any other provision of this Chapter, a borrower and a lender may enter into a written agreement pursuant to which one or more loans or advances to or for the account of the borrower may be made from time to time. The agreement shall contain the date of the agreement; the name and address of each borrower and of the lender; the nature of the security, if any, the charges in addition to interest contracted for as authorized by this Chapter; and the interest for default and deferment authorized by this Chapter and shall be signed by the parties. A copy of the agreement shall be delivered to the borrower. The agreement may provide for a maximum loan charge on the unpaid principal amounts from time to time outstanding not in excess of a rate producing an interest yield equivalent to that which would be permitted on a similar loan made under Section (1) of this Article. The Commissioner shall prescribe monthly rates of charge which produce an interest yield equal to that permitted under Section (1) of this Article on a loan of the same amount. The loan agreement shall clearly set forth the maximum amount that may be borrowed; the method by which loans or advances are to be made, whether by check or draft drawn on the lender or otherwise; a simple statement of the method by which the amount of the finance charge is to be calculated; the insurance coverages afforded the borrower through the lender and, if a charge for insurance is to be made, a simple statement of the amount of such charge or the method by which it will be calculated. The agreement shall provide for repayment of principal on each installment payment date of not less than five percent of the principal amount of loan outstanding during the installment billing cycle preceding the payment date.

If during a billing cycle the lender makes a loan or advance or the borrower makes a payment, the lender shall in accordance with any rules and regulations prescribed by the Commissioner give to the borrower within a reasonable time after the end of the billing cycle a written statement of:

- (a) The outstanding balance at the beginning of the billing cycle;
- (b) Loans or advances during the billing period excluding interest and other charges;
- (c) The amount of interest and other charges accrued or debited during the period;
- (d) Payments made by the borrower;
- (e) The balance at the end of the billing cycle;
- (f) The amount which must be paid and the date it must be paid to avoid a default.

(5) Additional interest for default, if contracted for, may equal but shall not exceed Five Cents for each One Dollar of any scheduled install-

ment when any portion of such installment continues unpaid for ten days or more following the date such payment is due, including Sundays and holidays. Interest for such default shall not be collected more than once on the same installment. If the payment date of each wholly unpaid installment, on which no interest for default has been collected is deferred as of an installment date for one or more full months and the maturity of the contract is extended for a corresponding period of time, the lender may charge and collect additional interest for such deferment. The interest for such deferment may be equal to the difference between the refund which would be required for prepayment in full as of the date of deferment and the refund which would be required for prepayment in full as of one month prior to such date multiplied by the number of months in the deferment period as defined below. The portion of the interest contracted for under Section (1) of this Article applicable to each deferred balance and installment period following a deferment period shall remain the same as that applicable to such balance and period under the original contract of loan. If a loan is prepaid in full during the deferment period defined below, the borrower shall receive, in addition to the refund required under Section (6) of this Article, a pro-rata refund of that portion of the interest for deferment applicable to any unexpired full month or months of such period. The deferment period is that period beginning with the day following the due date of the scheduled installment preceding the first installment being deferred, and during which no payment is made or required by reason of such deferment. The interest for default or interest for deferment may be collected at the time of its accrual or deferment or at any time thereafter.

(6) When any loan contract is prepaid in full by cash, a new loan, renewal, or otherwise, after the first installment due date but before the final installment due date, the lender shall refund or credit the borrower with an amount which shall be as great a proportion of the total interest contracted for under Section (1) of this Article as the sum of the periodic balances scheduled to follow the installment date after the date of prepayment in full bears to the sum of all the periodic time balances under the schedule of payments set out in the loan contract. If such prepayment in full occurs before the first installment due date the lender shall retain for each elapsed day from date the loan was made, one-thirtieth of the portion of the interest which could be retained if the first installment period were one month and the loan were prepaid in full on the first installment period due date and the interest contracted for under Section (1) of this Article in excess of such amount shall be refunded or credited to the borrower. No refund shall be required for partial prepayments and no refund of less than One Dollar need be made.

(7) In addition to the authorized charges provided in this Chapter no further or other charge or amount whatsoever shall be directly, or indirectly, charged, contracted for, or received. This includes (but is not limited by) all charges such as fees, compensation, bonuses, commissions, brokerage, discounts, expenses and every other charge of any nature whatsoever, whether of the types listed herein or not. Without limitation of the foregoing, such charges may be any form of costs or compensation whether contracted for or not, received by the lender, or any other person, in connection with (a) the investigating, arranging, negotiation, procuring, guaranteeing, making, servicing, collecting or enforcing of a loan; or (b) for the forbearance of money, credit, goods or things in action; or (c) for any other service or services performed or offered. However, the prohibition set out herein shall not apply to amounts actually incurred by a lender as court costs, attorney fees assessed by a court, lawful fees for filing, recording, or releasing to any public office any instrument securing a loan; the reasonable cost actually expended for repossessing, storing, preparing for sale, or selling any security; or fees for noting a lien on or transferring a certificate of title to any motor vehicle offered as

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security for a loan made under this Chapter, or premiums or identifiable charge received in connection with the sale of insurance authorized under this Chapter.

Acts 1967, 60th Leg., p. 627, ch. 274, § 2, eff. Oct. 1, 1967.

Art. 5069—4.02. Insurance

(1) On any loan made under the authority of this Chapter, a lender may request or require a borrower to provide credit life insurance and credit health and accident insurance as additional protection for such a loan. Only one policy of life insurance and one policy of health and accident insurance on any one obligor may be in force with respect to any one loan contract at any one time.

(2) On any loan having a cash advance of Three Hundred Dollars or more, a lender may, in addition, request or require a borrower to insure tangible personal property offered as security for a loan. Such insurance and the premiums or charges thereon shall bear a reasonable relationship to the amount, term and conditions of the loan, the value of the collateral, the existing hazards or risk of loss, damage or destruction, and shall not provide for unusual or exceptional risks or coverages which are not ordinarily included in policies issued to the general public.

(3) When insurance is required in connection with a loan made under this Chapter, the lender shall furnish the borrower a statement which shall clearly and conspicuously state that insurance is requested or required in connection with the loan, and that the borrower shall have the option of furnishing the required insurance either through existing policies of insurance owned or controlled by him or of procuring and furnishing equivalent insurance coverages through any insurance company authorized to transact business in Texas. In addition when any requested or required insurance is sold or procured by the lender at a premium or rate of charge not fixed or approved by the State Board of Insurance, the lender shall include such fact in the foregoing statement, and the borrower shall have the option for a period of five days from the date of loan of furnishing the required insurance coverage either through existing policies of insurance owned or controlled by him or of procuring and furnishing equivalent insurance coverage through any insurance company authorized to transact business in Texas. Such statement or statements may be made in conjunction with or as part of the loan statement required by Article 4.03(1).

(4) Such insurance shall be written at lawful rates and in accordance with the provisions of the Texas Insurance Code by a company authorized to do business in this State.

(5) Where insurance written under this Article is to be procured by the lender, the lender shall within thirty days after execution of the loan contract deliver, mail, or cause to be mailed to the borrower at his address as specified in the contract, a policy, or policies, or certificates of insurance, clearly setting forth the amount of the premium, the kind or kinds of insurance, the coverages and all of the terms, options, limitations, restrictions and conditions of the policy or policies of insurance.

(6) If the insurance is cancelled, adjusted or terminated for any reason, the refund for unearned insurance premiums received by the lender shall be credited, except to the extent applied to the purchase by the lender of similar insurance, to any amounts then unpaid on the account and the balance shall be promptly refunded to the borrower; provided, however, that no cash refund shall be required if the amount thereof is less than One Dollar.

(7) In accepting insurance provided by this Article as protection for a loan, the lender, its officers, agents, or employees may deduct the premiums or identifiable charges for such insurance from the proceeds of the

loan, which premiums or identifiable charges shall not exceed those authorized by this Article, and shall pay such premiums to the insurance company writing such insurance. Any gain, or advantage to the lender, or any employee, officer, director, agent, general agent, affiliate or associate from such insurance or its provision or sale shall not be considered as additional interest or further charge in connection with any loan made under this Chapter except as specifically provided herein. Arranging for, and collecting an identifiable charge, shall not be deemed a sale of insurance.

(8) A lender shall not by any method, directly or indirectly, require the purchase of insurance from an agent or broker designated by the lender, nor shall the lender at any time decline existing coverages providing substantially equal benefits that comply with the provisions of this Article.

(9) Should any additional charge be made for insurance other than that authorized in this Article, the lender shall have no right to collect any charge for insurance or any interest on such charge and all charges collected for insurance and interest collected thereon shall be refunded to the borrower or credited to his account, provided that an overcharge which results from an accidental or bona fide error may be corrected as provided in Article 8.01 of Chapter 8 of this Subtitle. The provision is supplemental to and not exclusive of all other remedies and penalties provided in this Subtitle.

Acts 1967, 60th Leg., p. 629, ch. 274, § 2, eff. Oct. 1, 1967.

Art. 5069—4.03. Lender's duty to borrower

(1) When a loan is made under the authority of this Chapter, the lender shall deliver to the borrower, or if more than one to one of them, a copy of the note and all other documents signed by the borrower and a statement in writing in the English language showing the following information:

- (a) The names and addresses of the borrower and of the lender;
- (b) The date and the amount of the cash advance, the maturity date, and the agreed schedule of payments or a description of such payments;
- (c) The nature of the security, if any;
- (d) The fees for filing, recording, or releasing any security authorized by this Chapter;
- (e) The charges for default and deferment authorized by this Chapter;
- (f) The types of insurance, if any, provided in connection with the loan, and the premiums for such insurance;
- (g) The amount, in dollars and cents, of interest charges contracted for at the time the loan is made, or the percentage that the interest charges bears to the total amount of the loan expressed as the nominal rate on the average outstanding unpaid balance of the principal amount of the loan;
- (h) The total amount, in dollars and cents, of all the charges included in the amount of loan.

If the note or loan contract shows the information required above, a copy of such note or loan contract may be delivered rather than a separate statement.

(2) The lender shall give a receipt to the person making a cash payment on any loan.

(3) At any time during regular business hours, the lender shall permit any loan to be prepaid in full, or, if less than a prepayment in full, in an amount equal to one or more full installments.

(4) When a loan is repaid in full, the lender shall cancel and return to the borrower, within a reasonable time, any note, assignment, security,

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agreement, mortgage, deed of trust, or other instrument securing such loan which no longer secures any indebtedness of the borrower to the licensee.

Acts 1967, 60th Leg., p. 631, ch. 274, § 2, eff. Oct. 1, 1967.

Art. 5069—4.04. Prohibited practices

(1) No lender shall take an assignment of wages as security for any loan made under this Chapter.

(2) No lender shall take a lien upon real estate as security for any loan made under this Chapter, except such lien as is created by law upon the recording of an abstract of judgment.

(3) No lender shall take any confession of judgment or any power of attorney running to himself or to any third person to confess judgment or to appear for a borrower in a judicial proceeding.

(4) Except as specifically provided by Article 4.01(4), no lender shall take any promise to pay or loan obligation that does not disclose the amount of the cash advance, the time for which it is made, the schedule of payments, the maturity date, the amount of authorized charges and the types of insurance, if any, provided in connection with the loan, and the premiums for such insurance.

(5) No lender shall take any instrument in which blanks are left to be filled in after the loan is made.

(6) No lender shall take any instrument whereby a borrower waives any right accruing to him under the provisions of this Chapter.

Acts. 1967, 60th Leg., p. 631, ch. 274, § 2, eff. Oct. 1, 1967.

CHAPTER 5—SECONDARY MORTGAGE LOANS

Art.

5069—5.01. Definition.

5069—5.02. Secondary mortgage loans authorized.

Art.

5069—5.03. Insurance.

5069—5.04. Lender's duty to borrower.

5069—5.05. Prohibited practices.

Chapter 5, Secondary Mortgage Loans, consisting of articles 5069—5.01 to 5069—5.05, was enacted by Acts 1967, 60th Leg., p. 609, ch. 274, § 2, effective October 1, 1967.

Art. 5069—5.01. Definition

(1) As used in this Chapter, "secondary mortgage loan" means

(a) a loan made to any person not to be repaid in ninety days or less which is secured, in whole or in part, by any lien or security interest or any interest in real property improved by a dwelling designed for occupancy by four families or less, which property is subject to the lien of one or more liens or security interests, prior mortgages or deeds of trust, or

(b) the purchase of any interest in an existing secondary mortgage loan from the mortgagee made to secure such a loan.

(2) On or after the effective date of this Chapter, no person, except a bank, savings and loan association or credit union doing business under the laws of this State or of the United States and any person licensed to do business under the provisions of Chapter 8 of this Subtitle, shall engage in the business of making secondary mortgage loans and contract for, charge or receive, directly or indirectly in connection with any such loan, any charge for interest which exceeds ten percent per annum on unpaid principal balances and any lawful charge for compensation, consideration, expense, or any other thing incident to or in connection with the loan which exceeds the amounts a person authorized hereunder would be permitted to charge under Article 5.02(5).

(3) The provisions of this Chapter shall not apply to any seller of property who makes a secondary mortgage loan to secure all or part of the unpaid purchase price.

Acts 1967, 60th Leg., p. 632, ch. 274, § 2, eff. Oct. 1, 1967.

Art. 5069—5.02. Secondary mortgage loans authorized

(1) Any person authorized to do business under the provisions of this Chapter may contract for and receive on any secondary mortgage loan made under the authority of this Chapter repayable in consecutive monthly installments, substantially equal in amount, an add-on interest charge of Eight Dollars per One Hundred Dollars per annum for the full term of the loan contract.

(2) Interest authorized in Section (1) of this Article shall be computed on the cash advance at the time the loan is made for the full term of the loan contract notwithstanding the requirement of the loan contract for payment in substantially equal regular monthly installments and shall be computed on the basis of a full month for any fractional period in excess of fifteen days. Interest authorized by Section (1) of this Article shall be added to the cash advance and said sum shall be the amount of the loan.

(3) Additional interest for default, if contracted for, may equal but shall not exceed Five Cents for each One Dollar of any scheduled installment when any portion of such installment continues unpaid for ten days or more following the date such payment is due, including Sundays and holidays. Interest for such default shall not be collected more than once on the same installment. If the payment date of each wholly unpaid installment, on which no interest for default has been collected is deferred as of an installment date for one or more full months and the maturity of the contract is extended for a corresponding period of time, the lender may charge and collect additional interest for such deferment. The interest for such deferment may be equal to the difference between the refund which would be required for prepayment in full as of the date of deferment and the refund which would be required for prepayment in full as of one month prior to such date multiplied by the number of months in the deferment period as defined below. The portion of the interest contracted for under Section (1) of this Article applicable to each deferred balance and installment period following a deferment period shall remain the same as that applicable to such balance and period under the original contract of loan. If a loan is prepaid in full during the deferment period defined below, the borrower shall receive, in addition to the refund required under Section (4) of this Article, a pro-rata refund of that portion of the interest for deferment applicable to any unexpired full month or months of such period. The deferment period is that period beginning with the day following the due date of the scheduled installment preceding the first installment being deferred, and during which no payment is made or required by reason of such deferment. The interest for default or interest for deferment may be collected at the time of its accrual, or at any time thereafter.

(4) When any loan contract is prepaid in full by cash, a new loan, renewal, or otherwise, after the first installment due date but before the final installment due date, the lender shall refund or credit the borrower with an amount which shall be as great a proportion of the total interest contracted for under Section (1) of this Article as the sum of the periodic balances scheduled to follow the installment date after the date of prepayment in full bears to the sum of all the periodic time balances under the schedule of payments set out in the loan contract. If such prepayment in full occurs before the first installment due date the lender shall retain for each elapsed day from date the loan was made, one-thirtieth of the portion of the interest which could be retained if the first installment period were one month and the loan were prepaid in full on the first installment period due date and the interest contracted for under Section (1) of this Article in excess of such amount shall be refunded or credited to the borrower. No refund shall be required for partial prepayments and no refund of less than One Dollar need be made.

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(5) In addition to the authorized charges provided in this Chapter no further or other charge or amount whatsoever shall be directly, or indirectly, charged, contracted for, or received. This includes (but is not limited by) all charges such as fees, compensation, bonuses, commissions, brokerage, discounts, expenses and every other charge of any nature whatsoever, whether of the types listed herein or not. Without limitation of the foregoing, such charges may be any form of costs or compensation whether contracted for or not, received by the lender, or any other person, in connection with (a) the investigating, arranging, negotiation, procuring, guaranteeing, making, servicing, collecting or enforcing of a loan; or (b) for the forbearance of money, credit, goods or things in action; or (c) for any other service or services performed or offered. However, the prohibition set out herein shall not apply to amounts actually incurred by a lender as:

(i) Appraisal and inspection fees: not to exceed Twenty-five Dollars per parcel or tract of land;

(ii) Investigation of the credit standing or credit worthiness of applicant: not to exceed Twelve Dollars and Fifty Cents;

(iii) Legal fees to an attorney who is not a salaried employee of the lender for the preparation of any and all documents in connection with the transaction: not to exceed Thirty-five Dollars;

(iv) Official filing, recording and construction permit fees;

(v) Insurance as regulated and restricted by Article 5.03;

(vi) Charge for title insurance or for title examination and opinion by an attorney who is not a salaried employee of the lender: not to exceed the charge or premium promulgated by the State Board of Insurance for title insurance for such transaction.

Acts 1967, 60th Leg., p. 632, ch. 274, § 2, eff. Oct. 1, 1967.

Art. 5069—5.03. Insurance

(1) On any loan made under the authority of this Chapter, a lender may request or require a borrower to provide credit life insurance and credit health and accident insurance as additional protection for such a loan. Only one policy of life insurance and one policy of health and accident insurance on any one obligor may be in force with respect to any one loan contract at any one time.

(2) On any loan having a cash advance of Three Hundred Dollars or more, a lender may, in addition, request or require a borrower to insure property offered as security for a loan. Such insurance and the premiums or charges thereon shall bear a reasonable relationship to the amount, term and conditions of the loan, the value of the collateral, the existing hazards or risk of loss, damage or destruction, and shall not provide for unusual or exceptional risks or coverages which are not ordinarily included in policies issued to the general public.

(3) When insurance is required in connection with a loan made under this Chapter, the lender shall furnish the borrower a statement which shall clearly and conspicuously state that insurance is requested or required in connection with the loan, and that the borrower shall have the option of furnishing the required insurance either through existing policies of insurance owned or controlled by him or of procuring and furnishing equivalent insurance coverages through any insurance company authorized to transact business in Texas. In addition when any requested or required insurance is sold or procured by the lender at a premium or rate of charge not fixed or approved by the State Board of Insurance, the lender shall include such fact in the foregoing statement, and the borrower shall have the option for a period of five days from the date of loan of furnishing the required insurance coverages either through existing policies of insurance owned or controlled by him or of procuring and furnishing equivalent insurance coverage through any insurance company author-

ized to transact business in Texas. Such statement or statements may be made in conjunction with or as part of the loan statement required by Article 5.04(1).

(4) Such insurance shall be written at lawful rates and in accordance with the provisions of the Texas Insurance Code by a company authorized to do business in this State.

(5) Where insurance written under this Article is to be procured by the lender, the lender shall within thirty days after execution of the loan contract deliver, mail, or cause to be mailed to the borrower at his address as specified in the contract, a policy, or policies, or certificates of insurance, clearly setting forth the amount of the premium, the kind or kinds of insurance, the coverages and all of the terms, options, limitations, restrictions and conditions of the policy or policies of insurance.

(6) If the insurance is cancelled, adjusted or terminated for any reason, the refund for unearned insurance premiums received by the lender shall be credited, except to the extent applied to the purchase by the lender of similar insurance, to any amounts then unpaid on the account and the balance shall be promptly refunded to the borrower; provided, however, that no cash refund shall be required if the amount thereof is less than One Dollar.

(7) In accepting insurance provided by this Article as protection for a loan, the lender, its officers, agents, or employees may deduct the premiums or identifiable charges for such insurance from the proceeds of the loan, which premiums or identifiable charges shall not exceed those authorized by this Article, and shall pay such premiums to the insurance company writing such insurance. Any gain, or advantage to the lender, or any employee, officer, director, agent, general agent, affiliate or associate from such insurance or its provision or sale shall not be considered as additional interest or further charge in connection with any loan made under this Chapter except as specifically provided herein. Arranging for, and collecting an identifiable charge, shall not be deemed a sale of insurance.

(8) A lender shall not by any method, directly or indirectly, require the purchase of insurance from an agent or broker designated by the lender, nor shall the lender at any time decline existing coverages providing substantially equal benefits that comply with the provisions of this Article.

(9) Should any additional charge be made for insurance other than that authorized in this Article, the lender shall have no right to collect any charge for insurance or any interest on such charge and all charges collected for insurance and interest collected thereon shall be refunded to the borrower or credited to his account, provided that an overcharge which results from an accidental or bona fide error may be corrected as provided in Article 8.01 of Chapter 8 of this Subtitle. The provision is supplemental to and not exclusive of all other remedies and penalties provided in this Subtitle.

Acts 1967, 60th Leg., p. 634, ch. 274, § 2, eff. Oct. 1, 1967.

Art. 5069—5.04. Lender's duty to borrower

(1) When a secondary mortgage loan is made under the authority of this Chapter, the lender shall deliver to the borrower, or if more than one to one of them, a copy of the note and all other documents signed by the borrower and a statement in writing in the English language showing the following information:

- (a) The names and addresses of the borrower and of the lender;
- (b) The date and the amount of the cash advance, the maturity date, and the agreed schedule of payments or a description of such payments;
- (c) The nature of the security, if any;
- (d) The fees for filing, recording, or releasing any security authorized by this Chapter;

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- (e) The charges for default and deferment authorized by this Chapter;
- (f) The types of insurance, if any, provided in connection with the loan, and the premiums for such insurance;
- (g) The amount, in dollars and cents, of interest charges contracted for at the time the loan is made, or the percentage that the interest charges bears to the total amount of the loan expressed as the nominal rate on the average outstanding unpaid balance of the principal amount of the loan;
- (h) The total amount, in dollars and cents, of all the charges included in the amount of loan.

If the note or loan contract shows the information required above, a copy of such note or loan contract may be delivered rather than a separate statement.

(2) The lender shall give a receipt to a person making a cash payment on any loan.

(3) At any time during regular business hours, the lender shall permit any loan to be prepaid in full, or, if less than a prepayment in full, in an amount equal to one or more full installments.

(4) When a loan is repaid in full, the lender shall cancel and return to the borrower, within a reasonable time, any note, assignment, security agreement, mortgage, deed of trust, or other instrument representing or securing such loan which no longer secures any indebtedness of the borrower to the licensee.

Acts 1967, 60th Leg., p. 635, ch. 274, § 2, eff. Oct. 1, 1967.

Art. 5069—5.05. Prohibited practices

(1) No lender shall take an assignment of wages as security for any loan made under this Chapter.

(2) No lender shall take any confession of judgment or any power of attorney running to himself or to any third person to confess judgment or to appear for a borrower in a judicial proceeding.

(3) No lender shall take any promise to pay or loan obligation that does not disclose the amount of the cash advance, the time for which it is made, the schedule of payments, the maturity date, the amount of authorized charges and the types of insurance, if any, provided in connection with the loan, and the premiums for such insurance.

(4) No lender shall take any instrument in which blanks are left to be filled in after the loan is made.

(5) No lender shall take any instrument whereby a borrower waives any right accruing to him under the provisions of this Chapter.

Acts 1967, 60th Leg., p. 636, ch. 274, § 2, eff. Oct. 1, 1967.

CHAPTER 6—RETAIL INSTALLMENT SALES

Art. 5069—6.01. Definitions.	Art. 5069—6.06. Certificate of completion or satisfaction required in certain transactions.
5069—6.02. Retail installment contracts—requirements—disclosure.	5069—6.07. Assignment and negotiation.
5069—6.03. Retail charge agreements—requirements—disclosure.	5069—6.08. Application.
5069—6.04. Insurance.	5069—6.09. Waiver.
5069—6.05. Prohibited provisions.	

Art. 5069—6.01. Definitions

As used in this Chapter, unless the context otherwise requires:

(a) "Goods" means all tangible personal property when purchased primarily for personal, family or household use and not for commercial

or business use, including such property which is furnished or used at the time of sale or subsequently, in the modernization, rehabilitation, repair, alteration, improvement or construction of real property so as to become a part thereof whether or not severable therefrom. The term also includes, but is not limited to, any boat, boat-trailer, motor scooter, motorcycle, camper-type trailer, horse trailer, any vehicle propelled or drawn exclusively by muscular power, and merchandise certificates or coupons, issued by a retail seller, not redeemable in cash and to be used in their face amount in lieu of cash, in exchange for goods or services sold by such seller.

The term does not include (i) money, things in action or intangible personal property, other than merchandise certificates or coupons as herein described; or (ii) any automobile, mobile home, truck, trailer, semi-trailer, truck tractor or bus designed and used primarily to transport persons or property on a public highway; or (iii) any vehicle designed to run only on rails or tracks or in the air, as defined in Chapter 7 of this Subtitle.

(b) "Services" means work, labor, or services of any kind when purchased primarily for personal, family or household use and not for commercial or business use, but does not include (i) the services of a professional person licensed by the State; or (ii) services for which the cost is by law fixed or approved by, or filed with or subject to approval or disapproval by the United States or the State of Texas, or any agency, instrumentality or subdivision thereof; or (iii) educational services provided by an accredited college or university or a primary or secondary school providing education required by the State of Texas or services of a kindergarten or nursery school.

(c) "Retail buyer" or "buyer" means a person who buys or agrees to buy goods or obtain services or agrees to have services rendered or furnished, from a retail seller.

(d) "Retail seller" or "seller" means a person regularly and principally engaged in the business of selling goods or services to retail buyers, but does not include the services of a member of a learned profession.

(e) "Retail installment transaction" means any transaction in which a retail buyer purchases goods or services from a retail seller pursuant to a retail installment contract or a retail charge agreement, as defined in this Article, which provides for a time price differential, as defined in this Article, and under which the buyer agrees to pay the unpaid balance in one or more installments, together with a time price differential.

(f) "Retail installment contract" means an instrument (other than a retail charge agreement or an instrument reflecting a sale made pursuant thereto) entered into in this State evidencing a retail installment transaction (whether secured or unsecured). The term "retail installment contract" may include a chattel mortgage, a security agreement, a conditional sale contract and a contract in the form of a bailment or a lease if the bailee or lessee contracts to pay as compensation for their use a sum substantially equivalent to or in excess of the value of the goods sold and if it is agreed that the bailee or lessee is bound to become, or for no other or a merely nominal consideration, has the option of becoming the owner of the goods upon full compliance with the provisions of the bailment or lease.

(g) "Retail charge agreement" means an instrument prescribing the terms of retail installment transactions which may be made thereunder from time to time (whether secured or unsecured), and under the terms of which a time price differential, as defined in this Article, is to be computed in relation to the buyer's unpaid balance from time to time.

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(h) "Time price differential," however denominated or expressed, means the amount which is paid or payable for the privilege of purchasing goods or services to be paid for by the buyer in installments over a period of time. The term includes the amounts authorized by this Chapter when the parties have amended the contract to renew, restate, or reschedule the unpaid balance thereof or to extend or defer the scheduled due date of all or any part of any installment or installments.

The term does not include the amount, if any, charged for insurance premiums, delinquency charges, attorneys' fees, court costs or official fees. Nor shall the term be in anywise considered as interest as defined by the laws of this State.

(i) "Cash sale price" means the price stated in a retail installment contract or in a sales slip or other memorandum furnished by a retail seller to a retail buyer under or in connection with a retail charge agreement, for which the seller would have sold or furnished to the buyer and the buyer would have bought or obtained from the seller the goods or services which are the subject matter of a retail installment transaction, if the sale had been a sale for cash. The cash sale price may include any taxes and charges for delivery, installation, servicing, repairs, alterations or improvements.

The term also includes, in a retail installment transaction involving modernization, rehabilitation, repair, alteration, improvement or construction of real property, the reasonable and necessary fees and costs actually to be paid as:

(i) Appraisal and inspection fees: not to exceed Twenty-five Dollars per parcel or tract of land;

(ii) Investigation of the credit standing or credit worthiness of applicant: not to exceed Twelve Dollars and Fifty Cents;

(iii) Legal fees to an attorney who is not a salaried employee of seller or holder for the preparation of any and all documents in connection with the transaction: not to exceed Thirty-five Dollars;

(iv) Official filing, recording and construction permit fees;

(v) Charge for title insurance or for title examination and opinion: not to exceed the charge or premium promulgated by the Texas Insurance Commission for title insurance for such transaction.

(j) "Official fees" means the amount of the fees prescribed by law for filing, recording, or otherwise perfecting, and releasing or satisfying, a retained title, lien or other security interest created in connection with a retail installment transaction.

(k) "Time sale price" means the total of the cash sale price of the goods or services and the amount, if any, included for insurance, if a separate identified charge is made therefor, and the official fees and the time price differential.

(l) "Principal balance" means the cash sale price of the goods or services which are the subject matter of a retail installment contract plus the amounts, if any, included therein, if a separate identified charge is made therefor and stated in the contract, for insurance and official fees, less the amount of the buyer's down payment in money or goods or both.

(m) "Holder" means the retail seller of the goods or services under the retail installment contract or retail charge agreement or the assignee if the retail installment contract or the retail charge agreement or outstanding balance under either has been sold or otherwise transferred.

(n) "Person" means an individual, partnership, corporation, joint venture, trust, association or any legal entity, however organized.

(o) Words of the masculine gender include the feminine and the neuter and, when the sense so indicates, words of the neuter gender may refer to any gender.

Acts 1967, 60th Leg., p. 636, ch. 274, § 2, eff. Jan. 1, 1968.

Art. 5069—6.02. Retail installment contracts—requirements—disclosure

(1) Each retail installment contract shall be in writing, dated, signed by the retail buyer, and completed as to all essential provisions, except as otherwise provided in Sections (7) and (8) of this Article.

(2) The printed or typed portion of the contract, other than instructions for completion, shall be in a size equal to at least eight-point type. The contract shall be designated "Retail Installment Contract" and shall contain substantially the following notice printed or typed in a size equal to at least ten-point bold type:

"NOTICE TO THE BUYER. DO NOT SIGN THIS CONTRACT BEFORE YOU READ IT OR IF IT CONTAINS BLANK SPACES. YOU ARE ENTITLED TO A COPY OF THE CONTRACT YOU SIGN. UNDER THE LAW YOU HAVE THE RIGHT TO PAY OFF IN ADVANCE THE FULL AMOUNT DUE AND UNDER CERTAIN CONDITIONS MAY OBTAIN A PARTIAL REFUND OF THE TIME PRICE DIFFERENTIAL. KEEP THIS CONTRACT TO PROTECT YOUR LEGAL RIGHTS."

(3) The retail seller shall deliver to the retail buyer, or mail to him at his address shown on the retail installment contract, a copy of the contract as accepted by the seller. Until the seller does so, a buyer, who has not received delivery of the goods or been furnished or rendered the services, shall have the right to rescind the contract and to receive a refund of all payments made and return of all goods traded in to the seller on account of or in contemplation of the contract, or if such goods cannot be returned, the trade-in allowance thereof. Any acknowledgement by the buyer of delivery of a copy of the contract shall be in a size equal to at least ten-point bold type and, if contained in the contract, shall appear directly above the buyer's signature.

(4) The retail installment contract shall contain the names of the seller and the buyer, the place of business of the seller, the residence or other address of the buyer as specified by the buyer and shall reasonably identify the goods sold or to be sold or services furnished or rendered or to be furnished or rendered. Multiple items of goods or services may be described in detail sufficient to identify them in separate writing.

(5) The retail installment contract shall contain and disclose the following items:

- (a) The cash sale price of the goods or services;
- (b) The amount of the buyer's down payment, specifying the amounts paid in money and allowed for goods traded in;
- (c) The difference between items (a) and (b);
- (d) The aggregate amount, if any, included for insurance, if a separate identified charge is made therefor, specifying the type or types of insurance and the term or terms of coverage;
- (e) The aggregate amount of official fees;
- (f) The principal balance, which is the sum of items (c), (d) and (e);
- (g) The amount of the time price differential;
- (h) The amount of the time balance owed by the buyer to the seller, which is the sum of items (f) and (g);

(i) The number of installments, the amount of each installment and the due date or period thereof. If installment payments other than the final payment are stated as a series of periodic payments equal in period and amount, the number of payments and the amount and due date of each

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payment need not be separately stated, and the amount of the scheduled final installment payment may be stated as the remaining unpaid balance. The due date of the first installment payment may be fixed by a calendar date or by reference to the date of the contract or to the time of delivery;

(j) The time sale price; and

(k) If any installment (except the down payment) is more than double the average of all other installments (except the down payment), the following legend printed in at least ten-point bold type or typewritten:

**THIS CONTRACT IS NOT PAYABLE IN INSTALLMENTS OF
EQUAL AMOUNTS**

followed, if there be but one such larger installment by:

AN INSTALLMENT OF \$ _____ WILL BE
DUE ON _____

or, if there be more than one such larger installment, by:

LARGER INSTALLMENTS WILL BE DUE AS FOLLOWS:

in such latter case, inserting the amount of every such larger installment and of its due date.

(l) Any promise, whether made in writing or orally, by the seller, made as an inducement to the buyer to become a party to the contract or which is part of the contract or which is made incidental to negotiations between the seller and the buyer with respect to the sale of the goods or services that are the subject of the contract, that the seller will compensate the buyer for referring customers or prospective customers to the seller for goods or services which the seller has for sale or for referring the seller to such customers or prospective customers. In any case in which, pursuant to the preceding provisions, the contract contains a promise to compensate the buyer for referring customers or prospective customers to the seller or the seller to such customers, the contract must contain a provision to the effect that the amount otherwise owing under the contract at any time is reduced by the amount of compensation owing pursuant to such promise.

(6) (a) A retail installment contract need not be contained in a single document.

(b) If the contract is contained in more than one document, one such document may be an original document signed by the retail buyer, stated to be applicable to purchases of goods or services to be made by the retail buyer from time to time. In such case, such document, together with the sales slip, account book or other written statement relating to each purchase, shall set forth all of the information required by this Article and shall constitute the retail installment contract for each purchase. On each succeeding purchase pursuant to such original document, the sales slip, account book or other written statement may at the option of the seller constitute the statement required by Section (18) of this Article.

(7) (a) Retail installment contracts or retail charge agreements negotiated and entered into by mail or telephone, without solicitations in person by salesmen or other representatives of the seller, and based upon a catalog of the seller or other printed solicitation which clearly sets forth the cash sale prices and other terms of sales to be made through such medium, may be made as provided in this section. The provisions of this Article with respect to retail installment contracts shall be applicable to such sales, except that:

(i) The designation and notice provisions of Section (2) of this Article shall not be applicable to such contract; and

(ii) The retail installment contract, when completed by the buyer, need not contain the items required by Section (5) of this Article.

(b) When the order is received from the retail buyer, the seller shall prepare a written memorandum containing all of the information required by Section (5) of this Article to be included in a retail installment contract. In lieu of delivering a copy of the contract to the buyer as provided in Section (3) of this Article, the seller shall deliver to the buyer a copy of such memorandum prior to the due date of the first installment payable under the contract.

(8) A retail installment contract shall not be signed by any party thereto when it contains blank spaces for items which are essential provisions of the transaction; provided, however, if delivery of the goods is not made at the time of the execution of the contract, the identifying numbers or marks of the goods or similar information and the due date of the first installment may be inserted by the seller in the seller's counterpart of the contract after it has been signed by the buyer. The buyer's acknowledgment, conforming to the requirement of this section, of delivery of a copy of the contract shall be presumptive proof, or, in the case of a holder of the contract without knowledge to the contrary when he purchases it, conclusive proof, of such delivery and of compliance with this section and any other requirement relating to completion of the contract prior to execution thereof by the buyer, in any action or proceeding.

(9) (a) Notwithstanding provisions of any other law, a retail installment contract payable in substantially equal successive monthly installments beginning one month from the date of the contract may provide for, and the seller or holder may then charge, collect and receive a time price differential which shall not exceed an amount determined in accordance with the following schedule:

(i) On so much of the principal balance as does not exceed Five Hundred Dollars, Twelve Dollars per One Hundred Dollars per annum;

(ii) On so much of the principal balance as exceeds Five Hundred Dollars, but is not in excess of One Thousand Dollars, Ten Dollars per One Hundred Dollars per annum;

(iii) On so much of the principal balance as exceeds One Thousand Dollars, Eight Dollars per One Hundred Dollars per annum.

(b) Such time price differential shall be computed on the principal balance of the retail installment contract from the date of the contract until the due date of the final installment, notwithstanding that the balance thereof is payable in installments.

(c) If the retail installment contract is payable in successive monthly installments substantially equal in amount beginning one month from the date of the contract for a period less or greater than a year, or for amounts less or greater than One Hundred Dollars, the amount of the maximum time price differential set forth in the foregoing schedule shall be decreased or increased proportionately. A fractional monthly period of fifteen days or more may be considered a full month.

(d) If a retail installment contract is payable other than in substantially equal successive monthly installments, as where payable in irregular or unequal installments either in amount or periods thereof, or in regular installments followed by or interspersed with an irregular, unequal or larger installment or installments, or if the first installment is not payable one month from the date of the contract, the time price differential may not exceed an amount which will provide the same effective return as if the contract were payable in substantially equal successive monthly installments beginning one month from the date of the contract.

(e) Notwithstanding any other provisions of this Article, a minimum time price differential not in excess of the following amounts may be charged on any retail installment contract: Twelve Dollars on any retail

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installment contract involving an initial principal balance of Seventy-five Dollars or more; Nine Dollars on a retail installment contract involving an initial principal balance of more than Twenty-five Dollars and less than Seventy-five Dollars and Six Dollars on a retail installment contract involving an initial principal balance of Twenty-five Dollars or less.

(f) No seller shall induce a buyer or any husband and wife to become obligated at substantially the same time under more than one retail installment contract with the same seller for the deliberate purpose of obtaining a higher time price differential than would otherwise be permitted under this Article for one retail installment contract. Provided, however, a subsequent contract entered into between the same buyer and seller more than thirty days from the date of making a prior contract shall be presumed not to be in violation of this subsection.

(10) Notwithstanding the provisions of any retail installment contract to the contrary, any buyer may prepay in full the unpaid time balance thereof at any time before its final due date and, if he does so, shall receive a refund credit thereon for such prepayment. The amount of such refund credit shall represent at least as great a proportion of the original time price differential, after first deducting therefrom an amount equivalent to the minimum charge authorized in this Article, as

(a) the sum of the monthly unpaid balances under the schedule of payments in the contract (beginning as of the date after such prepayment which is the next succeeding monthly anniversary date of the due date of the first installment under the contract, or, if the prepayment is prior to the due date of the first installment under the contract, then as of the date after such prepayment which is the next succeeding monthly anniversary date of the date of the contract) bears to

(b) the sum of all the monthly unpaid balances under the schedule of installment payments in the contract. Where the amount of refund credit is less than One Dollar, no refund credit need be made. On contracts payable in other than substantially equal successive monthly installments commencing one month after the date of the contract, the refund shall be computed in a manner proportionate to the above described method, having due regard for the amount of each installment and to the irregularity of each installment period.

(11) The holder of any retail installment contract if it so provides may collect a delinquency charge on each installment in default for a period of more than ten days in an amount not to exceed five percent of each installment or Five Dollars, whichever is less, or, in lieu thereof, interest after maturity on each such installment not to exceed the highest lawful contract rate. Provided, that only one such delinquency charge may be collected on any installment regardless of the period during which it remains in default. In addition, such contracts may provide for the payment of an attorney's reasonable fee where it is referred for collection to an attorney not a salaried employee of the holder of the contract, and for court costs and disbursements.

(12) (a) The holder of a retail installment contract, upon request of the buyer, may agree to an amendment to extend or defer the scheduled due date of all or any part of any installment or installments and may collect for same a charge computed on the amount of the scheduled installment or installments extended or deferred for the period of extension or deferment at the rate of Fifteen Cents for each Ten Dollars per month; provided that a minimum extension or deferment charge of One Dollar may be charged and collected. Such amendment may also include payment by the buyer of the additional cost to the holder of premiums for continuing in force any insurance provided for in the contract and of any additional necessary official fees.

(b) The holder of a retail installment contract, upon request of the buyer may agree to an amendment to renew, restate or reschedule the unpaid balance of the contract and may collect for same a charge to be computed as follows: The sum of the unpaid balance as of the date of the amendment and the cost of any insurance, any additional necessary official fees and any accrued delinquency charges, after deducting an amount which would be equivalent to the required refund credit applicable in the case of prepayment in full as of the date of the amendment charges, shall constitute a principal balance on which a charge may be computed for the term of the amended contract at the applicable rate of charge as provided in Article 6.02.

(c) Any amendment to a retail installment contract must be confirmed in writing and signed by the buyer. The writing shall set forth the terms of the amendment and the new due dates and amounts of the installments, and a copy thereof shall be delivered to the buyer at the time of execution of same. Said writing together with the original contract and any previous amendments thereto shall constitute the retail installment contract.

(13) Upon written request of the buyer, the holder of a retail installment contract shall give or forward to the buyer a written statement of the dates and amounts of installment payments and the total amount unpaid under such contract. Such a statement shall be given the buyer once every six months without charge; if any additional statement is requested by the buyer, it shall be supplied by the holder at a charge not in excess of One Dollar for each additional statement. A buyer shall be given a written receipt for any payment when made in cash.

(14) (a) If, in a retail installment transaction, a retail buyer makes any subsequent purchases of goods or services from a retail seller from whom he has previously purchased goods or services under one or more retail installment contracts, and the amounts under such previous contract or contracts have not been fully paid, the subsequent purchases may, at the seller's option, be included in and consolidated with one or more of such previous contract or contracts. Each subsequent purchase shall be a separate retail installment contract under this Chapter, notwithstanding that the same may be included in and consolidated with one or more of such previous contract or contracts. All the provisions of this Chapter with respect to retail installment contracts shall be applicable to such subsequent purchases except as hereinafter stated in this section.

(b) In the event of such consolidation, in lieu of the buyer's executing a retail installment contract respecting each subsequent purchase, as provided in this Article, it shall be sufficient if the seller shall prepare a written memorandum of each subsequent purchase, in which case the provisions of Sections (1), (2), (3), and (5) of this Article shall not be applicable. Unless previously furnished in writing to the buyer by the seller, by sales slip, memorandum or otherwise, such memorandum shall contain with respect to each subsequent purchase items (a) through (h) of Section (5) of this Article and, in addition, the outstanding balance of the previous contract or contracts, the consolidated time balance, and the revised installments applicable to the consolidated time balance, if any. The seller shall deliver to the buyer a copy of such memorandum prior to the due date of the first installment of such consolidated contract.

(c) When such subsequent purchases are made, if the seller has retained title or taken a lien or other security interest in any of the goods purchased under any one of the contracts included in the consolidation, the entire amount of all payments made prior to such subsequent purchases shall be deemed to have been applied to the previous purchases; and each payment after such subsequent purchase made on the consolidated contract shall be deemed to have been allocated to all of the various

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purchases in the same ratio as the original cash sale prices of the various purchases bear to the total of all. Where the amount of each installment payment is increased in connection with such subsequent purchases, at the seller's option, the subsequent payments may be deemed to be allocated as follows: an amount equal to the original periodic payment to the previous purchase, the balance to the subsequent purchase. However, the amount of any down payment on the subsequent purchase shall be allocated in its entirety to such subsequent purchase. The provisions of this Subsection (c) shall not apply to cases where such previous and subsequent purchases involve equipment, parts, or other goods attached or affixed to goods previously purchased and not fully paid, or to services in connection therewith rendered by the seller at the buyer's request.

Acts 1967, 60th Leg., p. 638, ch. 274, § 2, eff. Jan. 1, 1968.

Art. 5069—6.03. Retail charge agreements—requirements—disclosure

(1) A retail charge agreement may be established by a seller upon the request of a buyer or prospective buyer. Each such retail charge agreement shall be in writing and signed by the buyer. A copy of such agreement executed on or after the effective date of this Chapter shall be delivered or mailed to the buyer prior to the date on which the first payment is due thereunder. Any acknowledgment by the buyer of delivery of a copy of the agreement contained in the body thereof shall be in a size equal to at least ten-point bold type and shall appear directly above the buyer's signature. No agreement executed on or after the effective date of this Chapter shall be signed by the buyer when it contains blank spaces to be filled in after it has been signed. The buyer's acknowledgment, conforming to the requirements of this section, of delivery of a copy of an agreement, shall be presumptive proof, in any action or proceeding, of such delivery and that the agreement, when signed, did not contain any blank spaces as herein provided. If no copy of the agreement is retained by the seller, a notation in his permanent record showing that such agreement was mailed and the date of mailing shall serve as presumptive proof of such mailing. All retail charge agreements executed on or after the effective date of this Chapter shall state the maximum amount or rate of the time price differential to be charged and paid pursuant thereto. Any such agreement shall contain substantially the following notice printed or typed in a size equal to at least ten-point bold type:

"NOTICE TO THE BUYER—DO NOT SIGN THIS AGREEMENT BEFORE YOU READ IT OR IF IT CONTAINS BLANK SPACES. YOU ARE ENTITLED TO A COPY OF THE AGREEMENT YOU SIGN. KEEP THIS AGREEMENT TO PROTECT YOUR LEGAL RIGHTS."

(2) The buyer under the retail charge agreement shall be supplied with a statement as of the end of each monthly period (which need not be a calendar month), or other regular period agreed upon in writing, at the end of which there is any unpaid balance thereunder, which statement shall recite and disclose the following:

(a) The unpaid balance under the retail charge agreement at the beginning and at the end of the period;

(b) The dollar amount of each purchase by or service to the buyer during the period;

(c) The cash price and the purchase or posting date of each purchase or service and, unless a sales slip or a memorandum of each purchase or service is furnished with or prior to the delivery of the statement, a brief description or a reasonable identification of each purchase or service;

(d) The payments made by the buyer and any other credits to the buyer during the period;

(e) The amount, if any, of any time price differential for such period; and

(f) A legend to the effect that the buyer may at any time pay his total unpaid balance or any part thereof.

(3) A retail charge agreement may provide for, and the seller or holder may then, notwithstanding the provisions of any other law, charge, collect and receive a time price differential for the privilege of paying in installments thereunder, which shall not exceed the following:

(a) On so much of the unpaid balance as does not exceed Five Hundred Dollars, Fifteen Cents per Ten Dollars per month; and

(b) If the unpaid balance exceeds Five Hundred Dollars, Ten Cents per Ten Dollars per month on that portion over Five Hundred Dollars.

(4) The time price differential under this Article shall be computed on all amounts unpaid thereunder from month to month (which need not be a calendar month) or other regular period; provided, however, if the regular period is other than a monthly period such time price differential shall be computed proportionately. The time price differential under this Article may be computed for all unpaid balances within a range of not in excess of Ten Dollars on the basis of the median amount within such range, if as so computed such time price differential is applied to all unpaid balances within such range. A minimum time price differential not in excess of Seventy-five Cents per month may be charged, received and collected for any billing cycle in which a balance is due. In addition, such retail charge agreement may provide for the payment of an attorney's reasonable fee where it is referred for collection to an attorney, not a salaried employee of the holder of the contract, and for court costs and disbursements.

Acts 1967, 60th Leg., p. 643, ch. 274, § 2, eff. Jan. 1, 1968.

Art. 5069—6.04. Insurance

(1) On any retail installment contract or retail charge agreement made under the authority of this Chapter, a seller or holder may request or require a buyer to provide credit life insurance and credit health and accident insurance as additional protection for such contract or agreement and include the cost of such insurance as a separate charge in such contract or agreement. Only one policy of life insurance and one policy of health and accident insurance on any one buyer may be in force with respect to any one contract or agreement at any one time.

(2) A seller or holder may, in addition, request or require a buyer to insure property involved in such contract or agreement, made under the authority of this Chapter, and include the cost of such insurance as a separate charge in such contract or agreement. Such insurance and the premiums or charges thereon shall bear a reasonable relationship to the amount, term and conditions of the contract or agreement, the existing hazards or risk of loss, damage or destruction, and shall not provide for unusual or exceptional risks or coverages which are not ordinarily included in policies issued to the general public.

(3) When insurance is required in connection with such a contract or agreement made under this Chapter, the seller or holder shall furnish the buyer a statement which shall clearly and conspicuously state that insurance is requested or required in connection with the contract, and that the buyer shall have the option of furnishing the required insurance either through existing policies of insurance owned or controlled by him or of procuring and furnishing equivalent insurance coverages through any insurance company authorized to transact business in Texas. In addition when any requested or required insurance is sold or procured by the seller or holder at a premium or rate of charge not fixed or approved by the State Board of Insurance, the seller or

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holder shall include such fact in the foregoing statement, and the buyer shall have the option for a period of five days from the date of the contract or agreement of furnishing the required insurance coverage either through existing policies of insurance owned or controlled by him or of procuring and furnishing equivalent insurance coverage through any insurance company authorized to transact business in Texas. Such statement or statements may be made in conjunction with or as part of the retail installment contract required by Article 6.02 or the retail charge agreement required by Article 6.03, respectively.

(4) Such insurance shall be written at lawful rates and in accordance with the provisions of the Texas Insurance Code by a company authorized to do business in this State.

(5) The contract or agreement must state the kind, coverage, term and amount of premium for such insurance.

(6) The buyer shall have the privilege at the time of execution of the contract or agreement of purchasing such insurance from an agent or broker of his own selection and of selecting an insurance company acceptable to the seller or holder, but, in such case the inclusion of the insurance premium in the contract or agreement shall be optional with the seller or holder.

(7) If the insurance is to be procured by the seller or holder, he shall, within forty-five days after delivery of the goods or furnishing of the services under the contract or agreement, deliver, mail, or cause to be mailed to the buyer at his address as specified in the contract or agreement, a policy, or policies, or certificates of insurance, clearly setting forth the amount of the premium, the kind or kinds of insurance, the coverages and all the terms, options, limitations, restrictions and conditions of the policy or policies of insurance.

(8) If the insurance is cancelled, adjusted or terminated for any reason, the refund for unearned insurance premiums received by the seller or the holder shall be credited to the final maturing installments of the retail installment contract or retail charge agreement, and the remaining balance of the unearned insurance premiums shall be refunded to the buyer; provided, however, that no cash refund shall be required if the amount thereof is less than One Dollar.

(9) Any gain, or advantage to the seller or holder, or any employee, officer, director, agent, general agent, affiliate or associate from such insurance or its provision or sale shall not be considered as an additional charge or further time price differential in connection with any contract or agreement made under this Chapter except as specifically provided herein.

Acts 1967, 60th Leg., p. 645, ch. 274, § 2, eff. Jan. 1, 1968.

Art. 5069—6.05. Prohibited provisions

No retail installment contract or retail charge agreement shall:

(1) Provide that the holder may accelerate the maturity of any part or all of the amount owing thereunder unless (a) the buyer is in default in the performance of any of his obligations, or (b) the holder in good faith believes that the prospect of payment or performance is impaired;

(2) Contain a power of attorney to confess judgment, or an assignment of wages;

(3) Authorize the seller or holder or other person acting on his behalf to enter upon the buyer's premises unlawfully or to commit any breach of the peace in the repossession of goods;

(4) Provide for a waiver of the buyer's rights of action against the seller or holder or other person acting therefor for any illegal act committed in the collection of payments under the contract or agreement or in the repossession of goods;

(5) Contain any provision by which the buyer executes a power of attorney appointing the seller or holder or other person acting on his behalf, as the buyer's agent in the repossession of goods;

(6) Provide that the buyer agrees not to assert against the seller any claim or defense arising out of the sale;

(7) Provide for or grant a first lien upon real estate to secure such obligation, except such lien as is created by law upon the recording of an abstract of judgment.

Acts 1967, 60th Leg., p. 646, ch. 274, § 2, eff. Jan. 1, 1968.

Art. 5069—6.06. Certificate of completion or satisfaction required in certain transactions

(1) A seller who has entered into a retail installment transaction to perform services or install goods for the modernization, rehabilitation, repair, alteration, improvement or construction of improvements on real property shall obtain a certificate of completion or certificate of satisfaction (hereinafter designated "certificate") signed by the buyer, when all such goods and/or services purchased under a retail installment contract have been performed or installed as required by such contract; and may obtain such a certificate whether or not any guarantee or warranty of the goods or services remains in force. Such certificate shall be a separate writing and shall have the following notation at the top thereof in at least ten-point bold type:

WARNING TO BUYER—DO NOT SIGN THIS CERTIFICATE UNTIL ALL SERVICES HAVE BEEN SATISFACTORILY PERFORMED AND MATERIALS SUPPLIED OR GOODS RECEIVED AND FOUND SATISFACTORY.

(2) Such signed certificate or a copy thereof shall be kept by the seller for a period of two years from the date of execution.

(3) No seller shall knowingly induce a buyer to sign such a certificate or knowingly take or accept from the buyer any executed certificate if performance of the services or installation of the goods required by the retail installment contract is not complete.

(4) Execution of such a certificate by a buyer shall not constitute a waiver of any guaranty or warranty made by a seller, manufacturer or supplier. Failure or refusal on the part of a buyer to execute such certificate, without good cause, shall not affect the validity of the retail installment contract.

Acts 1967, 60th Leg., p. 646, ch. 274, § 2, eff. Jan. 1, 1968.

Art. 5069—6.07. Assignment and negotiation

Notwithstanding the provisions of any other law, a person may purchase or acquire or agree to purchase or acquire any retail installment contract or retail charge agreement or any outstanding balance under either from another person on such terms and conditions and for such price as may be mutually agreed upon. Notice to the buyer of the assignment or negotiation and any requirement that the seller be deprived of dominion over payments upon a retail installment contract or retail charge agreement, or over the goods if returned to or repossessed by the seller, is not necessary to the validity of a written assignment or negotiation of the retail installment contract or retail charge agreement or any outstanding balance under either, as against creditors, subsequent purchasers, pledges, mortgagees and lien claimants of the seller. Unless the buyer has notice of the assignment or negotiation of his retail installment contract, retail charge agreement or any outstanding balance under either, payment therefor made by the buyer to the holder last known to him shall be binding upon all subsequent holders. No right of action or defense of a buyer arising out of a retail installment transaction which would be cut off by negotiation, shall be

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cut off by negotiation of the retail installment contract or retail charge agreement to any third party unless such holder acquires the contract relying in good faith upon a certificate of completion or certificate of satisfaction, if required by the provisions of Article 6.06; and such holder gives notice of the negotiation to the buyer as provided in this Article, and within thirty days of the mailing of such notice receives no written notice from the buyer of any facts giving rise to any claim or defense of the buyer. Such notice of negotiation shall be in writing addressed to the buyer at the address shown on the contract and shall: identify the contract; state the names and addresses of the seller and buyer; describe the goods or services; state the time balance and a description of the payment schedule. The notice of negotiation shall contain the following warning to the buyer in at least ten-point bold face type:

ARE THE TERMS OF THE CONTRACT DESCRIBED ABOVE
CORRECT AND ARE YOU SATISFIED WITH THE GOODS
OR SERVICES FURNISHED? IF NOT, YOU SHOULD NOTIFY
US GIVING DETAILS WITHIN 30 DAYS FROM THE DATE
THE ABOVE NOTICE WAS MAILED.

Acts 1967, 60th Leg., p. 647, ch. 274, § 2, eff. Jan. 1, 1968.

Art. 5069—6.08. Application

None of the provisions of this Chapter shall affect or apply to any loans or to the business of making loans under or in accordance with the laws of this State, nor shall any of the provisions of the loan or interest statutes of this State affect or apply to any retail installment transaction. Nor shall any seller pay, promise to pay, or otherwise tender cash to any buyer as a part of any transaction made pursuant to this Chapter unless otherwise specifically authorized by this Chapter. Nothing in this Chapter shall be construed to impair or in any way affect any rule of law applicable to or governing retail installment sales not otherwise subject hereto. This Chapter shall apply exclusively to retail installment transactions as defined in Article 6.01 hereof.

Acts 1967, 60th Leg., p. 647, ch. 274, § 2, eff. Jan. 1, 1968.

Art. 5069—6.09. Waiver

No act or agreement of the retail buyer before or at the time of the making of a retail installment contract, retail charge agreement or purchase thereunder shall constitute a valid waiver of any of the provisions of this Chapter.

Acts 1967, 60th Leg., p. 648, ch. 274, § 2, eff. Jan. 1, 1968.

CHAPTER 7—MOTOR VEHICLE INSTALLMENT SALES

Art.	Art.
5069—7.01. Definitions.	5069—7.06. Insurance.
5069—7.02. Requirements and prohibitions as to retail installment contracts.	5069—7.07. Prohibited provisions.
5069—7.03. Finance charge limitations.	5069—7.08. Assignment and negotiation.
5069—7.04. Refunds on prepayment.	5069—7.09. Application.
5069—7.05. Amendments of retail installment contracts.	5069—7.10. Waiver.

Chapter 7, Motor Vehicle Installment Sales, consisting of articles 5069—7.01 to 5069—7.10, was enacted by Acts 1967, 60th Leg., p. 609, ch. 274, § 2, effective January 1, 1968.

Art. 5069—7.01. Definitions

For the purposes of this Chapter, unless the context otherwise requires:

(a) "Motor Vehicle" means and is limited to any automobile, mobile home, truck, truck tractor, trailer, semi-trailer and bus designed and

used primarily to transport persons or property on a public highway, excepting however, any boat trailer, any vehicle propelled or drawn exclusively by muscular power or which is designed to run only on rails or tracks or in the air, or other machinery not designed primarily for highway transportation, but which may incidentally transport persons or property on a public highway.

(b) "Retail Buyer" or "Buyer" means a person who agrees to buy or buys a motor vehicle other than principally for the purpose of resale, from a retail seller in a retail installment transaction.

(c) "Retail Seller" or "Seller" means a person engaged in the business of selling motor vehicles to retail buyers in retail installment transactions.

(d) "Retail Installment Transaction" or "Transaction" means any transaction as a result of which a retail buyer acquires a motor vehicle from a retail seller under a retail installment contract for a sum consisting of the cash sale price and other charges as limited by this Chapter and agrees with a retail seller to pay part or all of such sum in one or more deferred installments. The term shall include every transaction wherein the promise or agreement to pay the deferred balance of such sum is made by the retail buyer to the retail seller notwithstanding the existence or occurrence of any one or more of the following events: (i) that the retail seller has arranged or arranges to sell, transfer or assign the retail buyer's obligation; (ii) that the amount of the charges is determined by reference to charts or information furnished by a financing institution; (iii) that the forms of instruments used to evidence the retail installment transaction are furnished by a financing institution; and (iv) that the credit standing of the retail buyer is or has been evaluated by a financing institution.

(e) "Retail Installment Contract" or "Contract" means a contract entered into in this State evidencing a retail installment transaction. The term includes a chattel mortgage, conditional sale contract, security agreement and a contract in the form of a bailment or a lease if the bailee or lessee contracts to pay as compensation for use a sum substantially equivalent to or in excess of the value of the motor vehicle sold and it is agreed that the bailee or lessee is bound to become, or, for no further or a merely nominal consideration, has the option of becoming, the owner of the motor vehicle upon full compliance with the provisions of the bailment or lease. The term shall also include a contract which the parties have amended in order to renew, restate or reschedule the unpaid balance thereof, or to extend or defer the scheduled due date of all or any part of any installment or installments, in which case the retail installment contract shall consist of the original contract and the amendments thereto.

(f) "Cash Sale Price" means the price stated in a retail installment contract for which the seller would have sold to the buyer and the buyer would have bought from the seller, the motor vehicle which is the subject matter of such contract if such sale had been a sale for cash. The cash sale price may include any taxes, registration, certificate of title and license fees, and charges for delivering, servicing, repairing, altering or improving the motor vehicle.

(g) "Official Fees" means the amount of the fees prescribed by law for filing, recording or otherwise perfecting and, in addition, for releasing or satisfying a retained title, lien or other security interest created in connection with a retail installment transaction.

(h) "Principal Balance" means the cash sale price of the motor vehicle plus the amounts, if any, included in the retail installment contract, if a separate identified charge is stated therein, for insurance

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and other benefits and official fees, less the amount of the buyer's down payment, if any, in money or goods or both.

(i) "Time Price Differential" means the total amount to be added to the principal balance to determine the balance of the buyer's indebtedness to be paid under a retail installment contract.

(j) "Holder" means the retail seller of the motor vehicle or assignee if the retail installment contract or the outstanding balance thereunder is sold or otherwise transferred.

(k) "Time Sale Price" means the total of the cash sale price of the motor vehicle and the amount, if any, included for insurance, if a separate identified charge is made therefor, and the official fees and the time price differential.

(l) "Person" means an individual, partnership, corporation, joint venture, trust, association, or any legal entity however organized.

(m) Words of the masculine gender include the feminine and the neuter, and when the sense so indicates, words of the neuter gender may refer to any gender.

Acts 1967, 60th Leg., p. 648, ch. 274, § 2, eff. Jan. 1, 1968.

Art. 5069—7.02. Requirements and prohibitions as to retail installment contracts

(1) Each retail installment contract shall be in writing, dated, signed by both the buyer and the seller, and completed as to all essential provisions before it is signed by the buyer; provided, however, if delivery of the motor vehicle is not made at the time of the execution of the contract, the identifying numbers or marks or similar information and the due date of the first installment may be inserted in the contract after its execution. A retail installment contract need not be contained in a single document.

(2) The printed portion of the retail installment contract, other than instructions for completion, shall be in a size equal to at least eight-point type. Such contract shall contain substantially the following notice in a size equal to at least ten-point bold type:

"NOTICE TO THE BUYER—DO NOT SIGN THIS CONTRACT BEFORE YOU READ IT OR IF IT CONTAINS ANY BLANK SPACES. YOU ARE ENTITLED TO A COPY OF THE CONTRACT YOU SIGN. UNDER THE LAW YOU HAVE THE RIGHT TO PAY OFF IN ADVANCE THE FULL AMOUNT DUE AND UNDER CERTAIN CONDITIONS MAY OBTAIN A PARTIAL REFUND OF THE TIME PRICE DIFFERENTIAL. KEEP THIS CONTRACT TO PROTECT YOUR LEGAL RIGHTS."

(3) A retail installment contract shall also contain, in a size equal to at least ten-point bold type, a specific statement that liability insurance coverage for bodily injury and property damage caused to others is not included, if that is the case.

(4) The seller shall deliver to the buyer, or mail to him at his address shown on the retail installment contract, a copy of such contract as accepted by the seller. Until the seller does so, a buyer who has not received delivery of the motor vehicle shall have the right to rescind his contract and to receive a refund of all payments made and a return of all goods traded in to the seller on account of or in contemplation of such contract, or if the goods traded in cannot be returned, the value thereof. Any acknowledgment by the buyer of delivery of a copy of the retail installment contract shall be in a size equal to at least ten-point bold type and shall appear directly above the buyer's signature.

(5) The retail installment contract shall contain the names of the seller and the buyer, the place of business of the seller, the residence

or other address of the buyer as specified by the buyer, and a description of the motor vehicle sold or to be sold.

(6) The retail installment contract shall specifically set out the following items:

- (a) The cash sale price of the motor vehicle;
- (b) The amount of the buyer's down payment, if any, specifying the amounts paid in money and in goods traded in;
- (c) The difference between items (a) and (b);
- (d) The aggregate amount, if any, included for insurance if a separate identified charge is made therefor, specifying the type or types and the term of coverage;
- (e) The aggregate amount of official fees, if a separate identified charge is made therefor;
- (f) The principal balance, which is the sum of items (c), (d) and (e);
- (g) The amount of the time price differential; and
- (h) The sum of items (f) and (g), which is the balance to be paid by the buyer to the seller, the number of installments, the amount of each installment and the due date or period thereof. If installment payments other than the final payment are stated as a series of periodic payments equal in period and amount, the number of payments and the amount and due date of each payment need not be separately stated, and the amount of the scheduled final installment payment may be stated as the remaining unpaid balance. The due date of the first installment payment may be fixed by a calendar date or by reference to the date of the contract or to the time of delivery.

(i) If any installment (except the down payment) is more than double the average of all prior installments (except the down payment), the following legend printed in at least ten-point bold type or typewritten:

THIS CONTRACT IS NOT PAYABLE IN INSTALLMENTS OF EQUAL AMOUNTS

followed, if there be but one such larger installment, by:

AN INSTALLMENT OF \$_____ WILL BE DUE ON _____,

or if there be more than one such larger installment, by:

LARGER INSTALLMENTS WILL BE DUE AS FOLLOWS:

_____ in such latter case, inserting the amount of every such larger installment and of its due date.

(j) The above items need not be stated in the sequence or order set forth; additional items may be included to explain the calculations involved in determining the balance to be paid by the buyer.

(7) The buyer's acknowledgment, conforming to the requirements of this Article, of delivery of a copy of the retail installment contract shall be conclusive proof of such delivery, that such contract when signed by the buyer did not contain any blank spaces except as herein provided, and of compliance with this Article in any action or proceeding by or against a holder of such contract without knowledge to the contrary when he purchases it.

(8) Upon written request of the buyer, the holder of a retail installment contract shall give or forward to the buyer a written statement of the dates and amounts of installment payments and the total amount unpaid under such contract. Such a statement shall be given the buyer once every six months without charge; if any additional statement is requested by the buyer, it shall be supplied by the holder at a

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charge not in excess of One Dollar for each additional statement. A buyer shall be given a written receipt for any payment when made in cash. Acts 1967, 60th Leg., p. 649, ch. 274, § 2, eff. Jan. 1, 1968.

Art. 5069—7.03. Finance charge limitations

(1) Notwithstanding the provisions of any other law, the time price differential in a retail installment contract payable in substantially equal successive monthly installments beginning one month after the date of the contract shall not exceed the larger of Twenty-five Dollars or an amount determined under the following schedule:

Class 1. Any new domestic motor vehicle designated by the manufacturer by a year model not earlier than the year in which the sale is made and any new foreign motor vehicle—Seven Dollars and Fifty Cents per One Hundred Dollars per annum.

Class 2. Any new domestic motor vehicle not in Class 1 and any used domestic motor vehicle designated by the manufacturer by a year model of the same or not more than two years prior to the year in which the sale is made and any used foreign motor vehicle not more than two years old—Ten Dollars per One Hundred Dollars per annum.

Class 3. Any used motor vehicle not in Class 2 and, if a domestic motor vehicle, designated by the manufacturer by a year model not more than four years prior to the year in which the sale is made, and, if a foreign motor vehicle, not more than four years old—Twelve Dollars and Fifty Cents per One Hundred Dollars per annum.

Class 4. Any used motor vehicle not in Class 2 or Class 3—Fifteen Dollars per One Hundred Dollars per year. Provided, however, if the principal balance is Three Hundred Dollars or less, the time price differential shall be Eighteen Dollars per One Hundred Dollars per annum.

(2) Such charge shall be computed on the principal balance as determined under Article 7.02 of this Chapter from the date of the contract until the maturity of the final installment, notwithstanding that the balance thereof is required to be paid in installments.

(3) For a period less or greater than twelve months or for amounts less or greater than One Hundred Dollars, the amount of the maximum charge set forth in the foregoing schedule shall be decreased or increased proportionately. A fractional monthly period of fifteen days or more may be considered a full month.

(4) If a retail installment contract is payable other than in substantially equal successive monthly installments, as where payable in irregular or unequal installments either in amount or periods thereof, or in equal successive monthly installments followed by or interspersed with an irregular, unequal or larger installment or installments, or in other than monthly installments or if the first installment is not payable one month from the date of the contract, the charge may not exceed an amount which, having due regard for the schedule of installment payments, will provide the same effective return as if the contract were payable in substantially equal successive monthly installments beginning one month from the date of the contract.

(5) A buyer under a retail installment contract may, upon written consent of the holder, transfer his equity in the motor vehicle at any time to another person, but in that event the holder shall be entitled to a transfer of equity fee not exceeding Twenty-five Dollars.

(6) The holder of any retail installment contract may collect a delinquency charge on each installment in default for a period of more than ten days in an amount not to exceed five percent of each installment or Five Dollars, whichever is less, or, in lieu thereof, interest after maturity on each such installment not to exceed the highest lawful contract rate. Provided, that only one such delinquency charge

may be collected on any installment regardless of the period during which it remains in default. In addition, such contracts may provide for the payment of an attorney's reasonable fee where it is referred for collection to an attorney not a salaried employee of the seller or holder of the contract, and for court costs and disbursements, and in the event of repossession, sequestration, or other action necessary to secure possession of a motor vehicle securing the payment of a retail installment contract, such contracts may provide for the charge and collection of actual and reasonable out-of-pocket expenses incurred in connection with such repossession or foreclosure, including costs of storing, reconditioning and reselling such motor vehicle, subject to the standards of good faith and commercial reasonableness set by the Uniform Commercial Code as adopted in Texas.

Acts 1967, 60th Leg., p. 651, ch. 274, § 2, eff. Jan. 1, 1968.

Art. 5069—7.04. Refunds on prepayment

Notwithstanding the provisions of any retail installment contract to the contrary, any buyer may prepay it in full at any time before maturity, and if he does so, shall receive the following refund credit thereon:

On a contract payable in substantially equal successive monthly installments commencing one month after the date of the contract, the amount of such refund credit shall represent at least as great a proportion of the finance charge, after first deducting therefrom an acquisition cost of Twenty-five Dollars, as (i) the sum of the monthly balances under the schedule of payments in the contract beginning as of the date after such prepayment which is the next succeeding monthly anniversary date of the due date of the first installment under the contract, or, if the prepayment is prior to the due date of the first installment under such contract, then as of the date after such prepayment, which is one month after the next succeeding monthly anniversary date of the date of such contract, bears to (ii) the sum of all the monthly balances under the schedule of payments in such contract. When the amount of refund credit is less than One Dollar no refund credit need be made. On contracts payable in other than substantially equal successive monthly installments commencing one month after the date of the contract, the refund shall be computed in a manner proportionate to the above-described method, having due regard to the amount of each installment, to the irregularity of each installment period and to the provisions of Sections (2) and (4) of Article 7.03 hereof.

Acts 1967, 60th Leg., p. 652, ch. 274, § 2, eff. Jan. 1, 1968.

Art. 5069—7.05. Amendments of retail installment contracts

(1) The holder of a retail installment contract upon request by the buyer, may agree to an amendment thereto to extend or defer the scheduled due date of all or any part of any installment or installments or to renew, restate or reschedule the unpaid balance of such contract, and may collect for same a charge not to exceed an amount computed under either of the following:

(a) If all or any part of any installment or installments is deferred for not more than three months the holder may at his election charge and collect on the amount deferred for the period deferred a charge computed at a rate which will not exceed the same effective return as is permitted on monthly payment contracts under Article 7.03; provided that the minimum charge shall be One Dollar. Such amendment may also include payment by the buyer of the additional cost to the holder of premiums for continuing in force any insurance coverages provided for in the contract and any additional necessary official fees.

(b) In any other extension, renewal, restatement or rescheduling of the unpaid balance, the charge may be computed as follows: The sum

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of the unpaid balance as of the date of amendment and the cost of any insurance incidental to the amendment, any additional necessary of ficial fees, and any accrued delinquency and collection charges, after deducting the prepayment refund credit required by Article 7.04, shall constitute a principal balance on which the charge may be computed for the term of the amended contract at the applicable time price differential provided in Article 7.03 after reclassifying the motor vehicle by its year model at the time of the amendment. The provisions of this Chapter relating to minimum charges under Article 7.03 and acquisition costs under the refund schedule in Article 7.04 shall not apply in calculating the principal balance of the amended contract. The amendment to the contract must be confirmed in a writing signed by the buyer. The writing shall set forth the terms of the amendment and the new due dates and amounts of the installments; a copy thereof shall either be delivered to the buyer or mailed to him at his address as shown on the contract. Said writing together with the original contract and any previous amendments thereto shall constitute the retail installment contract.

Acts 1967, 60th Leg., p. 652, ch. 274, § 2, eff. Jan. 1, 1968.

Art. 5069—7.06. Insurance

(1) On any retail installment contract made under the authority of this Chapter, a seller or holder may request or require a buyer to provide credit life insurance and credit health and accident insurance as additional protection for such contract, and include the cost of such insurance as a separate charge in such contract. Only one policy of life insurance and one policy of health and accident insurance on any one buyer may be in force with respect to any one loan contract at any one time.

(2) A seller or holder may, in addition, request or require a buyer to insure tangible personal property involved in such a contract, made under authority of this Chapter, and include the cost of such insurance as a separate charge in such contract. Such insurance and the premiums or charges therefrom shall bear a reasonable relationship to the amount, term and conditions of the contract, the existing hazards or risk of loss, damage or destruction, and shall not provide for unusual or exceptional risks or coverages which are not ordinarily included in policies issued to the general public.

(3) When insurance is required in connection with such a contract or agreement made under this Chapter, the seller or holder shall furnish the borrower a statement which shall clearly and conspicuously state that insurance is requested or required in connection with the contract, and that the buyer shall have the option of furnishing the required insurance either through existing policies of insurance owned or controlled by him or of procuring and furnishing equivalent insurance coverages through any insurance company authorized to transact business in Texas. In addition when any requested or required insurance is sold or procured by the seller or holder at a premium or rate of charge not fixed or approved by the State Board of Insurance, the seller or holder shall include such fact in the foregoing statement, and the buyer shall have the option for a period of five days from the date of the contract or agreement of furnishing the required insurance coverage either through existing policies of insurance owned or controlled by him or of procuring and furnishing equivalent insurance coverages through any insurance company authorized to transact business in Texas. Such statement or statements may be made in conjunction with or as part of the retail installment contract required by Article 7.02.

(4) Such insurance shall be written at lawful rates and in accordance with the provisions of the Texas Insurance Code by a company authorized to do business in this State.

(5) The contract or agreement must state the kind, coverage, term and amount of premium for such insurance.

(6) If dual interest insurance on the motor vehicle is purchased by the seller or seller's assignee, as the case may be, it shall within thirty days after execution of the retail installment contract, send or cause to be sent to the buyer a policy, or policies, or certificates of insurance written by an insurance company authorized to do business in this State, clearly setting forth the amount of the premium, the kind or kinds of insurance, the coverage and all the terms, options, limitations, restrictions and conditions of the policy or policies of insurance. The buyer shall have the privilege at the time of execution of the contract of purchasing such insurance from an agent or broker of his own selection and of selecting an insurance company acceptable to the holder, but in such case the inclusion of the insurance premium in the retail installment contract shall be optional with the seller.

(7) If the insurance is cancelled, adjusted or terminated for any reason, the refund for unearned insurance premiums received by the seller or the holder shall be credited to the final maturing installments of the retail installment contract, and the remaining balance of the unearned insurance premiums shall be refunded to the buyer; provided, however, that no cash refund shall be required if the amount thereof is less than One Dollar.

(8) The retail installment contract shall clearly and conspicuously disclose whether or not bodily injury and property damage liability insurance is provided pursuant thereto.

(9) Any gain, advantage to the seller or holder, or any employee, officer, director, agent, general agent, affiliate or associate from such insurance or its provision or sale shall not be considered as an additional charge or further time price differential in connection with any retail installment contract made under this Chapter except as specifically provided herein.

Acts 1967, 60th Leg., p. 653, ch. 274, § 2, eff. Jan. 1, 1968.

Art. 5069—7.07. Prohibited provisions

No retail installment contract or retail charge agreement shall:

(1) Provide that the seller or holder may accelerate the maturity of any part or all of the amount owing thereunder unless (a) the buyer is in default on the performance of any of his obligations or (b) the seller or holder in good faith believes that the prospect of payment or performance is impaired;

(2) Contain a power of attorney to confess judgment in this State on an assignment of wages;

(3) Authorize the seller or holder or other person acting on his behalf to enter upon the buyer's premises unlawfully or to commit any breach of the peace in the repossession of a motor vehicle;

(4) Provide for a waiver of the buyer's rights of action against the seller or holder or other person acting therefor for any illegal act committed in the collection of payments under the contract or agreement or in the repossession of a motor vehicle;

(5) Contain any provision by which the buyer executes a power of attorney appointing the seller or holder or other person acting on his behalf, as the buyer's agent in the repossession of a motor vehicle;

(6) Provide that the buyer agrees not to assert against the seller or holder of any claim or defense arising out of the sale.

Acts 1967, 60th Leg., p. 654, ch. 274, § 2, eff. Jan. 1, 1968.

For Annotations and Historical Notes, see V.A.T.S.

Art. 5069—7.08. Assignment and negotiation

(1) Any person may purchase or acquire or agree to purchase or acquire any retail installment contract or any outstanding balance from any other person on such terms and conditions and for such price as may be mutually agreed upon;

(2) Notice to the buyer of the assignment or negotiation and any requirement that the seller be deprived of dominion over payments upon a retail installment contract, or over the motor vehicle if returned to or repossessed by the seller, is not necessary to the validity of a written assignment or negotiation of the retail installment contract or any outstanding balance as against creditors, subsequent purchasers, pledgees, mortgagees and lien claimants of the seller;

(3) Unless the buyer has notice of the assignment or negotiation of his retail installment contract, or any outstanding balance thereunder payment therefor made by the buyer to the holder last known to him shall be binding upon all subsequent holders;

(4) No right of action or defense of a buyer arising out of a retail installment sale which would be cut off by negotiation, shall be cut off by negotiation of the contract to any third party unless such holder acquires the contract in good faith and for value and gives notice of the negotiation to the buyer as provided in this Article, and within thirty days of the mailing of such notice receives no written notice of any facts giving rise to any claim or defense of the buyer. A notice of negotiation shall be in writing addressed to the buyer at the address shown on the contract and shall identify the contract, state the names of the seller and buyer; describe the motor vehicle; state the time balance and the number and amounts of the installments. The notice of negotiation shall contain the following warning to the buyer in ten-point bold face type:

**IF YOU HAVE ANY COMPLAINT OR OBJECTION
REGARDING THE GOODS OR SERVICES COVERED BY
THE CONTRACT IDENTIFIED IN THIS NOTICE, OR
ANY CLAIM OR DEFENSE RELATING TO SUCH CON-
TRACT, YOU MUST NOTIFY US WITHIN 30 DAYS
FROM THE DATE THIS NOTICE WAS MAILED.**

Acts 1967, 60th Leg., p. 655, ch. 274, § 2, eff. Jan. 1, 1968.

Art. 5069—7.09. Application

None of the provisions of this Chapter shall affect or apply to any loans or to the business of making loans under or in accordance with the laws of this State, nor shall any of the provisions of the loan or interest statutes of this State affect or apply to any retail installment transaction. Nor shall any seller pay, promise to pay, or otherwise tender cash to any buyer as a part of any transaction made pursuant to this Chapter unless otherwise specifically authorized by this Chapter. Nothing in this Chapter shall be construed to impair or in any way affect any rule of law applicable to, or governing retail installment sales not otherwise subject hereto. This Chapter shall apply exclusively to all retail installment transactions as defined in Article 7.01.

Acts 1967, 60th Leg., p. 655, ch. 274, § 2, eff. Jan. 1, 1968.

Art. 5069—7.10. Waiver

No act or agreement of the buyer before, or at the time of the making of a retail installment contract, or purchase thereunder, shall constitute a valid waiver of any of the provisions of this Chapter.

Acts 1967, 60th Leg., p. 655, ch. 274, § 2, eff. Jan. 1, 1968.

CHAPTER 8—PENALTIES

Art. 5069—8.01.	Contracting for, charging or receiving interest, time price differential or other charges greater than authorized.	Art. 5069—8.03.	Engaging in lending business without license.
5069—8.02.	Contracting for, charging or receiving interest, time price differential or other charges in excess of double the amount authorized.	5069—8.04.	Actions; limitations and venue.
		5069—8.05.	Violating terms of injunction.

Chapter 8, Penalties, consisting of articles 5069—8.01 to 5069—8.05, was enacted by Acts 1967, 60th Leg., p. 609, ch. 274, § 2, effective October 1, 1967.

Art. 5069—8.01. Contracting for, charging or receiving interest, time price differential or other charges greater than authorized

Any person who violates this Subtitle by contracting for, charging or receiving interest, time price differential or other charges which are greater than the amount authorized by this Subtitle, or by failing to perform any duty specifically imposed on him by any provision of this Subtitle, shall forfeit to the obligor twice the amount of interest or time price differential and default and deferment charges contracted for, charged or received, and reasonable attorneys' fees fixed by the court, provided that there shall be no penalty for a violation which results from an accidental and bona fide error.

Acts 1967, 60th Leg., p. 656, ch. 274, § 2, eff. Oct. 1, 1967.

Art. 5069—8.02. Contracting for, charging or receiving interest, time price differential or other charges in excess of double the amount authorized

Any person who violates this Subtitle by contracting for, charging or receiving interest, time price differential or other charges which are in the aggregate in excess of double the total amount of interest, time price differential and other charge authorized by this Subtitle shall forfeit to the obligor as an additional penalty all principal or principal balance, as well as all interest or time price differential, and all other charges, and shall pay reasonable attorneys' fees actually incurred by the obligor in enforcing the provisions of this Article; provided further that any such person violating provisions of this Article shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than One Thousand Dollars. Each contract or transaction in violation of this Article shall constitute a separate offense punishable hereunder.

Acts 1967, 60th Leg., p. 656, ch. 274, § 2, eff. Oct. 1, 1967.

Art. 5069—8.03. Engaging in lending business without license

In addition to the foregoing penalties, if applicable, any person engaging in any business under the scope of Chapters 3, 4, or 5 of this Subtitle without first securing a license provided, or without the authorization prescribed, in such Chapter shall be guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine of not more than One Thousand Dollars, and each such loan made without the authority granted by such license shall constitute a separate offense punishable hereunder; and in addition such person shall forfeit all principal and charges contracted for or collected on each such loan, and shall pay reasonable attorney fees incurred by the obligor.

Acts 1967, 60th Leg., p. 656, ch. 274, § 2, eff. Oct. 1, 1967.

For Annotations and Historical Notes, see V.A.T.S.

Art. 5069—8.04. Actions; limitations and venue

All such actions brought under this Subtitle, except where otherwise specifically provided in this Subtitle, shall be brought in any court of this State having jurisdiction thereof within four years from the date of loan, retail installment transaction or two years from the date of the final entry made thereon, whichever is later, in the county of defendant's residence, or in the county where the interest, time price differential or other charge in excess of the amount authorized by this Subtitle shall have been received or collected, or where such transaction has been entered into or where the parties who paid the interest, time price differential or other charge in excess of the amount authorized in this Subtitle resided when such transaction occurred, or where he resides.

Acts 1967, 60th Leg., p. 656, ch. 274, § 2, eff. Oct. 1, 1967.

Art. 5069—8.05. Violating terms of injunction

Any person who violates the terms of an injunction duly issued under this Subtitle shall forfeit and pay to the State a civil penalty of not more than One Thousand Dollars per violation. For the purposes of this Article, the District Court issuing an injunction shall retain jurisdiction, and the cause shall be continued, and in such cases the Attorney General may petition for recovery of such civil penalties.

Acts 1967, 60th Leg., p. 656, ch. 274, § 2, eff. Oct. 1, 1967.

SUBTITLE THREE—CONSUMER PROTECTION

Chap.	Art.
9. Consumer Debt Counseling and Education	5069—9.01
10. Deceptive Trade Practices	5069—10.01

CHAPTER 9—CONSUMER DEBT COUNSELING AND EDUCATION

Art.	Art.
5069—9.01 Duties of the commissioner.	5069—9.03. Exemption.
5069—9.02. Debt pooling.	5069—9.04. Penalty.

Chapter 9, Consumer Debt Counseling and Education, consisting of articles 5069—9.01 to 5069—9.04, was enacted by Acts 1967, 60th Leg., p. 609, ch. 274, § 2, effective October 1, 1967.

Art. 5069—9.01. Duties of the commissioner

(1) The Consumer Credit Commissioner shall provide advice, assistance and counsel to encourage the establishment and operation of voluntary non-profit debt counseling services for the citizens of this State.

(2) The Consumer Credit Commissioner shall provide advice, assistance and counsel to coordinate, encourage, aid and assist public and private agencies, organizations and groups and consumer credit institutions in the development and operation of voluntary education programs designed to promote the prudent and beneficial use of consumer credit by the citizens of this State.

Acts 1967, 60th Leg., p. 657, ch. 274, § 2, eff. Oct. 1, 1967.

Art. 5069—9.02. Debt pooling

(1) Except as provided in Article 9.03 nothing herein shall be construed to permit any debt pooling contracts wherein a contract is entered into by any person with a debtor by the terms of which contract the debtor agrees to deposit periodically or otherwise with such person a specified sum of money and said person agrees to distribute said sums of money

among creditors of the debtor, for which service the debtor agrees to pay a valuable consideration.

(2) Any such contract as described herein shall be void and of no effect.

Acts 1967, 60th Leg., p. 657, ch. 274, § 2, eff. Oct. 1, 1967.

Art. 5069—9.03. Exemption

The provisions of Article 9.02 shall not apply to:

(a) Any bank, savings and loan association, trust company or credit union doing business under the laws of this State or of the United States;

(b) Any attorney at law;

(c) Any judicial officer or other person acting under the orders of a court of this State or of the United States;

(d) Any agency, instrumentality or subdivision of this State or of the United States;

(e) Any retail merchants association or non-profit trade association formed for the purpose of collecting accounts and exchanging credit information; and

(f) Any non-profit organization providing debt-counseling services to citizens of this State.

Acts 1967, 60th Leg., p. 657, ch. 274, § 2, eff. Oct. 1, 1967.

Art. 5069—9.04. Penalty

Any person violating Article 9.02 shall be guilty of a misdemeanor, and upon conviction shall be fined not less than One Hundred Dollars nor more than Five Hundred Dollars for each conviction. Each act of debt pooling as defined in Article 9.02 shall constitute a separate offense.

Acts 1967, 60th Leg., p. 657, ch. 274, § 2, eff. Oct. 1, 1967.

CHAPTER 10—DECEPTIVE TRADE PRACTICES

- Art. 5069—10.01. Definitions.
- 5069—10.02. Deceptive practices.
- 5069—10.03. Exemptions.

- Art. 5069—10.04. Restraining orders.
- 5069—10.05. Civil penalty.

Chapter 10, Deceptive Trade Practices, consisting of articles 5069—10.01 to 5069—10.05, was enacted by Acts 1967, 60th Leg., p. 609, ch. 274, § 2, effective October 1, 1967.

Art. 5069—10.01. Definitions

For the purposes of this Chapter, unless the context otherwise requires:

(a) "Trade" and "Commerce" mean the advertising, offering for sale, sale, or distribution of any services and any property, tangible or intangible, real, personal or mixed, and any other article, commodity, or thing of value wherever situate, and shall include any trade or commerce directly or indirectly affecting the people of this State.

(b) "Deceptive practices" means any one or more of the following:

- (1) passing off goods or services as those of another;
- (2) causing confusion or misunderstanding as to the source, sponsorship, approval or certification of goods or services;
- (3) causing confusion or misunderstanding as to affiliation, connection, or association with, or certification by, another;

For Annotations and Historical Notes, see V.A.T.S.

(4) using deceptive representations or designations of geographic origin in connection with goods or services;

(5) representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities that they do not have or that a person has a sponsorship, approval, status, affiliation, or connection that he does not have;

(6) representing that goods are original or new if they are deteriorated, altered, reconditioned, reclaimed, used, or second hand;

(7) representing that goods or services are of a particular standard, quality, or grade, or that goods are of a particular style or model, if they are of another;

(8) disparaging the goods, services, or business of another by false or misleading representation of fact;

(9) advertising goods or services with intent not to sell them as advertised;

(10) advertising goods or services with intent not to supply reasonably expectable public demand, unless the advertisement discloses a limitation of quantity;

(11) making false or misleading statements of fact concerning the reasons for, existence of, or amounts of price reductions; or

(12) engaging in any other conduct which similarly creates confusion or misunderstanding; or

(13) advertising of a liquidation sale, auction sale or other sale fraudulently representing that the person is going out of business.

Acts 1967, 60th Leg., p. 658, ch. 274, § 2, eff. Oct. 1, 1967.

Art. 5069—10.02. Deceptive practices

Deceptive practices in the conduct of any trade or commerce are hereby declared unlawful.

Acts 1967, 60th Leg., p. 658, ch. 274, § 2, eff. Oct. 1, 1967.

Art. 5069—10.03. Exemptions

Nothing in this Chapter shall apply to actions or transactions permitted under laws administered by a public official acting under statutory authority of this State or the United States.

Acts 1967, 60th Leg., p. 658, ch. 274, § 2, eff. Oct. 1, 1967.

Art. 5069—10.04. Restraining orders

Whenever the Consumer Credit Commissioner receives a written complaint or has reason to believe that any person is engaging or is about to engage in any practice declared by Article 10.02 of this Chapter to be unlawful, and that proceedings would be in the public interest, he may request the Attorney General to bring an action in the name of the State against such person to restrain by temporary or permanent injunction the use of such method, act or practice. The action shall be brought in the District Court of the county in which such person resides or does business. The said court is authorized to issue temporary or permanent injunctions to restrain and prevent violations of this Chapter and such injunctions shall be issued without bond.

Acts 1967, 60th Leg., p. 658, ch. 274, § 2, eff. Oct. 1, 1967.

Art. 5069—10.05. Civil penalty

Any person who violates the terms of an injunction duly issued under this Subtitle shall forfeit and pay to the State a civil penalty of not more than One Thousand Dollars per violation. For the purposes of this Article, the District Court issuing an injunction shall retain jurisdic-

tion, and the cause shall be continued, and in such cases the Attorney General may petition for recovery of such civil penalties." Acts 1967, 60th Leg., p. 659, ch. 274, § 2, eff. Oct. 1, 1967.

CHAPTER 50—MISCELLANEOUS PROVISIONS

Art.	Art.
5069—50.01. Applicability of standard rules of construction.	5069—50.04. Act cumulative.
5069—50.02. Saving clause.	5069—50.05. Severability.
5069—50.03. Statutes repealed.	5069—50.06. Effective date.

Chapter 50, Miscellaneous Provisions, consisting of articles 5069—50.01 to 5069—50.06, was enacted by Acts 1967, 60th Leg., p. 659, ch. 274, §§ 3–8, effective October 1, 1967.

Art. 5069—50.01. Applicability of standard rules of construction

Unless specifically altered by this Act or unless the context requires otherwise, the provisions of Articles 10, 11, 12, 14, 22 and 23, Revised Civil Statutes of Texas, 1925, and of Acts, 50th Legislature 1947, Chapter 359, compiled as Texas Civil Statutes, Article 23a (Vernon's 1948) apply to this Act. Division headings are not a part of this Act. They are mere catchwords designed to give some indication of the contents of the sections and articles to which they are attached. Acts 1967, 60th Leg., p. 659, ch. 274, § 3, eff. Oct. 1, 1967.

Art. 5069—50.02. Saving clause

The repeal of any law, or the creation of any new law, by this Act shall not affect or impair any act done or obligation, right, license or penalty accrued or existing under the authority of the law repealed; and such law shall be treated as still remaining in force for the purpose of sustaining any proper action concerning any such obligation, right, license, or penalty. Fees or penalties incurred under any law repealed by this Act are an obligation within the meaning of this Section. A person now licensed under the Texas Regulatory Loan Act, upon surrender of the existing license, shall be issued a license under Chapter 3 of this Act without application therefor or payment of any investigation fee or any annual fee for a period for which an annual Texas Regulatory Loan Act license fee has been paid. At any time within thirty days after the effective date of Chapter 3 of this Act a person who before April 1, 1967, has paid the pawnbrokers occupation tax imposed by Article 19.01(4) of Title 122A, Taxation—General, Revised Civil Statutes of Texas, 1925, for the calendar year 1967 shall, upon surrender of the receipt of such payment, be issued a license under Chapter 3 of this Act without application therefor or payment of any investigation fee or any license fee for the calendar year 1967. In addition, all records, funds, equipment or other assets of the Office of Regulatory Loan Commissioner, created by the Texas Regulatory Loan Act, shall become vested in the Office of Consumer Credit Commissioner, for use in carrying out the duties imposed by this Act. Acts 1967, 60th Leg., p. 659, ch. 274, § 4, eff. Oct. 1, 1967.

Art. 5069—50.03. Statutes repealed

Chapter 199, Acts of the 59th Legislature, Regular Session, 1965, compiled as Article 1137p, Vernon's Texas Penal Code, Chapter 467, Acts of the 52nd Legislature, 1951, compiled as Article 5074a, Vernon's Texas Civil Statutes; and Title 79 of the Revised Civil Statutes of Texas, 1925, as amended; and Chapter 205, Acts of the 58th Legislature, Regular Session, 1963, otherwise known as the "Texas Regulatory Loan Act," compiled as Article 6165b, Vernon's Texas Civil Statutes; Chapter 144, Acts of the 48th Legislature, 1943, as amended by Chapter 205, Section

For Annotations and Historical Notes, see V.A.T.S.

25, Acts of the 58th Legislature, Regular Session, 1963, compiled as Article 4646b, Vernon's Texas Civil Statutes; and Articles 6146 through 6161, Revised Civil Statutes of Texas, 1925; and that part of Chapter 1, Acts of the 56th Legislature, 3rd Called Session, 1959, compiled as Article 19.01(4), Vernon's Texas Civil Statutes; and Article 1126 of the Texas Penal Code are hereby repealed. All other laws or parts of laws inconsistent with the provisions of this Act are hereby repealed to the extent of such inconsistency, except as otherwise provided in this Act, and except that nothing herein contained in this Act shall affect those laws specified. Provided further, that the amendment or repeal of any law of this State by this Act shall not affect any right accrued or established, or any liability or penalty incurred under the provisions of any of such other laws prior to the amendment or repeal thereof. Acts 1967, 60th Leg., p. 659, ch. 274, § 5, eff. Oct. 1, 1967.

Art. 5069—50.04. Act cumulative

The provisions of this Act are cumulative of the Texas Banking Code of 1943, as amended; the "Texas Savings and Loan Act," as amended; and Articles 2461 through 2484, Revised Civil Statutes of Texas, 1925, as amended and the amendments thereto, and Section 5 of House Bill No. 47, Acts of the 46th Legislature, Regular Session, 1939, and Chapter 173, Acts of the 51st Legislature, Regular Session, 1949, relating to Credit Unions and the amendments thereto. Acts 1967, 60th Leg., p. 660, ch. 274, § 6, eff. Oct. 1, 1967.

Art. 5069—50.05. Severability

If any provision of this Act, or the application thereof to any person or circumstance is held invalid, this invalidity shall not affect other provisions or applications of this Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared severable. Acts 1967, 60th Leg., p. 660, ch. 274, § 7, eff. Oct. 1, 1967.

Art. 5069—50.06. Effective date

This Act shall become effective at midnight on September 30, 1967. It applies to transactions entered into after that date. Provided, however, that Chapters 6 and 7 of Section 2 of this Act shall not become effective until midnight on December 31, 1967. Insofar as these two Chapters are concerned, this Act applies to transactions entered into after that date. Acts 1967, 60th Leg., p. 660, ch. 274, § 8, eff. Oct. 1, 1967.

Arts. 5069—5073. Repealed. Acts 1967, 60th Leg., p. 659, ch. 274, § 5. Eff. Oct. 1, 1967

Prior to repeal articles 5069, 5071 and p. 550, ch. 205, §§ 26-28. See, now, article 5073 were amended by Acts 1963, 58th Leg., 5069—1.01 et seq.

Art. 5074a. Repealed. Acts 1967, 60th Leg., p. 659, ch. 274, § 5. Eff. Oct. 1, 1967

See, now, art. 5069—7.01 et seq.

DISPOSITION TABLE

Showing where provisions of former articles 5069—5074a of Title 70 are now covered in article 5069—1.01 et seq., as enacted by Acts 1967, 60th Leg., p. 608, ch. 274.

Former Article	New Article	Former Article	New Article
5069	5069—1.01, 5069—1.02	5072	5069—1.05
5070	5069—1.03	5073	5069—1.06
5071	5069—1.04	5074a	5069—7.01 to 5069—7.10

TITLE 81—JAILS

Art.
5115b. Certain counties of 60,000 to 70,000;
contracts with cities for jails or
jail facilities [New].

**Art. 5115b. Certain counties of 60,000 to 70,000; contracts with cities
for jails or jail facilities**

Section 1. That any county having a population of not less than 60,000 nor more than 70,000 according to the last Federal Census, and having a current county tax valuation of not less than \$72,750,000, nor more than \$73,000,000 and containing a city of not less than 58,500 nor more than 60,000 according to the last preceding Federal Census, in lieu of providing and maintaining its own jail, is hereby authorized to provide safe and suitable jail, jails or jail facilities for such counties by contracting with the city which is the county seat of any such county, for incarceration of the counties' prisoners in the jail, jails or jail facilities owned by said city or cities, on a daily per capita basis, for the lease of a portion of the jail, jails or jail facilities owned by such city or for joint operation and maintenance of the jail, jails or jail facilities owned and operated by such city for the mutual use and benefit of any such county and city, provided said jail, jails or jail facilities meet the requirements set forth in Chapter 277, Section 1, page 637, Acts 1957, 55th Legislature (Article 5115, Revised Civil Statutes of Texas, 1925, as amended). The Commissioners Court of any such county and the governing body of any such city are hereby authorized and empowered to enter into contracts for the incarceration of any such county's prisoners at a daily per capita rate equal to the cost of maintaining prisoners in said jail, jails or jail facilities or at a daily rate mutually agreed upon by the contracting counties and cities; contracts for lease of a portion of the jail, jails or jail facilities at a rate based upon the proportion of the total area of the jail, jails or jail facilities that is occupied by such counties' prisoners; and contracts for the joint maintenance and operation of such jail, jails or jail facilities determining the respective obligations of each for the maintenance and operation of any such jail or jails, provided that any such contract for lease or for joint maintenance and operation shall not exceed 20 years. Such contracts where not in conflict with the Constitution of the State of Texas may provide for custody, control and operation of such jail, jails or jail facilities, including providing for a jailer to be custodian of such jail, jails or jail facilities, which said jailer shall be under the control and supervision of the sheriff of such county and shall be appointed by the sheriff with the advice and consent of the Commissioners Court and the governing body of such city; providing that the salary of such jailer shall be in an amount as may be now or hereafter authorized by law for a Deputy Sheriff of such county and may be paid by such city or cities and by such counties in such proportions as may be agreed upon by such contracts as herein provided. Where not expressly provided to the contrary herein, any such jailer, his rights, duties, salary and tenure of office shall be controlled by the laws governing Deputy Sheriffs.

Sec. 2. This Act shall be cumulative of all other laws pertaining to county and city jails; provided, however, that to the extent that the provisions hereof conflict with any other law, the provision of this Act shall take precedence and prevail.

Acts 1967, 60th Leg., p. 1969, ch. 731, eff. Aug. 28, 1967.

Section 3 of the act of 1967 provided: "If any clause, sentence, paragraph or Section of this Act is declared unconstitutional or invalid by any court of competent jurisdiction, the remainder of this Act shall nevertheless remain in full force and effect."

For Annotations and Historical Notes, see V.A.T.S.

Title of Act:

An Act authorizing and empowering counties having a population of not less than 60,000 nor more than 70,000, according to the last Federal Census, and having a current county tax valuation of not less than \$72,750,000, nor more than \$73,000,000 and containing a city of not less than 58,500 nor more than 60,000 according to the last preceding Federal Census, to provide safe and suitable jails for such counties by contracting with the city which is the county seat of any such county for the incarceration

of such county's prisoners in, lease of or the joint operation and maintenance of the jail, jails or jail facilities owned by any such city for the mutual use of such counties and cities; authorizing the Commissioners Court of said counties and the governing body of said city or cities to enter contracts for the maintenance and operation of such jails; providing a repealing clause; providing a severability clause; and declaring an emergency. Acts 1967, 60th Leg., p. 1969, ch. 731.

TITLE 82—JUVENILES

Art.
5138c. Certificates of indebtedness for homes and schools for delinquents in counties of 900,000 or more inhabitants [New].

5139XX. Kaufman County Juvenile Board [New].

Art.
5143f. County agreements for joint probation services, detention and diagnostic facilities for juvenile delinquents [New].

Art. 5138c. Certificates of indebtedness for homes and schools for delinquents in counties of 900,000 or more inhabitants

Section 1. Any county having a population in excess of 900,000, according to the most recent Federal Census, is authorized, subject to the limitations contained in this Act, to issue certificates of indebtedness for the purpose of constructing, enlarging, furnishing, equipping and repairing buildings to provide homes and schools for dependent or delinquent boys and girls or for either, and the acquisition of sites therefor.

Sec. 2. Such certificates shall be authorized by order of the Commissioners Court, shall mature in not to exceed thirty-five (35) years from their date, and bear interest at a rate not to exceed five per cent (5%). Interest may be evidenced by coupons. Said certificates shall be sold for cash, and they shall be fully negotiable. Said certificates shall be signed by the County Judge and attested by the County Clerk. Facsimile signatures of the County Judge and the County Clerk may be printed or lithographed on the interest coupons. In lieu of manually signing said certificates, the facsimile signatures of either or both of said officials may be lithographed or printed thereon as provided in Chapter 204, Acts of the 57th Legislature, Regular Session.¹ Said certificates shall be sold for not less than par and accrued interest to the bidder who offers to purchase the same at the lowest net interest cost to the county. Certificates shall not be issued under this Act in excess of \$300,000, and no such certificates shall be issued after two years after the effective date of this Act.

Sec. 3. When such certificates are issued, it shall be the duty of the Commissioners Court to levy and have assessed and collected a tax under Article VIII, Section 9 of the Constitution, sufficient to pay the principal of and the interest on the certificates as such principal and interest become due.

Sec. 4. The certificates and the record relating to their issuance shall be submitted to the Attorney General of Texas for examination and if they have been issued in accordance with the Constitution and this Act, he shall approve them, and thereupon they shall be registered by the Comptroller of Public Accounts of the State of Texas, who shall endorse his certificate of registration thereon, and thereafter they shall be incontestable.

Sec. 5. The certificates of indebtedness shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, insurance companies, savings and loan associations, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts and other political corporations or subdivisions of the State of Texas. Such certificates shall be eligible to secure the deposit of any and all public funds of the State of Texas, and of any and all public funds of cities, towns, villages, counties, school districts, and other political subdivisions of the State of Texas; and such certificates shall be lawful and sufficient security for said deposits to the extent of their face value or to the

For Annotations and Historical Notes, see V.A.T.S.

extent of their market value, whichever value is the smaller, when accompanied by all unmatured coupons appurtenant thereto.

Acts 1967, 60th Leg., p. 1013, ch. 443, emerg. eff. June 12, 1967.

¹ See, now, article 717j-1.

Title of Act:

An Act authorizing any county having a population in excess of 900,000, according to the most recent Federal Census, to issue certificates of indebtedness for the purpose of constructing, enlarging, furnishing, equipping and repairing buildings to provide homes and schools for dependent and delinquent boys and girls, or for either, and the acquisition of sites therefor; prescribing

limitations as to the amount of and the time within which such certificates may be issued; prescribing the procedure for their issuance and sale; requiring the levy and collection of ad valorem taxes for their payment; prescribing their eligibility for investments by certain funds and for security for the deposits of public funds; enacting other provisions related to the subject; and declaring an emergency. Acts 1967, 60th Leg., p. 1013, ch. 443.

Art. 5139J. Juvenile Boards in Harrison and Rusk counties

* * * * *

Section 3a. The juvenile board of Harrison County may appoint a juvenile officer, whose salary shall be fixed by the Commissioners Court of said county in an amount not to exceed Six Thousand Dollars (\$6,000) per year, and whose allowance for expenses shall not exceed Six Hundred Dollars (\$600) per year. The juvenile officer shall have the powers and duties prescribed by Article 5142 of the Revised Civil Statutes of Texas, 1925, and any amendments thereto. All claims for expenses of the juvenile officer shall be certified by the chairman of the juvenile board as being necessary in the performance of the duties of the juvenile officer. The Commissioners Court shall provide the necessary funds for payment of the salary and expenses of the juvenile officer.

Sec. 3a amended by Acts 1967, 60th Leg., p. 983, ch. 427, § 1, emerg. eff. June 12, 1967.

* * * * *

Art. 5139CC. Hunt county juvenile board

Section 1. There is hereby established a County Juvenile Board in Hunt County, which shall be composed of the county judge, the judge of each judicial district which includes Hunt County, and four non-salaried members who are citizens of Hunt County, two to be appointed by the county judge and one by each district judge. The terms of office of the non-salaried appointed members of the Board are for alternating terms of two years each. The terms of two of the non-salaried appointed members expire on December 31st of each odd-numbered year, and the terms of the remaining two non-salaried appointed members expire on December 31st of each even-numbered year.

Sec. 1 amended by Acts 1967, 60th Leg., p. 950, ch. 418, § 1, emerg. eff. June 12, 1967.

* * * * *

Sec. 4. As compensation for the added duties imposed upon the judicial members of the Juvenile Board, the county and district judges may be allowed additional compensation not to exceed Twelve Hundred Dollars (\$1,200) per year, and the clerk of the juvenile court may be allowed additional compensation not to exceed Eight Hundred Dollars (\$800) per year. Any additional compensation allowed shall be fixed by the Commissioners Court of Hunt County, and paid monthly in twelve (12) equal installments out of the general fund or any other available fund of the county. Such compensation shall be in addition to all other compensation now provided or allowed by law for the county judges, district judges, and clerk of the juvenile court and shall not be counted as fees of office. Each other member of the Board serves without compensation. This Act shall be cumulative of existing laws re-

lating to compensation for judges of district courts, county judges, and clerks of juvenile courts.

Sec. 4 amended by Acts 1967, 60th Leg., p. 950, ch. 418, § 1, emerg. eff. June 12, 1967.

Art. 5139II. Juvenile boards in Comal, Hays, Caldwell, Austin and Fayette counties

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Sec. 2. As compensation for the added duties hereby imposed upon them, members of the juvenile boards in Comal, Hays, Caldwell, and Austin counties may each be allowed additional compensation of not less than \$100 per annum and not more than \$300 per annum; members of the juvenile board of Fayette County may each be allowed additional compensation of not less than \$300 per annum and not more than \$1,200 per annum. The additional compensation shall be paid monthly in twelve (12) equal installments out of the general fund or other available fund of the county concerned. Such compensation shall be in addition to all other compensation now provided or allowed by law for county and district judges.

Sec. 2 amended by Acts 1967, 60th Leg., p. 872, ch. 377, § 1, emerg. eff. June 8, 1967.

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Art. 5139XX. Kaufman County Juvenile Board

Board established

Section 1. The Kaufman County Juvenile Board is established.

Composition of board

Sec. 2. The board is composed of the county judge and county attorney of Kaufman County, and the district judge of each judicial district which now or in the future includes Kaufman County.

Chairman and juvenile officer

Sec. 3. (a) The judge of the juvenile court for Kaufman County is chairman of the board and its chief administrative officer.

(b) The board may appoint a juvenile officer, who serves at the pleasure of the board.

Compensation

Sec. 4. (a) As compensation for the extra duties imposed by this Act, the Commissioners Court of Kaufman County may pay each member of the board an amount not to exceed \$600 a year. This compensation is in addition to all other compensation paid a board member by the state or county and is payable in equal monthly installments from the general fund of the county.

(b) The juvenile officer is entitled to an annual salary in an amount fixed by the board not to exceed \$5,000 a year; he is also entitled to reimbursement for his reasonable and necessary expenses, in an amount not to exceed \$1,800 a year, incurred while performing his duties as juvenile officer. The juvenile officer's expenses are payable on voucher signed by the chairman of the board. The Commissioners Court of Kaufman County shall pay the juvenile officer's salary and expenses from the general fund.

Sec. 5. Blank.

Powers and duties of board

Sec. 6. The board has the powers and duties prescribed for juvenile boards in Articles 5140 and 5141, Revised Civil Statutes of Texas, 1925, as amended.

Powers and duties of juvenile officer

Sec. 7. The juvenile officer has the powers and duties prescribed for juvenile officers in Article 5142, Revised Civil Statutes of Texas, 1925, as amended, and any other duties prescribed for him by the board. Acts 1967, 60th Leg., p. 373, ch. 181, emerg. eff. May 12, 1967.

Title of Act: An Act establishing a juvenile board for Kaufman County; prescribing its member-	ship, personnel, compensation, and duties; and declaring an emergency. Acts 1967, 60th Leg., p. 373, ch. 181.
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Art. 5143f. County agreements for joint probation services, detention and diagnostic facilities for juvenile delinquents

Section 1. The purpose of this Act is to enable counties to jointly provide better probation services and detention and diagnostic facilities for juvenile delinquents than the counties, acting singly, would be able to provide.

Sec. 2. The commissioners courts of two or more counties may enter into cooperative agreements to acquire, maintain, and operate detention and diagnostic facilities for juvenile delinquents. The counties are authorized to maintain, improve, and operate the property so acquired and all improvements thereon and to sell or lease all or any part of the property and improvements in accordance with the terms of the cooperative agreement. The counties are authorized to accept any donation or gift donated for the purposes of acquiring, maintaining, or operating the juvenile facilities.

Sec. 3. In accordance with the terms of the cooperative agreement, each county which is a party to the agreement may issue the bonds of the county in accordance with the provisions of Chapter 2, Title 22, Revised Civil Statutes of Texas, as amended,¹ for the purpose of acquiring, maintaining, and operating the facilities for juvenile delinquents.

Sec. 4. The commissioners courts of two or more counties may enter into cooperative agreements to provide probation services for juvenile delinquents. The cooperative agreement shall set forth in detail how the probation services are to be provided and financed. Acts 1967, 60th Leg., p. 892, ch. 388, eff. Aug. 28, 1967.

¹ Article 718 et seq.

TITLE 83—LABOR

Chap.

Art.

9. Occupational Safety [New]

5182a

CHAPTER FOUR—BOND TO SECURE WAGES

Art.

5160a. Notice and bonding requirements for nonresident construction contractors [New].

Art. 5160a. Notice and bonding requirements for nonresident construction contractors

Definition

Section 1. In this Act, unless the context requires a different definition,

(1) "contractor" means a person, firm, association, corporation, or other private entity engaged in the construction business, including construction, alteration, repair, dismantling, or demolition of roads, bridges, viaducts, sewers, water and gas mains, streets, disposal plants, water filters, tanks, towers, airports, buildings, dams, levees, canals, railways, rail facilities, oil and gas wells, water wells, pipelines, refineries, industrial or processing plants, chemical plants, power plants, electric or telephone or any other type of energy or message transmission lines or equipment, but shall not include a privately owned public utility or cooperative utility and/or affiliate thereof; and

(2) "nonresident contractor" means a contractor who does not maintain his principal place of business in this state.

Notice of contract

Sec. 2. (a) Before actually commencing work or undertaking to perform any duties under a contract to be performed in this state, a nonresident contractor shall give written notice to the comptroller of public accounts, the Texas Employment Commission, the Industrial Accident Board, and the tax assessor and collector of each county in which work is to be performed under the contract.

(b) The written notices must be delivered by certified mail, return receipt requested.

(c) In the notice to each authority, the nonresident contractor shall state:

- (1) the approximate contract price;
 - (2) the location where the contract will be performed;
 - (3) the approximate date performance will begin under the contract;
 - (4) the general nature of the work to be performed under the contract;
- and
- (5) his name and the address of his principal place of business.

Bond required

Sec. 3. (a) Before actually commencing work or undertaking to perform any duties under the contract, a nonresident contractor shall file with the comptroller a surety bond with a corporate surety authorized to do business in this state, in the amount of 10 percent of the contract price, payable to the State of Texas, conditioned upon compliance with the tax laws, the unemployment compensation laws, and the workmen's compensation laws of this state.

For Annotations and Historical Notes, see V.A.T.S.

(b) If the comptroller, after making an investigation at the request of a nonresident contractor, finds that he has, and will probably continue to have, property in this state sufficient to comply with the tax laws, workmen's compensation laws, and unemployment compensation laws of the state, or has a past record of compliance with these laws, the comptroller may issue a certificate of exemption from the bonding requirements of this Act. A contractor who holds this certificate is exempt from the bonding but not the notice requirements of this Act.

Notice of completion

Sec. 4. Within one day after the completion of a contract, a nonresident contractor shall give written notice of the fact to all authorities required to be notified under Section 2 of this Act. The notice shall be given in the manner prescribed by Subsection (b), Section 2, of this Act.

Actions

Sec. 5. (a) An action against the contractor or surety on the bond required in Section 3 of this Act may be instituted in a district court in Travis County, or a district court in any county where the contract is being or was performed.

(b) No action may be instituted on the bond after one year has expired from the date on which the contractor mailed the notice required by Section 4 of this Act.

Penalty

Sec. 6. A contractor who fails to comply with any requirement of this Act is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$100 nor more than \$1,000.

Reciprocity

Sec. 7. A contractor whose principal place of business is located in a state which does not require notice and bonding of nonresident contractors in the manner provided in this Act is exempt from the requirements of this Act.

Acts 1967, 60th Leg., p. 1805, ch. 690, eff. Aug. 28, 1967.

Title of Act:

An Act relating to notice and bonding requirements for nonresident construction

contractors; prescribing a penalty; providing exemptions; and declaring an emergency. Acts 1967, 60th Leg., p. 1805, ch. 690.

CHAPTER NINE A—OCCUPATIONAL SAFETY

Art.

5182a. Occupational safety.

Art. 5182a. Occupational safety

Findings and policies

Section 1. It is hereby declared the policy of the State of Texas to protect the health and welfare of its people, to reduce and, where reasonable, to eliminate the causes of loss of production, reduction of man-hours of work, temporary and permanent disability of working men and women, and increases in certain insurance rates by promoting the adoption, application, and implementation of safety measures in industry and enterprise, by protecting working men and women against unsafe and hazardous working conditions and by encouraging correction of any such working conditions that may exist in industry and enterprise.

Definitions

Sec. 2. When used in this Act,

- (1) "board" means the Occupational Safety Board created herein;
- (2) "engineer" means the State Safety Engineer;
- (3) "director" means the Director of the Division of Occupational Safety of the State Department of Health;
- (4) "division" means the Division of Occupational Safety of the State Department of Health;
- (5) "employer" includes every person, firm, corporation, partnership, stock association, agent, manager, representative or foreman or any other person having control or custody of any employment, place of employment or any employee; except carriers regulated by the Interstate Commerce Commission;
- (6) "employee" means a person who works for an employer for wages, compensation, or other things of value, but shall not include any person employed in the domestic services of another in a private residence;
- (7) "safe" and "safety" as applied to employment or places of employment, mean such freedom to employees from occupational injury as the nature of the employment reasonably permits;
- (8) "safety device" and "safeguard" shall be given a broad interpretation so as to include any practicable method of mitigating or preventing occupational injury; and
- (9) "place of employment" means every place where, either temporarily or permanently, any trade, industry, or business is carried on, or where any person is directly or indirectly employed by another for direct or indirect gain or profit, but not including domestic service performed in a private residence.

Duties of employers

Sec. 3. (a) Every employer shall furnish and maintain employment and a place of employment which shall be reasonably safe and healthful for employees. Every employer shall install, maintain, and use such methods, processes, devices, and safeguards, including methods of sanitation and hygiene, as are reasonably necessary to protect the life, health, and safety of such employees, and shall do every other thing reasonably necessary to render safe such employment and place of employment.

(b) Every employer shall comply with every rule lawfully made by the board in accordance with the provisions of this Act; provided, however, any employer or group of employers in the same or similar industry, trade, or business may from time to time be exempt by the board from application of any rule or rules in accordance with his safety classification as determined by the board pursuant to Section 7(a) of this Act.

(c) However, no rule or standard promulgated under this Act shall, or shall be deemed to, establish legal standards of conduct or legal duties, the violation of which standards or duties would constitute negligence or gross negligence in any civil proceeding.

Occupational safety board

Sec. 4. (a) For the purpose of administering the provisions of this Act there is hereby created within the State Department of Health a Division of Occupational Safety to be administered by an Occupational Safety Board consisting of three members, one to be the Commissioner of Labor Statistics, one to be the Commissioner of Health, and the third to be the public member who shall also serve as chairman of the board. The public member shall be appointed by the governor to serve for a term of two years, or until his successor is appointed and qualified. Vacancies in the position of public member shall be filled for an unexpired term by

For Annotations and Historical Notes, see V.A.T.S.

appointment by the governor in the same manner as the original appointment. The terms on the board of the Commissioner of Labor Statistics and the Commissioner of Health shall be coextensive with their tenure as such Commissioners, respectively.

(b) The members of the board created hereby shall receive no salary but the public member shall be allowed the sum of \$25 for each day or part thereof actually spent in the discharge of his official duties, including time spent in traveling to and from the place of meeting or other authorized business of the board, and all members of the board shall be reimbursed for their reasonable and necessary traveling and other expenses while in performance of official duty, to be evidenced by vouchers approved by the engineer. The engineer is hereby authorized and directed to provide such board with such technical, clerical, and other assistance as shall be necessary to permit said board to perform its duties as provided in this Act.

(c) After due notice of meetings, a majority of the board shall constitute a quorum to transact business, and the act or decision of any two members thereof shall be held the act or decision of the board. No vacancy shall impair the right of the remaining member or members of the board to exercise all the powers of the board. The board shall provide itself with a seal on which shall be inscribed the words "Occupational Safety Board, Department of Health, State of Texas." Any order, rule or proceeding of said board when duly attested by any member of the board shall be admissible as evidence of the act of said board in any court of this state.

Safety engineer

Sec. 5. (a) The board shall employ a State Safety Engineer who shall be the director of the Division of Occupational Safety, under the control of the board, and who shall have the following qualifications:

(1) he shall have a degree in engineering from an accredited college or university or shall be a registered professional engineer and, in addition, shall have been engaged in safety engineering with at least three years' experience; or

(2) he shall have a college degree other than that specified in (1) hereof and, in addition, shall have been engaged in safety engineering with at least five years' experience; or

(3) in lieu of a college degree as specified in (1) and (2) hereof, he shall have been engaged in safety engineering for a period of not less than 10 years.

(b) The engineer shall administer the operation of the division, under control of the board. He shall employ and supervise such personnel as may be necessary for the proper conduct of the operation of the division. He shall devote full time to his duties as engineer and may not accept additional employment from any other source.

(c) The engineer shall make annual reports to the board and to the Governor of the State of Texas at the close of each fiscal year. The reports shall contain the following information to be obtained from the records: (i) accident frequency rates, (ii) accident severity rates, (iii) time loss from industrial accidents, (iv) location and cause of industrial accidents, and (v) all of such information shall be reported by industrial and occupational classification.

(d) The engineer shall cause to be inspected any plant or facility when he has reason to believe that the plant or facility has not complied with the rules, standards and regulations established by the board. No plant or facility shall be subject to this paragraph when it is entitled to credit on its workmen's compensation insurance rate.

Confidential information

Sec. 6. No information relating to secret processes or methods of manufacture or products shall be disclosed at any public hearing or otherwise, and all such information shall be kept strictly confidential by the engineer, the board, and all employees thereof. Wilful disclosure or conspiracy to disclose confidential information disclosed under this section constitutes an offense against the state. The engineer, the board, or any employee thereof, who, having knowledge of confidential information, wilfully discloses or conspires to disclose such information is guilty of a misdemeanor and upon conviction shall be subject to a fine not to exceed \$1,000 and forfeiture of his appointment.

Classification, consultative and educational powers

Sec. 7. (a) For purposes of establishing a safety classification for employers, the board is authorized, empowered, and directed to secure medical and compensation costs data regularly compiled by the State Board of Insurance in carrying out its rate-making duties and functions with respect to the employers' liability and workmen's compensation insurance law, to obtain from the Commissioner of Labor Statistics such statistical details as are collected by him and to collect and compile information relating to employers' accident frequency rate, existence and implementation of private safety programs, man-hour losses due to injuries, and other facts reflecting accident experience and, based upon all such factors to separate employers into such classifications as the board deems appropriate in order to carry out the purposes of this Act.

(b) The board is authorized and empowered, through any member, the engineer or any agent or employee in the division authorized by it for such purpose to endeavor to eliminate any impediment to occupational or industrial safety called to its attention, and to otherwise effectuate the purposes of this Act, by means of conference, conciliation, and persuasion; in carrying out such endeavor it is authorized and empowered to advise and consult with any employer directly involved and with representatives of employers and employees and public officials.

(c) The board is empowered to issue or cause to be issued such publications and such reports of study and research as in its judgment will tend to promote occupational and industrial safety and minimize or eliminate any impediment to safety called to its attention, and to otherwise effectuate the purposes and policies of this Act.

Rule-making power

Sec. 8. (a) In addition to such other powers and duties as may be conferred upon it by law, the board shall have authority to make and to modify reasonable rules and standards not inconsistent with this Act for the prevention of accidents and occupational injuries in every employment or place of employment, and for the construction, repair, and maintenance of places of employment, as the board shall find, upon the basis of substantial evidence presented at a public hearing held in accordance with the provisions of Section 9, to be reasonably necessary for the protection of the safety of employees. In making such findings, the board may consider among other relevant factors: (1) the cause of industrial accidents and occupational injuries and the extent to which they may result from the use of, or failure to use, particular equipment, devices, processes, plant layouts, and methods of inspection, maintenance and construction and from the existence of particular working conditions; (2) the effectiveness of particular equipment, devices, processes, plant layouts, and methods of inspection, maintenance, and construction in preventing industrial and occupational injuries; (3) the applicable code,

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if any, formulated and/or approved by the American Standards Association.

(b) It shall be the duty of the engineer to propose to the board such rules or amendments thereof as he may deem necessary to carry out the provisions of this Act. The board shall appoint a General Advisory Occupational Safety Committee which shall be composed of 10 representatives of employers, 10 representatives of employees, and the engineer who shall act as chairman.

(c) Such committee shall propose for appointment by the engineer, and for final approval of the board, the members of subcommittees, to whom shall be delegated the details of developing new rules and standards, deletions and amendments or changes in existing rules and standards. Such amendments, deletions, or changes shall be referred to the General Advisory Committee for final recommendation to the board for its consideration and official adoption or rejection. The members of such subcommittees shall be selected primarily for their general qualifications to cope expertly with the various subjects assigned to them, and, to the extent practicable, the same impartial balance of representation by employer members and employee members shall be preserved. Qualification to serve on subcommittees shall not require membership on the General Advisory Occupational Safety Committee, but members of such safety committee shall also be assigned to serve on such subcommittees by the engineer. The public member of the board shall be available to the subcommittees, upon their request or the request of the engineer, to aid the subcommittees in formulating their programs, recommended rules, and reports. The services of all such subcommittee members shall be voluntary and without compensation, except as provided for the public member of the board under Section 4(b).

(d) Every rule or standard promulgated under this Act shall have the force and effect of law and shall be enforced by the engineer through the Division of Occupational Safety of the Department of Health; provided, however, that notwithstanding any other provision of this Act, evidence that an alleged act or omission is violative of any rule or standard promulgated under this Act shall not be admissible in any civil proceeding wherein such evidence is offered to prove or tend to prove that such act or omission is negligent or grossly negligent.

Public hearing on proposed rules

Sec. 9. Before any rule or standard is adopted, amended, changed or repealed by the board, there shall be a public hearing thereon, notice of which shall be published at least once, not less than 10 days preceding such hearing, in such newspaper or newspapers of general circulation as the board may prescribe.

Hearings of reasonableness of safety regulations

Sec. 10. (a) Any employer or other person directly affected by any safety rule, standard or regulation, or by an amendment, modification, change or repeal thereof, may petition the engineer for a hearing on the reasonableness of such resulting rule, standard, or regulation.

(b) Such petition for hearing shall be by verified petition filed with the engineer, setting out specifically the regulation, standard, amendment, modification, change or repeal, upon which a hearing is desired, and the reasons why the same is unreasonable. All hearings shall be open to the public.

(c) Upon receipt of such petition, the engineer, after consultation with the board, may determine the same by confirming without hearing his previous determination. If the material issues presented by the petition have not been previously considered at a hearing, the engineer shall re-

fer the matter to the board for hearing for consideration of the issues involved and for its recommendations. Notice of the time and place of such hearing shall be given to the petitioner and to such other persons as the engineer may find directly interested in the issues involved in the petition.

(d) If the board shall find that the rule, standard, regulation, amendment, modification, change or repeal complained of is unreasonable, it shall, in accordance with the procedure set forth in the provisions of this Act, formulate and propose such substitute rule, standard or regulation as the board shall determine to be reasonable, and a hearing shall be directed and held upon such substitute rule as provided in Section 9 hereof.

Effective date of rules: publication

Sec. 11. (a) Every rule, standard, or regulation and all amendments, substitutions, changes and repeals thereof shall, unless otherwise prescribed by the board, take effect 30 days after the first publication thereof and certified copies thereof shall be filed in the office of the Secretary of State.

(b) Every rule, standard, or regulation adopted and every amendment, change or repeal thereof shall be published in such manner as the board may determine and the board shall deliver a copy to every person making application therefor. The engineer shall include the text of each rule or amendment thereto in an appendix to the Biennial Report of the Department of Health next following the adoption or amendment of such rule.

Judicial review

Sec. 12. (a) Any person aggrieved by a rule, standard, or regulation issued or changed by the board under this Act shall, within 10 days after issuance or change of said rule, commence an action in a court of competent jurisdiction in Travis County, Texas, and not elsewhere, against said board as defendant, to set aside or suspend such rule or other action on the ground that the same is unlawful, arbitrary or unreasonable, or for any other proper ground. Said action shall have precedence over all other causes on the docket of a different nature, and shall be tried and determined as other civil causes in said court. Either party to said action may appeal as in other civil cases to the court having jurisdiction of said causes; and said action so appealed shall have precedence in said appellate court of all causes of different character therein pending. Provided further that no preliminary injunction shall be issued without notice to the opposite party and a hearing had thereon.

Enforcement and penalties

Sec. 13. (a) The engineer shall administer and enforce the provisions of this Act through his powers and authority under the provisions of this Act, and under such powers as may be lawfully delegated to him by the board under this Act.

(b) Any person, firm, or corporation violating any of the provisions of this Act shall be deemed guilty of a misdemeanor and shall upon conviction be fined in a sum no less than \$50 nor more than \$500.

(c) Whenever called to his attention, and upon investigation, the engineer shall have reasonable cause to believe that an employer has violated or is violating the provisions of this Act, he shall at once give written notice of the facts thereof to the proper county or district attorney for institution of such proceedings as are appropriate under the provisions of this Act.

Accident reports

Sec. 14. The board may require of employers and of any other source, including the Industrial Accident Board of the State of Texas, which it

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may determine to be appropriate such accident, personal injury, fatality, or such other accident statistical reports and information on forms prescribed by and covering periods of time designated by the board.

Cooperation with other state agencies

Sec. 15. (a) The board, the engineer, and the General Advisory Committee shall cooperate with, assist and secure the assistance of the State Board of Insurance, the Industrial Accident Board, and the Commissioner of Health and such other agencies as may be capable of providing assistance in the accumulation and compilation of industrial injury and occupational health statistics and other data and reports and these agencies shall cooperate with the board and the engineer in achieving the purposes of this section.

(b) Nothing in this Act shall be construed as conflicting in any manner with the provisions of Chapter 178, Acts of the 49th Legislature, 1945, and particularly with Section 19 thereof (Section 19, Article 4477—1, Vernon's Texas Civil Statutes); nor with the provisions of Chapter 68, Acts of the 48th Legislature, 1943, as amended (Article 5172a, Vernon's Texas Civil Statutes); nor with Articles 5173 through 5180 and Article 5182, Revised Civil Statutes of Texas, 1925; nor with Chapter 436, Acts of the 45th Legislature, Regular Session, 1937, as amended (Article 5221c, Vernon's Texas Civil Statutes); nor with Article 5144 through Article 5151, Revised Civil Statutes of Texas, 1925; but this Act shall be construed in harmony with same so that the provisions of this Act and of these previously existing articles shall complement each other insofar as specifically provided therein as if the same had been passed at one and the same time.

Labor disputes

Sec. 16. It is not intended that this Act, or any part thereof or act thereunder shall be an issue or be involved in any labor dispute, or be used or asserted to advantage in collective bargaining by employers or employees, and their respective representatives. To implement this section it is therefore provided, anything to the contrary elsewhere herein notwithstanding, that no provision of this Act shall apply to a place of employment while the same is subjected to picketing, strike, slowdown or other work stoppage.

Acts 1967, 60th Leg., p. 441, ch. 201, emerg. eff. May 11, 1967.

Acts 1967, 60th Leg., p. 441, ch. 201, §§ 17, 18 provided:

"Sec. 17. If any section, subsection, sentence, or clause of this Act shall for any reason be held void or unconstitutional, such decision shall not affect the validity of any other portion of this Act; it being the intention of the Legislature to pass the valid sections, subsections, sentences, clauses, and parts of this Act even though one or more of the same shall be held to be invalid.

"Sec. 18. All laws or parts of laws in conflict with the provisions of this Act are hereby superseded by the provisions of this Act to the extent of such conflict."

Title of Act:

An Act relating to the occupational safety of employees of industry and enterprise;

prescribing the duties of employers; creating a Division of Occupational Safety within the State Department of Health and prescribing its powers and duties; creating the Occupational Safety Board and prescribing its membership, organization, compensation, powers, and duties; creating the position of State Safety Engineer and prescribing his qualifications and duties; providing for the appointment of a General Advisory Occupational Safety Committee and prescribing its functions; prescribing procedures; providing for enforcement and prescribing penalties; providing for cooperation with other state agencies; providing for severability; repealing laws in conflict; and declaring an emergency. Acts 1967, 60th Leg., p. 441, ch. 201.

CHAPTER FOURTEEN—UNEMPLOYMENT COMPENSATION

Art. 5221b-1. Benefits

* * * * *

(b) Benefit Amount for Total Unemployment: Each eligible individual who is totally unemployed in any benefit period shall be paid with respect to such benefit period, benefits at the rate of one twenty-fifth (1/25) of his wages received from employment by employers during that quarter in his base period in which wages were highest, provided that:

(1) If such rate is not an even multiple of One Dollar (\$1), it shall be adjusted to the next higher multiple of One Dollar (\$1); and

(2) Such rate shall not be more than Forty-five Dollars (\$45) per benefit period nor less than Fifteen Dollars (\$15) per benefit period.

Subsec. (b) amended by Acts 1967, 60th Leg., p. 683, ch. 287, § 1, eff. Oct. 1, 1967.

* * * * *

(e) Benefit Wage Credits: "Wages" as used in this Section shall be as defined in Subsection (n) of Section 19 of this Act, except that the three-thousand-dollar limitation on wages as set out in Subsection (n)

(1) of Section 19 shall not be applicable for the purposes of this Section 3 to remuneration received after December 31, 1967; and it is further provided that for the purposes of this Section 3 wages received by an individual in any calendar year after December 31, 1967, shall include all remuneration from each employer for employment up to the maximum amount of wages as defined in the Federal Insurance Contributions Act (Section 3121, Chapter 21, Subtitle C, Internal Revenue Code), as amended, or as it may hereafter be amended. If an employer fails to report wages which were paid to a claimant during a base period when requested by the Commission, the Commission may establish wage credits for such claimant for such base period on the basis of the best information which has been obtained by the Commission.

Subsec. (e) amended by Acts 1967, 60th Leg., p. 683, ch. 287, § 1, eff. Oct. 1, 1967.

Acts 1967, 60th Leg., p. 683, ch. 287, which amended articles 5221b-1, 5221b-2, 5221b-4, 5221b-5, 5221b-12, 5221b-15a and 5221b-17 of the Unemployment Compensation Law, provided in sections 9 and 10 of the act:

"Sec. 9. All laws or parts of laws in conflict herewith, insofar as they do conflict herewith, are hereby repealed but such repeal shall in no way be construed as forfeiting or waiving any rights of the State of Texas or of the Texas Employment Commission, which have accrued thereunder, including, without limiting or without being limited thereto, the right to collect contributions, interest, or penalties that have accrued, and the right of prosecution for violation of any provision thereof; nor shall such repeal in any way be

construed as forfeiting or waiving the rights of any individual to benefits which accrued thereunder; provided that the Commission's determination of the benefit year, the benefit amount for total unemployment, and the duration of benefits made with respect to an initial claim filed prior to October 1, 1967, shall be effective for the remainder of such benefit year.

"Sec. 10. If any word, phrase, sentence, paragraph, subsection or section of this Act shall be held invalid or unconstitutional, such holding shall not invalidate any other word, phrase, sentence, paragraph, subsection or section hereof, and the Legislature hereby expressly declares that it would have passed such remaining words, phrases, sentences, paragraphs, subsections, and sections despite such invalidity."

Art. 5221b-2. Benefit eligibility conditions

An unemployed individual shall be eligible to receive benefits with respect to any benefit period only if the Commission finds that:

* * * * *

(e) He has within his base period received benefit wage credits for employment by employers of not less than Five Hundred Dollars (\$500) and has total benefit wage credits in his base period of not less

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than one and one-half (1-1/2) times his high quarter benefit wage credits in his base period, provided that any claimant who has had a prior benefit year must have earned wages of Two Hundred Fifty Dollars (\$250) or more subsequent to the beginning date of the prior benefit year.

Subsec. (e) amended by Acts 1967, 60th Leg., p. 684, ch. 287, § 2, eff. Oct. 1, 1967.

* * * * *
 Repeal of conflicting laws and construction as to rights of individuals to benefits under the 1967 amendment to this article, see notes under article 5221b-1.

Art. 5221b-4. Claims for benefits

* * * * *
 (b) An unemployed individual who has no current benefit year may file an initial claim in accordance with rules or regulations prescribed by the Commission. The Commission shall mail a notice of the filing of such initial claim to the individual or organization for which the claimant last worked prior to the effective date of the initial claim. If the individual or organization has more than one branch or division operating at different locations, notice of the filing of such initial claim shall be mailed to the branch or division where claimant last worked. Mailing of notice of the initial claim to the correct address of the individual or organization or the branch or division where claimant last worked shall constitute due notice to such individual or organization. If the individual or organization to which such notice is mailed has knowledge of any facts that may adversely affect such claimant's right to benefits, or that may affect a charge to its account, it shall notify the Commission of such facts promptly. If such individual or organization does not mail or deliver such notification to the Commission within ten (10) days from the date notice of a claim was mailed to it by the Commission, such individual or organization shall be deemed to have waived all rights in connection with such claim, including any rights it may have under subsection 7(c) (2) of this Act, except with respect to a clerical or machine error as to the amount of its chargeback or maximum potential chargeback in connection with such claim.

The Commission shall determine whether such initial claim is valid. If such initial claim is valid, the Commission shall determine the benefit year, the benefit amount for total unemployment and the duration of benefits. A notice of the determination of the initial claim shall be mailed to the claimant at his last known address as reflected by Commission records. The claimant may within twelve (12) calendar days from the date such notice was mailed request a redetermination or appeal in the manner provided in this Section.

If such individual or organization for which claimant last worked has filed a notification with the Commission in accordance with this Section, an examiner shall make a determination as to whether the claimant is disqualified from receipt of benefits under Section 5 of this Act, as to any other issue affecting the claimant's right to receive benefits which may have arisen under any other provision of this Act, and as to whether a chargeback shall be made to the account of the individual or organization if benefits are paid, and shall mail a copy of the determination to the claimant and to such individual or organization, or the branch or division for which the claimant last worked. In the absence of such notification from such individual or organization, if, from information on the claim or other information secured, an issue is raised affecting the claimant's rights to benefits under any provision of this Act, an examiner shall prepare a determination reflecting his decision and mail a copy of it to the claimant at his last known address.

Unless the claimant or the individual or organization or branch thereof to which the copy of the determination is mailed files an appeal

from such determination within twelve (12) calendar days after such copy of the determination is mailed to his or its last known address as reflected by Commission records, such determination shall be final for all purposes and benefits shall be paid or denied in accordance therewith; provided, that within the same period of time, an examiner may file an appeal from such determination, or may, if he discovers error in connection therewith or additional information not previously available, reconsider and redetermine any such determination, and such redetermination shall replace such determination and shall become final unless an appeal therefrom is filed by such claimant or such individual or organization within twelve (12) calendar days after a copy of such redetermination was mailed to his or its last known address as reflected by Commission records. If an appeal is duly filed, benefits with respect to the period of time prior to the final determination of the Commission shall be paid only after such determination; provided, that if an appeal tribunal affirms a determination of an examiner, or the Commission affirms a decision of an appeal tribunal, allowing benefits, such benefits shall be paid regardless of any appeal which may thereafter be taken, but if such decision is finally reversed, no chargeback shall be made to the employer's account by reason of such payment.

Subsec. (b) amended Acts 1967, 60th Leg., p. 684, ch. 287, § 3, eff. Oct. 1, 1967.

* * * * *

Repeal of conflicting laws and construction as to rights of individuals to benefits under the 1967 amendment to this article, see notes under article 5221b—1.

Art. 5221b—5. Contributions

(a) Payment: Contributions shall accrue and become payable by each employer for each calendar year, or portion thereof, in which he is subject to this Act, with respect to wages for employment paid during such calendar year, or portion thereof. Such contributions shall become due and be paid by each employer to the Commission for the fund in accordance with such rules or regulations as the Commission may prescribe, and shall not be deducted in whole or in part from the wages of individuals in such employer's employ.

(b) Rate of contributions: Each employer shall pay contributions equal to two and seven-tenths percentum (2-7/10%) of wages paid by him with respect to employment, except as provided in subsection (c) of this Section.

(c) Experience rating:

(1) Each employer's contribution rate shall be two and seven-tenths percentum (2-7/10%) until his account has been chargeable throughout each calendar month of the four (4) consecutive calendar quarters immediately preceding the date as of which such employer's rate is determined. For each calendar year commencing after December 31, 1968, the contribution rate of each employer who has had at least four (4) such calendar quarters of compensation experience shall be determined as provided below.

(2) (A) With respect to any benefit year beginning after September 30, 1967, the amount of benefit payments paid to a claimant shall be charged to the account of the claimant's base period employer or employers. With respect to any benefit year beginning prior to September 30, 1967, if the first benefit payment during such benefit year is not made until after September 30, 1967, then the amount of benefit payments shall be charged to the account of the claimant's base period employer or employers. When a benefit payment is made to a claimant who has two or more employers in his base period the chargeback to each employer shall be allocated in direct proportion to the percentage of the claimant's total

For Annotations and Historical Notes, see V.A.T.S.

benefit wage credits paid by such employer. This process may be designated as charging benefits to an employer's account, and benefits thus charged may be designated as chargebacks.

The chargebacks of each employer for a given calendar quarter shall be the benefits paid to all of his employees or former employees during such quarter; provided, that the chargebacks of an employer shall not include benefit payments which are based on wage credits of an employee or former employee, if the Commission finds that the employee's last separation from such employer's employment, prior to the benefit year in conjunction with which such base period was established, was (i) a separation required by a Federal or a Texas statute or a Texas municipal ordinance; or (ii) a separation for which a disqualification under subsections 5(a) or 5(b) of this Act would have been imposed if such employer's employment of the employee or former employee had been the employee's last work; or (iii) a separation with respect to which a disqualification was imposed under subsection 5(a) or 5(b) of this Act; and provided further that for the purpose of this paragraph the term 'last separation' shall, with respect to an employee whose initial determination disqualified him for benefits under subsection 5(d) of this Act, mean his next later separation from such employer's employment.

(2) (B) To each employer to whom notice of an initial claim has not already been mailed under subsection 6(b) of this Act, and whose account is potentially chargeable with benefits as the result of such initial claim and payment of benefits, a notice of his maximum potential chargebacks shall be mailed when benefits are first paid and an opportunity afforded for protest of his potential chargebacks. If any such employer desires to protest his potential chargebacks, he shall, within ten (10) days after such notice was mailed to him, mail his protest, including a statement of the facts upon which his protest is based, to the Commission at Austin, Texas. Any employer who does not protest his potential chargebacks within ten (10) days after notice was mailed to him shall be deemed to have waived his right to protest such chargebacks. If a timely protest is filed, the examiner shall promptly decide the issues involved in such protest and shall mail a notice of his decision thereon to the protesting employer. Such decision shall become final twelve (12) days from the date of mailing thereof, unless such employer mails to the Commission at Austin, Texas, a written appeal therefrom within such twelve (12) days. Administrative review hereunder shall be in accordance with Commission rules or regulations, and appeals to the Courts shall be permitted only after such employer has exhausted his administrative remedies (not including a motion for rehearing) before the Commission, and within the time prescribed by subsection 6(h) and subsection 6(i) of this Act with respect to Commission decisions on benefits. Venue and jurisdiction of appeals to the Courts with respect to chargebacks shall be the same as venue and jurisdiction of suits to collect contributions and penalties under this Act.

If notice of the claim has been sent previously to the employer under the provisions of Section 6 of this Act, the employer shall be mailed a notice of the amount of his potential chargeback resulting from the claim, and may, within ten (10) days from the date such notice was mailed, protest any clerical or machine error as to amounts. Such employer shall be mailed a decision on such protest and may appeal within twelve (12) days from the date notice of such decision was mailed to him.

(3) For the purposes of this Section, benefits shall be deemed to have been paid at the time the claim therefor shall have been certified by the Commission to the State Comptroller for payment.

(4) The benefit ratio of each employer shall be a percentage equal to the total of his chargebacks for the thirty-six (36) consecutive completed calendar months immediately preceding the date as of which the

employer's tax rate is determined divided by his total taxable wages for the same months on which contributions have been paid to the Commission on or before the last day of the month in which the computation date occurs; provided that, in the event the employer has less than three (3) years but at least four (4) calendar quarters of compensation experience throughout which his account has been chargeable with benefits, his benefit ratio shall be a percentage equal to the total of all of his chargebacks for all completed calendar months immediately preceding the date as of which such employer's tax rate is determined divided by his total taxable wages for the same months on which contributions have been paid to the Commission on or before the last day of the month in which the computation date occurs.

Computation of benefit ratios in a transition period: For the purpose of computing benefit ratios to be used in determining tax rates for the calendar year 1969, chargebacks shall be defined as follows:

benefit payments charged to the employer in the 12 months ending September 30, 1968, for claimants who were paid on or after October 1, 1967, their first payment in a benefit year; plus

benefit wages charged to the employer in the 12 months ending September 30, 1967, multiplied by the result of dividing net total benefits paid out of the fund to all claimants by total benefit wages (charged and non-charged) for the same 12-month period; plus

benefit wages charged to the employer in the 12 months ending September 30, 1966, multiplied by the result of dividing net total benefits paid out of the fund to all claimants by total benefit wages (charged and non-charged) of all employers for the same 12-month period.

For the purpose of computing benefit ratios to be used in determining tax rates for the calendar year 1970, chargebacks shall be defined as follows:

benefit payments charged in the 12 months ending September 30, 1969, plus

benefit payments charged to the employer in the 12 months ending September 30, 1968, for the claimants who were paid on or after October 1, 1967, their first payment in a benefit year, plus

benefit wages charged to the employer in the 12 months ending September 30, 1967, multiplied by the result of dividing net total benefits paid out of the fund to all claimants by total benefit wages (charged and noncharged) for the same 12-month period.

(5) The replenishment ratio is a quotient, stated to the nearest hundredth, derived from the following numerator and denominator. The numerator of the replenishment ratio shall be the net amount required from employers, computed as follows: the total amount of benefits paid from the Texas Unemployment Compensation Fund during the 12 months ending September 30, of the preceding calendar year, less (i) the total amount of refunds of benefits credited to such fund during such period and (ii) the total amount of benefit warrants cancelled during such period. The denominator of the replenishment ratio shall be the total amount of chargebacks to the accounts of all employers during the twelve (12) months ending September 30 of the preceding calendar year. The replenishment ratio for each calendar year shall be determined prior to the due date of the first contribution payment with respect to wages for employment paid in that year and such determination shall be made upon the basis of figures for the one year period ending September 30 of the preceding calendar year; such replenishment ratio thus determined shall not be affected or revised by virtue of any subsequent adjustment of any chargebacks of any employer.

For Annotations and Historical Notes, see V.A.T.S.

(6) The tax rate for each rated employer shall be in accordance with the following table based upon the replenishment ratio and his benefit ratio:

When the Replenishment Ratio Is	If the Employer's Benefit Ratio percentage does not exceed:								
	0.10	0.20	0.30	0.40	0.50	0.60	0.70	0.80	0.90
1.00	0.10	0.20	0.30	0.40	0.50	0.60	0.70	0.80	0.90
...									
1.20	0.08	0.16	0.25	0.33	0.41	0.50	0.58	0.66	0.75
1.21	0.08	0.16	0.24	0.33	0.41	0.49	0.57	0.66	0.74
1.22	0.08	0.16	0.24	0.32	0.40	0.49	0.57	0.65	0.73
1.23	0.08	0.16	0.24	0.32	0.40	0.48	0.56	0.65	0.73
1.24	0.08	0.16	0.24	0.32	0.40	0.48	0.56	0.64	0.72
1.25	0.08	0.16	0.24	0.32	0.40	0.48	0.56	0.64	0.72
1.26	0.07	0.15	0.23	0.31	0.39	0.47	0.55	0.63	0.71
1.27	0.07	0.15	0.23	0.31	0.39	0.47	0.55	0.62	0.70
1.28	0.07	0.15	0.23	0.31	0.39	0.46	0.54	0.62	0.70
1.29	0.07	0.15	0.23	0.31	0.38	0.46	0.54	0.62	0.69
1.30	0.07	0.15	0.23	0.30	0.38	0.46	0.53	0.61	0.69
1.31	0.07	0.15	0.22	0.30	0.38	0.45	0.53	0.61	0.68
1.32	0.07	0.15	0.22	0.30	0.37	0.45	0.53	0.60	0.68
1.33	0.07	0.15	0.22	0.30	0.37	0.45	0.53	0.60	0.67
1.34	0.07	0.14	0.22	0.29	0.37	0.44	0.52	0.59	0.67
1.35	0.07	0.14	0.22	0.29	0.37	0.44	0.51	0.59	0.66
1.36	0.07	0.14	0.22	0.29	0.36	0.44	0.51	0.58	0.66
1.37	0.07	0.14	0.21	0.29	0.36	0.43	0.51	0.58	0.65
1.38	0.07	0.14	0.21	0.28	0.36	0.43	0.50	0.57	0.65
1.39	0.07	0.14	0.21	0.28	0.35	0.43	0.50	0.57	0.64
1.40	0.07	0.14	0.21	0.28	0.35	0.42	0.50	0.57	0.64
1.41	0.07	0.14	0.21	0.28	0.35	0.42	0.49	0.56	0.63
1.42	0.07	0.14	0.21	0.28	0.35	0.42	0.49	0.56	0.63
1.43	0.06	0.13	0.20	0.27	0.34	0.41	0.48	0.55	0.62
1.44	0.06	0.13	0.20	0.27	0.34	0.41	0.48	0.55	0.62
1.45	0.06	0.13	0.20	0.27	0.34	0.41	0.48	0.55	0.62
1.46	0.06	0.13	0.20	0.27	0.34	0.41	0.47	0.54	0.62
1.47	0.06	0.13	0.20	0.27	0.34	0.40	0.47	0.54	0.61
1.48	0.06	0.13	0.20	0.27	0.33	0.40	0.47	0.54	0.60
1.49	0.06	0.13	0.20	0.26	0.33	0.40	0.46	0.53	0.60
1.50	0.06	0.13	0.20	0.26	0.33	0.40	0.46	0.53	0.60
1.51	0.06	0.13	0.19	0.26	0.33	0.39	0.46	0.52	0.59
1.52	0.06	0.13	0.19	0.26	0.32	0.39	0.46	0.52	0.59
1.53	0.06	0.13	0.19	0.26	0.32	0.39	0.45	0.52	0.58
1.54	0.06	0.12	0.19	0.25	0.32	0.38	0.45	0.51	0.58
1.55	0.06	0.12	0.19	0.25	0.32	0.38	0.45	0.51	0.58
1.56	0.06	0.12	0.19	0.25	0.32	0.38	0.44	0.51	0.57
1.57	0.06	0.12	0.19	0.25	0.31	0.38	0.44	0.50	0.57
1.58	0.06	0.12	0.18	0.25	0.31	0.37	0.44	0.50	0.56
1.59	0.06	0.12	0.18	0.25	0.31	0.37	0.44	0.50	0.56
1.60	0.06	0.12	0.18	0.25	0.31	0.37	0.43	0.50	0.56
...									
...									
...									
The Employer's Tax Rate Shall Be:	0.1%	0.2%	0.3%	0.4%	0.5%	0.6%	0.7%	0.8%	0.9%

When the Replenishment Ratio is	If the Employer's Benefit Ratio percentage does not exceed:								
	1.00	1.10	1.20	1.30	1.40	1.50	1.60	1.70	1.80
1.00	1.00	1.10	1.20	1.30	1.40	1.50	1.60	1.70	1.80
...									
1.20	0.83	0.91	1.00	1.08	1.16	1.25	1.33	1.41	1.50
1.21	0.82	0.90	0.99	1.07	1.15	1.23	1.32	1.40	1.48
1.22	0.81	0.90	0.98	1.06	1.14	1.22	1.31	1.39	1.47
1.23	0.81	0.89	0.97	1.05	1.13	1.21	1.30	1.38	1.46
1.24	0.80	0.88	0.96	1.04	1.12	1.20	1.29	1.37	1.45
1.25	0.80	0.88	0.96	1.04	1.12	1.20	1.28	1.36	1.44
1.26	0.79	0.87	0.95	1.03	1.11	1.19	1.26	1.34	1.42
1.27	0.78	0.86	0.94	1.02	1.10	1.18	1.25	1.33	1.41
1.28	0.78	0.85	0.93	1.01	1.09	1.17	1.25	1.32	1.40
1.29	0.77	0.85	0.93	1.00	1.08	1.16	1.24	1.31	1.39
1.30	0.76	0.84	0.92	1.00	1.07	1.15	1.23	1.30	1.38
1.31	0.76	0.83	0.91	0.99	1.06	1.14	1.22	1.29	1.37
1.32	0.75	0.83	0.90	0.98	1.06	1.13	1.21	1.28	1.36
1.33	0.75	0.82	0.90	0.97	1.05	1.12	1.20	1.27	1.35
1.34	0.74	0.82	0.89	0.97	1.04	1.12	1.19	1.26	1.34
1.35	0.74	0.81	0.88	0.96	1.03	1.11	1.18	1.25	1.33
1.36	0.73	0.80	0.88	0.95	1.02	1.10	1.17	1.25	1.32
1.37	0.72	0.80	0.87	0.95	1.02	1.09	1.16	1.24	1.31
1.38	0.72	0.79	0.86	0.94	1.01	1.08	1.15	1.23	1.30
1.39	0.71	0.79	0.86	0.93	1.01	1.08	1.15	1.22	1.29
1.40	0.71	0.78	0.85	0.93	1.00	1.07	1.14	1.21	1.28
1.41	0.70	0.78	0.85	0.92	0.99	1.06	1.13	1.20	1.27
1.42	0.70	0.77	0.84	0.91	0.98	1.05	1.12	1.19	1.26
1.43	0.69	0.76	0.84	0.91	0.97	1.04	1.11	1.18	1.25
1.44	0.69	0.76	0.83	0.90	0.97	1.04	1.11	1.18	1.25
1.45	0.68	0.76	0.82	0.89	0.96	1.03	1.10	1.17	1.24
1.46	0.68	0.75	0.82	0.89	0.95	1.02	1.09	1.16	1.23
1.47	0.68	0.74	0.81	0.88	0.95	1.02	1.08	1.15	1.22
1.48	0.67	0.74	0.81	0.87	0.94	1.01	1.08	1.14	1.21
1.49	0.67	0.73	0.80	0.87	0.93	1.00	1.07	1.14	1.20
1.50	0.66	0.73	0.80	0.86	0.93	1.00	1.06	1.13	1.20
1.51	0.66	0.72	0.79	0.86	0.92	0.99	1.05	1.12	1.19
1.52	0.65	0.72	0.78	0.85	0.92	0.98	1.05	1.11	1.18
1.53	0.65	0.71	0.78	0.84	0.91	0.98	1.04	1.11	1.17
1.54	0.64	0.71	0.77	0.84	0.90	0.97	1.03	1.10	1.16
1.55	0.64	0.70	0.77	0.83	0.90	0.96	1.03	1.09	1.16
1.56	0.64	0.70	0.76	0.83	0.89	0.96	1.02	1.08	1.15
1.57	0.63	0.70	0.76	0.82	0.89	0.95	1.01	1.08	1.14
1.58	0.63	0.69	0.75	0.82	0.88	0.94	1.01	1.07	1.13
1.59	0.62	0.69	0.75	0.81	0.88	0.94	1.00	1.06	1.13
1.60	0.62	0.68	0.75	0.81	0.87	0.93	1.00	1.06	1.12
...									
...									
The Employer's Tax Rate Shall Be:	1.0%	1.1%	1.2%	1.3%	1.4%	1.5%	1.6%	1.7%	1.8%

When the Replenishment Ratio Is	If the Employer's Benefit Ratio percentage does not exceed:								
	1.90	2.00	2.10	2.20	2.30	2.40	2.50	2.60	2.70
1.00									
...									
1.20	1.58	1.66	1.75	1.83	1.91	2.00	2.08	2.16	2.25
1.21	1.57	1.65	1.73	1.81	1.90	1.98	2.06	2.14	2.23
1.22	1.55	1.63	1.72	1.80	1.88	1.96	2.04	2.13	2.21
1.23	1.54	1.62	1.70	1.78	1.86	1.95	2.03	2.11	2.19
1.24	1.53	1.61	1.69	1.77	1.85	1.93	2.01	2.09	2.17
1.25	1.52	1.60	1.68	1.76	1.84	1.92	2.00	2.08	2.16
1.26	1.50	1.58	1.66	1.74	1.82	1.90	1.98	2.06	2.14
1.27	1.49	1.57	1.65	1.73	1.81	1.88	1.96	2.04	2.12
1.28	1.48	1.56	1.64	1.71	1.79	1.87	1.95	2.03	2.10
1.29	1.47	1.55	1.62	1.70	1.78	1.86	1.93	2.01	2.09
1.30	1.46	1.53	1.61	1.69	1.76	1.84	1.92	2.00	2.07
1.31	1.45	1.52	1.60	1.67	1.75	1.83	1.90	1.98	2.06
1.32	1.43	1.51	1.59	1.66	1.74	1.81	1.89	1.96	2.04
1.33	1.42	1.50	1.57	1.65	1.72	1.80	1.87	1.95	2.03
1.34	1.41	1.49	1.56	1.64	1.71	1.79	1.86	1.94	2.01
1.35	1.40	1.48	1.55	1.62	1.70	1.77	1.85	1.92	2.00
1.36	1.39	1.47	1.54	1.61	1.69	1.76	1.83	1.91	1.98
1.37	1.38	1.45	1.53	1.60	1.67	1.75	1.82	1.89	1.97
1.38	1.37	1.44	1.52	1.59	1.66	1.73	1.81	1.88	1.95
1.39	1.36	1.43	1.51	1.58	1.65	1.72	1.79	1.87	1.94
1.40	1.36	1.43	1.50	1.57	1.64	1.71	1.78	1.85	1.92
1.41	1.34	1.41	1.48	1.56	1.63	1.70	1.77	1.84	1.91
1.42	1.33	1.40	1.47	1.54	1.61	1.69	1.76	1.83	1.90
1.43	1.32	1.39	1.46	1.53	1.60	1.67	1.74	1.81	1.88
1.44	1.31	1.38	1.45	1.52	1.59	1.66	1.73	1.80	1.87
1.45	1.31	1.37	1.44	1.51	1.58	1.65	1.72	1.79	1.86
1.46	1.30	1.36	1.43	1.50	1.57	1.64	1.71	1.78	1.84
1.47	1.29	1.36	1.42	1.49	1.56	1.63	1.70	1.76	1.83
1.48	1.28	1.35	1.41	1.48	1.55	1.62	1.68	1.75	1.82
1.49	1.27	1.34	1.40	1.47	1.54	1.61	1.67	1.74	1.81
1.50	1.26	1.33	1.40	1.46	1.53	1.60	1.66	1.73	1.80
1.51	1.25	1.32	1.39	1.45	1.52	1.58	1.65	1.72	1.78
1.52	1.25	1.31	1.38	1.44	1.51	1.57	1.64	1.71	1.77
1.53	1.24	1.30	1.37	1.43	1.50	1.56	1.63	1.69	1.76
1.54	1.23	1.29	1.36	1.42	1.49	1.55	1.62	1.68	1.75
1.55	1.22	1.29	1.35	1.41	1.48	1.54	1.61	1.67	1.74
1.56	1.21	1.28	1.34	1.41	1.47	1.53	1.60	1.66	1.73
1.57	1.21	1.27	1.33	1.40	1.46	1.52	1.59	1.65	1.71
1.58	1.20	1.26	1.32	1.39	1.45	1.51	1.58	1.64	1.70
1.59	1.19	1.25	1.32	1.38	1.44	1.50	1.57	1.63	1.69
1.60	1.18	1.25	1.31	1.37	1.43	1.50	1.56	1.62	1.68
...									
...									
...									
The Employer's Tax Rate Shall Be:									
	1.9%	2.0%	2.1%	2.2%	2.3%	2.4%	2.5%	2.6%	2.7%

When the Replenishment Ratio is	If the Employer's Benefit Ratio percentage does not exceed:								
	2.80	2.90	3.00	3.10	3.20	3.30	3.40	3.50	3.60
1.00									
...									
1.20	2.33	2.41	2.50	2.58	2.66	2.75	2.83	2.91	3.00
1.21	2.31	2.39	2.47	2.56	2.64	2.72	2.80	2.89	2.97
1.22	2.29	2.37	2.45	2.54	2.62	2.70	2.78	2.86	2.95
1.23	2.27	2.35	2.43	2.52	2.60	2.68	2.76	2.84	2.92
1.24	2.25	2.33	2.41	2.50	2.58	2.66	2.74	2.82	2.90
1.25	2.24	2.32	2.40	2.48	2.56	2.64	2.72	2.80	2.88
1.26	2.22	2.30	2.38	2.46	2.53	2.61	2.69	2.77	2.85
1.27	2.20	2.28	2.36	2.44	2.51	2.59	2.67	2.75	2.83
1.28	2.18	2.26	2.34	2.42	2.50	2.57	2.65	2.73	2.81
1.29	2.17	2.24	2.32	2.40	2.48	2.55	2.63	2.71	2.79
1.30	2.15	2.23	2.30	2.38	2.46	2.53	2.61	2.69	2.76
1.31	2.13	2.21	2.29	2.36	2.44	2.51	2.59	2.67	2.74
1.32	2.12	2.19	2.27	2.34	2.42	2.50	2.57	2.65	2.72
1.33	2.11	2.18	2.25	2.33	2.40	2.48	2.55	2.63	2.70
1.34	2.08	2.16	2.23	2.31	2.38	2.46	2.53	2.61	2.68
1.35	2.07	2.14	2.22	2.29	2.37	2.44	2.51	2.59	2.66
1.36	2.05	2.13	2.20	2.27	2.35	2.42	2.50	2.57	2.64
1.37	2.04	2.11	2.18	2.26	2.33	2.40	2.48	2.55	2.62
1.38	2.02	2.10	2.17	2.24	2.31	2.39	2.46	2.53	2.60
1.39	2.01	2.08	2.15	2.23	2.30	2.37	2.44	2.51	2.58
1.40	2.00	2.07	2.14	2.21	2.28	2.35	2.42	2.50	2.57
1.41	1.98	2.05	2.12	2.19	2.26	2.34	2.41	2.48	2.55
1.42	1.97	2.04	2.11	2.18	2.25	2.32	2.39	2.46	2.53
1.43	1.95	2.02	2.09	2.16	2.23	2.30	2.37	2.44	2.51
1.44	1.94	2.01	2.08	2.15	2.22	2.29	2.36	2.43	2.50
1.45	1.93	2.00	2.06	2.13	2.20	2.27	2.34	2.41	2.48
1.46	1.91	1.98	2.05	2.12	2.19	2.26	2.32	2.39	2.46
1.47	1.90	1.97	2.04	2.10	2.17	2.24	2.31	2.38	2.44
1.48	1.89	1.95	2.02	2.09	2.16	2.22	2.29	2.36	2.43
1.49	1.87	1.94	2.01	2.08	2.14	2.21	2.28	2.34	2.41
1.50	1.86	1.93	2.00	2.06	2.13	2.20	2.26	2.33	2.40
1.51	1.85	1.92	1.98	2.05	2.11	2.18	2.25	2.31	2.38
1.52	1.84	1.90	1.97	2.03	2.10	2.17	2.23	2.30	2.36
1.53	1.83	1.89	1.96	2.02	2.09	2.15	2.22	2.28	2.35
1.54	1.81	1.88	1.94	2.01	2.07	2.14	2.20	2.27	2.33
1.55	1.80	1.87	1.93	2.00	2.06	2.12	2.19	2.25	2.32
1.56	1.79	1.85	1.92	1.98	2.05	2.11	2.17	2.24	2.30
1.57	1.78	1.84	1.91	1.97	2.03	2.10	2.16	2.22	2.29
1.58	1.77	1.83	1.89	1.96	2.02	2.08	2.15	2.21	2.27
1.59	1.76	1.82	1.88	1.94	2.01	2.07	2.13	2.20	2.26
1.60	1.75	1.81	1.87	1.93	2.00	2.06	2.12	2.18	2.25
...									
...									
The Employer's Tax Rate Shall Be:	2.8%	2.9%	3.0%	3.1%	3.2%	3.3%	3.4%	3.5%	3.6%

When the Replenishment Ratio is	If the Employer's Benefit Ratio percentage does not exceed:								
1.00	3.70	3.80	3.90	4.00	4.10	4.20	4.30	4.40	4.50
...									
1.20	3.08	3.16	3.25	3.33	3.41	3.50	3.58	3.66	3.75
1.21	3.05	3.14	3.22	3.30	3.38	3.47	3.55	3.63	3.71
1.22	3.03	3.11	3.19	3.27	3.36	3.44	3.52	3.60	3.68
1.23	3.00	3.08	3.17	3.25	3.33	3.41	3.49	3.57	3.65
1.24	2.98	3.06	3.14	3.22	3.30	3.38	3.46	3.54	3.62
1.25	2.96	3.04	3.12	3.20	3.28	3.36	3.44	3.52	3.60
1.26	2.93	3.01	3.09	3.17	3.25	3.33	3.41	3.49	3.57
1.27	2.91	2.99	3.07	3.14	3.22	3.30	3.38	3.46	3.54
1.28	2.89	2.96	3.04	3.12	3.20	3.28	3.35	3.43	3.51
1.29	2.86	2.94	3.02	3.10	3.17	3.25	3.33	3.41	3.48
1.30	2.84	2.92	3.00	3.07	3.15	3.23	3.30	3.38	3.46
1.31	2.82	2.90	2.97	3.05	3.12	3.20	3.28	3.35	3.43
1.32	2.80	2.87	2.95	3.03	3.10	3.18	3.25	3.33	3.40
1.33	2.78	2.85	2.93	3.00	3.08	3.15	3.23	3.30	3.38
1.34	2.76	2.83	2.91	2.98	3.05	3.13	3.20	3.28	3.35
1.35	2.74	2.81	2.88	2.96	3.03	3.11	3.18	3.25	3.33
1.36	2.72	2.79	2.86	2.94	3.01	3.08	3.16	3.23	3.30
1.37	2.70	2.77	2.84	2.91	2.99	3.06	3.13	3.21	3.28
1.38	2.68	2.75	2.82	2.89	2.97	3.04	3.11	3.18	3.26
1.39	2.66	2.73	2.80	2.87	2.94	3.02	3.09	3.16	3.23
1.40	2.64	2.71	2.78	2.85	2.92	3.00	3.07	3.14	3.21
1.41	2.62	2.69	2.76	2.83	2.90	2.97	3.04	3.12	3.19
1.42	2.60	2.67	2.74	2.81	2.88	2.95	3.02	3.09	3.16
1.43	2.58	2.65	2.72	2.79	2.86	2.93	3.00	3.07	3.14
1.44	2.56	2.63	2.70	2.77	2.84	2.91	2.98	3.05	3.12
1.45	2.55	2.62	2.68	2.75	2.82	2.89	2.96	3.03	3.10
1.46	2.53	2.60	2.67	2.73	2.80	2.87	2.94	3.01	3.08
1.47	2.51	2.58	2.65	2.72	2.78	2.85	2.92	2.99	3.06
1.48	2.50	2.56	2.63	2.70	2.77	2.83	2.90	2.97	3.04
1.49	2.48	2.55	2.61	2.68	2.75	2.81	2.88	2.95	3.02
1.50	2.46	2.53	2.60	2.66	2.73	2.80	2.86	2.93	3.00
1.51	2.45	2.51	2.58	2.64	2.71	2.78	2.84	2.91	2.98
1.52	2.43	2.50	2.56	2.63	2.69	2.76	2.82	2.89	2.96
1.53	2.41	2.48	2.54	2.61	2.67	2.74	2.81	2.87	2.94
1.54	2.40	2.46	2.53	2.59	2.66	2.72	2.79	2.85	2.92
1.55	2.38	2.45	2.51	2.58	2.64	2.70	2.77	2.83	2.90
1.56	2.37	2.43	2.50	2.56	2.62	2.69	2.75	2.82	2.88
1.57	2.35	2.42	2.48	2.54	2.61	2.67	2.73	2.80	2.86
1.58	2.34	2.40	2.46	2.53	2.59	2.65	2.72	2.78	2.84
1.59	2.32	2.38	2.45	2.51	2.57	2.64	2.70	2.76	2.83
1.60	2.31	2.37	2.43	2.50	2.56	2.62	2.68	2.75	2.81
...									
...									
The Employer's Tax Rate Shall Be:	3.7%	3.8%	3.9%	4.0%	4.1%	4.2%	4.3%	4.4%	4.5%

The Commission is authorized to extend the foregoing table by supplying additional replenishment ratios and by supplying additional employer benefit ratios using the same mathematical principles used in constructing said table.

Provided, that when the amount in the Unemployment Compensation Fund on the October 1 computation date immediately preceding the calendar year for which rates are being computed is in excess of Three Hundred Million Dollars (\$300,000,000), a reduction in the tax rate shown on the foregoing table, as it may be extended, by one-tenth of one per cent ($\frac{1}{10}$ of 1%) for each Five Million Dollars (\$5,000,000) or fraction thereof by which the amount in the Unemployment Compensation Fund is in excess of Three Hundred Million Dollars (\$300,000,000) shall be granted to each employer entitled to an experience tax rate, provided that no employer shall receive a tax rate reduction greater than two and two-tenths per cent (2.2%) under this provision; provided further, notwithstanding the foregoing provisions, that no employer shall be permitted to pay contributions at a rate less than one-tenth of one per cent ($\frac{1}{10}$ of

1%) and that no employer shall be required to pay contributions at a rate greater than two and seven-tenths per cent (2.7%) except as hereinafter provided. When the amount in the Unemployment Compensation Fund on the October 1 computation date immediately preceding the calendar year for which rates are being computed is less than Two Hundred Twenty-five Million Dollars (\$225,000,000), an increase in the tax rate by one-tenth of one per cent ($\frac{1}{10}$ of 1%) for each Five Million Dollars (\$5,000,000) or fraction thereof by which the amount in the Unemployment Compensation Fund is less than Two Hundred Twenty-five Million Dollars (\$225,000,000) shall be applied to the tax rate of each employer eligible for an experience tax rate, including any employer whose tax rate would otherwise be limited to two and seven-tenths per cent (2.7%).

(7) If an employing unit acquires all or a part of the organization, trade or business of an employer, such acquiring successor employing unit and such predecessor employer may jointly make written application to the Commission for that compensation experience of such predecessor employer which is attributable to the organization, trade or business or the part thereof acquired to be treated as compensation experience of such successor employing unit. The Commission shall approve such application if it finds that: (i) immediately after such acquisition the successor employing unit continued operation of substantially the same organization, trade or business or part thereof acquired; and (ii) the predecessor employer has waived, in writing, all his rights to an experience rating based on the compensation experience attributable to the organization, trade or business or part thereof acquired by the successor employing unit; and (iii) in the event of the acquisition of only a part of a predecessor employer's organization, trade or business, such acquisition was of a part to which a definitely identifiable and segregable part of the predecessor's compensation experience was and is attributable; and (iv) if the successor employing unit was not an employer at the time of the acquisition, such successor has elected to become an employer as of the date of the acquisition or has otherwise become an employer during the year in which the acquisition took place.

If the application for transfer of experience is approved and the successor employing unit was an employer immediately prior to the acquisition, such successor shall pay contributions from the date of the acquisition until the end of the calendar year in which the acquisition occurred at the rate applicable to the successor on the date of the acquisition. If such application is approved and the successor employing unit was not an employer immediately prior to the date of the acquisition, such successor shall pay contributions from the date of the acquisition until the end of the calendar year in which the acquisition occurred at the highest rate applicable at the time of the acquisition to any predecessor employer who was a party to the acquisition with respect to which the joint application was made.

In the event the acquisition is the result of the death of the predecessor employer, the requirements of this subsection relating to the necessity for the predecessor to join in the application and the requirements of condition (ii) hereof shall not apply.

"Compensation experience," as used in this subsection includes duration of chargeability with benefit wages or benefits as well as all factors mentioned in subsection 7(c) of this Section necessary to the computation of experience rating under subsection 7(c) of this Section.

(d) The computation date for all experience tax rates shall be as of October 1 of the year preceding the calendar year for which such rates are to be effective, and such rates shall be effective on January 1 of the calendar year immediately following such computation date for the entire year; provided that the experience tax rate for each employer who, for the first time, and at the close of any calendar quarter, has completed four

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(4) full consecutive calendar quarters throughout each month of which the employer was chargeable with benefit payments, shall be computed and determined as of the first day of the calendar quarter next following such close, and such rate shall be effective on the date as of which it was computed, and for the remainder of the calendar year in which such computation date occurs.

(e) The contribution rate of each employer for the calendar years ending on or before December 31, 1968, shall be determined in accordance with the provisions of this Section prior to this amendment; the contribution rate of each employer for each calendar year commencing after December 31, 1968, shall be determined in accordance with the provisions of this Section. Nothing in this Section shall be construed as authorizing or requiring a refund of any contributions or portions thereof due and paid prior to January 1, 1969, under this Section, or as waiving the right to collect any contributions or portions thereof due and unpaid under this Section on December 31, 1968.

Amended by Acts 1967, 30th Leg., p. 685, ch. 287, § 4, eff. Oct. 1, 1967.

Repeal of conflicting laws and construction as to rights of individuals to benefits under the 1967 amendment to this article, see notes under article 5221b—1.

Art. 5221b—12. Collection of contributions

(a) Interest and Penalties on Past Due Contributions: If any employer subject to the provisions of this Act shall fail to pay contributions due under this Act on the date on which they are due and payable as prescribed by the Commission, such employer shall forfeit to the State of Texas a penalty of one per cent (1%) of such contributions, and after the expiration of one (1) month such employer shall forfeit an additional penalty of one per cent (1%) of such contributions for each month or fraction thereof, until such contributions and penalties shall have been paid in full; provided, however, that the penalties applicable to the contributions due for any period (as prescribed by the rules of the Commission) shall not exceed twenty-five per cent (25%) of the amount of contributions due at due date; provided, however, that for the exclusive purpose of this subsection, after July 1, 1965, the forfeit of penalty provided herein shall not apply to any employer who failed to pay contributions due under this Act because of the bona fide belief that all or some of their employees are covered under the unemployment insurance law of any other state if such employer paid, pursuant to the unemployment insurance law of such other state, the contributions thereunder when due on all such wages of such employees.

In addition to the penalties provided above, whenever the maximum penalty of twenty-five per cent (25%) shall accrue or shall have accrued as provided above in cases in which the liability of the employer is reduced to judgment, thereafter in addition to the penalties provided above, contributions included in such judgment shall bear interest at the rate of one-half of one per cent ($\frac{1}{2}$ of 1%) per month or part of a month. Subsec. (a) amended by Acts 1965, 59th Leg., p. 318, ch. 150, § 2, eff. July 1, 1965; Acts 1967, 60th Leg., p. 694, ch. 287, § 5, eff. Oct. 1, 1967.

(b) Collections: If, after notice, any employer defaults in any payment of contributions, penalties or interest thereon, the amount due shall be collected by civil action in a District Court in Travis County, Texas, in the name of the State and the Attorney General, and the employer adjudged in default shall pay the costs of such action; provided, however, that no court action shall be begun to collect contributions or penalties from an employer after the expiration of three (3) years from the due date of such contributions, except that, in any case of a willful attempt in any manner to evade any of the provisions of the Unemployment Compensation Law or Commission rules or regulations promulgated thereunder, such action may be begun at any time.

An employer liable for contributions, penalties, or interest under this Act who fails to pay such sums when due shall, after judgment has been entered therefor and execution returned unsatisfied, forfeit his right to employ individuals in this State until he enters into a bond with sureties to be approved by the Commission, in an amount not to exceed double the sum then due plus contributions estimated by the Commission to become due by said employer during the next calendar year, said bond to be conditioned upon payment of all contributions, penalties, interest, and court costs due and owing by the employer within thirty (30) days after the expiration of the next ensuing calendar year, and in the event the employer fails to furnish such bond or pay the taxes, interest, and penalty then found to be due, the Commission may proceed by injunction to prevent the continuance of such employment upon such failure by the employer by applying to the court which previously entered judgment against the employer for contributions, penalties, or interest, and a temporary injunction enjoining the employer from employing persons in this State without first posting bond as aforesaid may be granted after reasonable notice of not less than ten (10) days by said court; and such temporary injunction may upon final hearing be made permanent and shall remain in full force and effect until the requirements of this Section have been fully satisfied.

Subsec. (b) amended by Acts 1965, 59th Leg., p. 318, ch. 150, § 2, eff. July 1, 1965; Acts 1967, 60th Leg., p. 694, ch. 287, § 5, eff. Oct. 1, 1967.

(c) (1) If any employer shall fail to file any reports of wages paid or contributions due as required by this Act or by the rules or regulations of the Commission, such employer shall forfeit to the State for the Unemployment Compensation Special Administration Fund as penalties: (i) for the first fifteen days or part thereof of violation, the sum of Five Dollars (\$5); and (ii) for the remainder of the month or part thereof of violation, the sum of Five Dollars (\$5) plus $\frac{1}{20}$ th of 1% of wages paid which the employer failed to report when due to the Commission; and (iii) for the second successive month or part thereof of violation, an additional Ten Dollars (\$10) plus $\frac{1}{10}$ th of 1% of wages paid which the employer failed to report when due to the Commission; and (iiii) for the third successive month, or part thereof of violation, an additional Ten Dollars (\$10) plus $\frac{1}{3}$ th of 1% of wages which the employer failed to report when due to the Commission. The penalties hereinbefore provided in (i), (ii), (iii), and (iiii) are cumulative and in addition to any other penalties provided in this Act, and if such penalties are not paid to the Commission at the time they are forfeited, they shall be collected by civil action as provided in this Section.

(2) If any employing unit shall (i) fail to keep any of the records required to be kept by the provisions of this Act or by the rules or regulations of the Commission, (ii) make a false report to the Commission, or (iii) fail or refuse to abide by the provisions of this Act, or the rules or regulations of the Commission promulgated hereunder, or violate the same, and if no civil penalty is otherwise provided by this Act, such employing unit shall forfeit to the State for the Unemployment Compensation Special Administration Fund as a penalty the sum of Ten Dollars (\$10). In cases where the violation is of continuous and continuing nature, whether or not any other civil penalty is otherwise provided by this Act, each day's violation after written notice of the existence of the violation is given to the employing unit shall constitute a separate offense and incur another penalty of Ten Dollars (\$10). The penalty for each day's violation shall be forfeited and become cumulative on the tenth (10th) calendar day after date of written notice is given or mailed to the employing unit by the Commission or its authorized representative. If such penalties are not paid when demanded by the Commission or its duly authorized representative, they shall be collected by civil action as provided in this Section.

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Subsec. (c) (1) and (2) amended by Acts 1965, 59th Leg., p. 318, ch. 150, § 2, eff. July 1, 1965; Acts 1967, 60th Leg., p. 694, ch. 287, § 5, eff. Oct. 1, 1967.

* * * * *

(f) All sums due by any employing unit under this Act shall become a lien upon all the property both real and personal belonging to such employing unit or to any individual so indebted. Such lien shall attach at the time any contributions, penalties, interest, or other charges become delinquent and may be recorded in the "State Tax Liens" book kept by county clerks as provided in Article 1.07A of Title 122A, Revised Civil Statutes of Texas, 1925, as amended,¹ and such liens may be released in the manner there provided for other state tax liens. The Commission shall pay by warrant drawn by the State Comptroller to the county clerk of the county in which a notice of lien provided by this subsection has been filed the usual fee for filing and recording other similar instruments. Such fee shall be added to the amount due from the employer. When the liability secured by the lien is fully paid, the Commission shall mail to the employer a release of the said lien and it shall be the employer's responsibility to file such release with the appropriate county clerk and to pay the county clerk's fee for recording the release.

Subsec. (f) amended by Acts 1965, 59th Leg., p. 318, ch. 150, § 3, eff. July 1, 1965; Acts 1967, 60th Leg., p. 694, ch. 287, § 5, eff. Oct. 1, 1967.

¹ See V.A.T.S. Tax-Gen. art. 1.07A.

* * * * *

(n) In cases where it has become necessary for the Commission to reduce to judgment its claim against an employer for taxes, penalty or interest, the Commission shall pay by warrant drawn by the State Comptroller to the county clerk of the county or counties in which an abstract of such judgment shall be recorded the usual fee for filing and recording such abstract of judgment. When the liability secured by the lien is fully paid, the Commission shall mail to the employer a release of said lien and it shall be the employer's responsibility to file such release with the appropriate county clerk and to pay the county clerk's fees for recording such release.

Subsec. (n) added by Acts 1967, 60th Leg., p. 696, ch. 287, § 6, eff. Oct. 1, 1967.

(o) Any individual or employing unit which acquired the organization, trade, or business, or substantially all of the assets thereof, of another which at the time of such acquisition was an employer subject to this Act and was indebted to the Commission for taxes, penalty, or interest shall be liable to the Commission for prompt payment of such taxes, penalty, or interest and if not paid, suit may be brought by the Commission for the collection of same as though the taxes, penalty, or interest had been incurred by the successor employer.

Subsec. (o) added by Acts 1967, 60th Leg., p. 696, ch. 287, § 6, eff. Oct. 1, 1967.

Repeal of conflicting laws and construction as to rights of individuals to benefits under the 1967 amendment to this article, see notes under article 5221b—1.

Art. 5221b—15a. Reciprocal arrangements

* * * * *

(b) The Commission is also authorized to enter into arrangements with the appropriate agencies of other states or the Federal Government whereby an individual's wage credits accumulated under the unemployment compensation laws of one or more states or under one or more such laws of the Federal Government, or both, may constitute the basis for the payment of benefits through a single appropriate agency under terms which the Commission finds will be fair and reasonable as to all affected interests and will not result in any substantial loss to the fund.

Subsec. (b) amended by Acts 1967, 60th Leg., p. 696, ch. 287, § 7, eff. Oct. 1, 1967.

* * * * *

(d) The Commission is also authorized to enter into reciprocal arrangements with appropriate duly authorized agencies of other states or of the Federal Government, or both, whereby services on vessels or on aircraft engaged in interstate or foreign commerce for a single employer, wherever they are performed, shall be deemed performed within this State or within any such other state.

Subsec. (d) amended by Acts 1967, 60th Leg., p. 697, ch. 287, § 7, eff. Oct. 1, 1967.

Repeal of conflicting laws and construction as to rights of individuals to benefits under the 1967 amendment to this article, see notes under article 5221b—1.

Art. 5221b—17. Definitions

As used in this Act unless the context clearly requires otherwise:

* * * * *

(n) "Wages" means all remuneration paid prior to January 1, 1968, which was wages as defined in this subsection prior to such date, and subject to the provisions of this subsection all remuneration paid after December 31, 1967, for personal services, including the cash value of all remuneration paid in any medium other than cash; except that after December 31, 1967, such term shall not include—

(1) that part of the remuneration which, after remuneration (other than remuneration referred to in the succeeding paragraphs of this subsection) equal to Three Thousand Dollars (\$3,000) with respect to employment has been paid to an individual by an employer during any calendar year, is paid to such individual by such employer during any such calendar year;

(2) the amount of any payment (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment) made to, or on behalf of, an employee or any of his dependents under a plan or system established by an employer which makes provision for his employees generally, (or for his employees generally and their dependents) or for a class or classes of his employees (or for a class or classes of his employees and their dependents), on account of—

- (A) retirement, or
- (B) sickness or accident disability, or
- (C) medical or hospitalization expenses in connection with sickness or accident disability, or
- (D) death;

(3) any payment made to an employee (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment) on account of retirement;

(4) any payment on account of sickness or accident disability, or medical or hospitalization expenses in connection with sickness or accident disability, made by an employer to, or on behalf of, an employee after the expiration of six (6) calendar months following the last calendar month in which the employee worked for such employer;

(5) any payment made to, or on behalf of, an employee or his beneficiary—

- (A) from or to a trust described in Section 401(a) of the United States Internal Revenue Code which is exempt from tax under Section 501(a) of said Code at the time of such payment is made to an employee of the trust as remuneration for services rendered as such employee and not as a beneficiary of the trust, or

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(B) under or to an annuity plan which, at the time of such payment, is a plan described in Section 403(a) of the United States Internal Revenue Code, or

(C) under or to a bond purchase plan which, at the time of such payment, is a qualified bond purchase plan described in Section 405(a) of the United States Internal Revenue Code;

(6) the payment by an employer (without deduction from the remuneration of the employee)—

(A) of the tax imposed upon an employee under Section 3101 of the United States Internal Revenue Code (or the corresponding section of prior law);

(7) remuneration paid in any medium other than cash to an employee for service not in the course of the employer's trade or business;

(8) any payment (other than vacation or sick pay) made to an employee after the month in which he attains the age of 65, if he did not work for the employer in the period for which such payment is made."

Subsec. (n) amended by Acts 1967, 60th Leg., p. 697, ch. 287, § 8, eff. Oct. 1, 1967.

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Repeal of conflicting laws and construction as to rights of individuals to benefits under the 1967 amendment to this article, see notes under article 5221b-1.

TITLE 84—LANDLORD AND TENANT

Art.
5236a. Notice for terminating certain tenancies [New].

Art. 5236a. Notice for terminating certain tenancies

Section 1. (a) A monthly tenancy or tenancy from month to month may be terminated by the landlord or the tenant by one month's notice given to the other party. When the rent reserved in a lease is payable at periods of less than a month, the time of the notice of termination is sufficient if it is equal to the interval between the times of payment. The notice is not void merely because it mentions a day for the termination of the tenancy not corresponding to the conclusions or commencement of the rent-paying period, but rather the notice terminates the tenancy at the end of a period equal in time to that in which the rent is made payable, unless a later date is specified.

(b) If the notice required by Subsection (a) of this section terminates the tenancy on a day which does not correspond to the conclusion or commencement of a rent-paying period, the tenant is liable only for rent up to the date of termination and not liable for rent for the balance of the rent-paying period.

(c) Subsection (a) of this section does not apply when

(1) by written agreement, signed by the landlord and tenant, a different period of notice, or no notice, is to be given; or

(2) there is any breach of contract recognized by law.

Acts 1967, 60th Leg., p. 1174, ch. 525, eff. Aug. 28, 1967.

Title of Act: An Act relating to the notice required for terminating certain tenancies; and de-
claring an emergency. Acts 1967, 60th Leg., p. 1174, ch. 525.

TITLE 86—LANDS—PUBLIC

CHAPTER TWO—SURVEYORS AND SURVEYS

Art. 5282a. Registered Public Surveyors Act of 1955

* * * * *

Qualifications for Registration

Sec. 6.

* * * * *

(c) All persons who apply to take, and successfully pass, an examination given by the Board to determine the fitness and qualification of the person examined shall be qualified for registration. Such examination shall be written and oral, and shall be designed to reflect knowledge and ability on the part of the applicant, showing to the Board that he is qualified to be placed in charge of surveying work. Any applicant for such examination must be able to show to the satisfaction of the Board that he has had the equivalent of six (6) years experience in land surveying. The successful completion of a course of study in an accredited school leading to a Bachelor of Science Degree in Civil Engineering shall be considered as four (4) years satisfactory experience.

Any person desiring to register as a Public Surveyor shall file with the Board an application therefor in writing, accompanying the application with a registration fee, the amount to be determined by the Board but in no event to exceed Twenty Dollars (\$20). If the Board finds that the applicant is qualified to register without examination as herein provided for, it shall issue to him a Certificate of Registration and assign to him a registration number which shall not thereafter be assigned to, nor used by any other surveyor. Such number shall be placed on the Certificate of Registration and recorded in the permanent records of the Board, and shall constitute the registration number of such surveyor and shall be used by him on all his official documents. The Certificate of Registration shall also show the full name of registrant and shall be signed by the Chairman and Secretary of the Board. If the Board finds that an applicant is not qualified to be registered at the time of making his application, but is qualified to take an examination, it shall set a time and name a place for the applicant to take such examination. Upon passing the examination to the satisfaction of the Board, the applicant shall be entitled to a Certificate of Registration as hereinabove provided.

Applications for registration shall be on forms prescribed and furnished by the Board, shall contain statements made under oath, showing the applicant's education and a detailed summary of his technical work, and shall contain not less than five (5) references, of whom three (3) or more shall be surveyors having personal knowledge of his surveying experience. The scope of the examinations and the methods of procedure shall be prescribed by the Board with special reference to the applicant's ability which shall insure safety to the public welfare and property rights. A candidate failing an examination may apply for re-examination at the expiration of six (6) months and will be re-examined without payment of additional fee.

All Certificates of Registration shall expire on the last day of the month of December, following their issuance or renewal and shall become invalid on that date unless renewed. It shall be the duty of the Secretary of the Board to notify every person registered under this Act of the date of the expiration of his certificate and the amount of the fee that shall

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be required for its renewal for one (1) year; such notice shall be mailed at least one (1) month in advance of the date of the expiration of said certificate. Renewal may be effected at any time during the month of December by the payment of a fee to be set by the Board but not to exceed \$25.00. The failure on the part of any registrant to renew his certificate annually in the month of December as required above shall not deprive such person of the right of renewal, but the fee to be paid for the renewal of a certificate after the month of December shall be increased ten per cent (10%) for each month or fraction of the month that renewal payment is delayed; provided, however, that the maximum fee for delayed renewal shall not exceed twice the normal renewal fee; and provided further that if such failure to renew shall continue for more than one (1) year after the date of expiration of the registration certificate, the applicant must reapply for registration and must qualify under the foregoing provisions of this section before being registered. All renewal certificates shall carry the same registration number as the original certificate. All original and renewal Certificates of Registration shall be evidence that the person whose name and registration number appears thereon is qualified to practice as a Registered Public Surveyor so long as such Certificate is valid and in force. Each registrant hereunder shall, upon receiving his Certificate of Registration, obtain a seal of the design authorized by the Board, bearing the registrant's name and number and the legend "Registered Public Surveyor"; plats, field notes and reports prepared by a registrant or under his direction shall be stamped with the said seal when filed with public authorities or delivered to a private client. It shall be unlawful for anyone to stamp or seal any document with said seal after the certificate of the registrant named thereon has expired or has been revoked, unless said certificate shall have been renewed or reissued.

Sec. 6, subsec. (c) amended Acts 1967, 60th Leg., p. 952, ch. 420, § 1, eff. Aug. 28, 1967.

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CHAPTER FOUR—OIL AND GAS

Art. 5380. Payment of royalty

All royalties shall be paid to the State on or before the last day of each month for the preceding month during the life of the lease, accompanied by the affidavit of the owner, manager or other authorized agent, showing the gross amount of oil produced and saved since the last report and the amount of gas produced and sold off the area, and the market value of the oil and gas, together with a copy of all daily gauges of tanks, gas meter readings, pipeline receipts, gas line receipts and other checks or memoranda of amount produced and put into pipelines, tanks, or pools and gas lines or gas storage. The books and accounts, receipts and discharges of all lines, tanks, pools and meters and all contracts and other records pertaining to the production, transportation, sale and marketing of the oil and gas shall at any time be subject to inspection and examination by the Commissioner, the Attorney General, the Governor, or the representative of either.

Amended by Acts 1967, 60th Leg., p. 912, ch. 400, § 5, emerg. eff. June 8, 1967.

Acts 1967, 60th Leg., p. 910, ch. 400, §§ 1-4, 6-9 amended articles 2603a, § 11; 2613a-3, § 10; 2628a-9, § 10; 3183a, § 11; 5382d, § 9; 6077o, § 11 and 6203a, § 11 by changing the day on which oil and gas royalties on public lands must be paid to the state.

Art. 5382d. Lease of lands to State Departments, Board and Agencies

* * * * *

Rentals and royalties; examination of books, accounts, etc.

Sec. 9. Beginning with the second year of the lease and annually thereafter for each of the following years during the life of said lease, the lessee shall pay the annual rental specified by the Board for Lease unless oil, gas or other minerals are being produced in paying quantities. When royalties paid during any year during the life of the lease equal or exceed the annual rental, no annual rental will be due for the following year; otherwise, there shall be due and payable on or before the anniversary date of said lease the annual rental specified by the Board for Lease less the amount of royalties paid during the preceding year. All rental and royalty payments shall be paid to the Commissioner of the General Land Office at Austin, Texas, and royalty payments shall be paid on or before the last day of each month following the month in which the oil, gas or other minerals may be produced. The payments shall be accompanied by sworn statements of the lessee, manager, or other authorized agent showing the gross amount of production since the last report and the market value of same, together with copies of all daily gauges of tanks, gas meter readings, pipeline run tickets and receipts and other checks or memoranda of the amounts produced. The books, accounts, records, and contracts pertaining to production, transportation, sale and marketing of the oil, gas or other minerals shall at all times be subject to inspection and examination by the Commissioner of the General Land Office, the Attorney General and the Chairman, President or other member of the appropriate Board for Lease or the representative of either of them. The State shall have a first lien upon all oil, gas or other minerals produced from the area covered by the lease to secure the payment of all unpaid royalty and/or other sums of money that may become due under the lease.

Sec. 9 amended by Acts 1967, 60th Leg., p. 913, ch. 400, § 6, emerg. eff. June 8, 1967.

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Acts 1967, 60th Leg., p. 910, ch. 400, §§ 6077o, § 11 and 6203a, § 11 by changing the 1-5, 7-9 amended articles 2603a, § 11; day on which oil and gas royalties on public lands must be paid to the state. 2613a-3, § 10; 2628a-9, § 10; 3183a, § 11;

Art. 5382e. Continuation or extension of leases after expiration of primary term

Section 1.

* * * * *

(b) That if at the expiration of the primary term or at any time thereafter there is located on the leased premises a well or wells capable of producing gas in paying quantities and such gas is not produced for lack of a suitable market and such lease is not being otherwise maintained in force and effect, the lessee may pay as royalty a sum of money equal to double the annual rental provided for in such lease, but in no event to be less than Twelve Hundred (\$1200.00) Dollars per annum for each well capable of producing gas in paying quantities, such payment to be made prior to the expiration of the primary term of the lease, or, if the primary term has expired, within sixty (60) days after the lessee ceases to produce gas from such well; and if such payment is made, the lease shall be considered to be a producing lease and such shut-in gas well royalty payment shall extend the term of the lease for a period of one (1) year from the end of the primary term or from the first day of the month next succeeding the month in which production ceased; and thereafter if no suitable market for such gas exists, the lessee may extend the lease for four (4) additional and successive periods of one (1) year each

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by the payment of a like sum of money each year on or before the expiration of the extended term. Provided, however, that if, while such lease is being maintained in force and effect by payment of such shut-in gas well royalty, gas should be sold and delivered in paying quantities from a well situated within one thousand (1,000) feet of the leased premises and completed in the same producing reservoir or in any case where drainage is occurring, the right to further extend the lease by such shut-in gas well royalty payments shall cease but such lease shall remain in force and effect for the remainder of the current one (1) year period for which the shut-in gas well royalty has been paid, and for an additional period not to exceed five (5) years from the expiration of the primary term by payment by the lessee of compensatory royalty, at the royalty rate provided for in such lease, of the value at the well of production from the well completed in the same producing reservoir from which gas is being sold and delivered and which is situated within one thousand (1,000) feet of, or draining, the leased premises on which such shut-in gas well is situated, such compensatory royalty to be paid monthly to the Commissioner of the General Land Office beginning on or before the last day of the month next succeeding the month in which such gas is sold and delivered from the well situated within one thousand (1,000) feet of, or draining, the leased premises and completed in the same producing reservoir; provided further, that in the event such compensatory royalties paid in any twelve (12) month period are in a sum less than the annual shut-in gas well royalties provided for in this section, lessee shall pay a sum of money equal to the difference within thirty (30) days from the end of such twelve (12) month period; provided further, that nothing herein shall relieve the lessee of the obligation of reasonable development, nor of the obligation to drill offset wells as required by Article 5359, Revised Civil Statutes of 1925.

Sec. 1(b) amended by Acts 1967, 60th Leg., p. 913, ch. 400, § 7, emerg. eff. June 8, 1967.

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Acts 1967, 60th Leg., p. 910, ch. 400, §§ 1-6, 8, 9 amended articles 2603a, § 11; 2613a-3, § 10; 2628a-9, § 10; 3183a, § 11; 5380; 5382d, § 9; 6077o, § 11 and 6203a, § 11 by changing the day on which oil and gas royalties on public lands must be paid to the state.

CHAPTER FIVE—MINERALS

1. COAL AND LIGNITE

Arts. 5383-5387. Repealed. Acts 1967, 60th Leg., p. 35, ch. 16, § 10. Eff. March 15, 1967

Acts 1967, 60th Leg., p. 35, ch. 16, § 10, codified as article 5421c-10, § 10, provides in part that rights, powers, duties and obligations conferred or imposed by the repealed laws shall be governed by such laws.

For provisions relating to the leasing of coal, lignite, sulphur and potash on surveys sold with minerals reserved to the state, see art. 5421c-10.

2. OTHER MINERALS

Arts. 5388-5400a. Repealed. Acts 1967, 60th Leg., p. 35, ch. 16, § 10. Eff. March 15, 1967

Acts 1967, 60th Leg., p. 35, ch. 16, § 10, codified as article 5421c-10, § 10, provides in part that rights acquired under and pursuant to article 5388 et seq., prior to repeal, shall not be affected by such repeal.

For provisions relating to the leasing of coal, lignite, sulphur and potash on surveys sold with minerals reserved to the state, see art. 5421c-10.

3. GENERAL PROVISIONS

Arts. 5401-5403. Repealed. Acts 1967, 60th Leg., p. 35, ch. 16, § 10.
Eff. March 15, 1967

Acts 1967, 60th Leg., p. 35, ch. 16, § 10, codified as article 5421c-10, provides in part that rights, power, duties and obligations conferred or imposed by the repealed laws shall be governed by such laws.

For provisions relating to the leasing of coal, lignite, sulphur and potash on surveys sold with minerals reserved to the state, see art. 5421c-10.

CHAPTER SEVEN—GENERAL PROVISIONS

INDIAN LANDS

Art. 5421c-10. Leasing of coal, lignite, sulphur and potash on certain surveys [New].

Art. 5421z-1. Transfer of trust responsibilities respecting the Tigua Indian Tribe [New].

Art. 5421c-10. Leasing of coal, lignite, sulphur and potash on certain surveys

Owner of soil as state agent for leasing purposes; terms and conditions

Section 1. The State hereby constitutes the owner of the soil its agent for the purpose of leasing, upon such terms and conditions as may be prescribed by the School Land Board, to any person, firm or corporation, the coal, lignite, sulphur and potash that may be upon and within surveys, and portions of surveys, heretofore sold with all minerals reserved to the State.

Authority to lease; forms; bonuses, rentals and royalties

Sec. 2. The owner of the soil is hereby authorized to lease to any person, firm or corporation, the coal, lignite, sulphur and potash that may be thereon or therein, upon the lease forms prepared by the General Land Office. All of said minerals may be leased together or separately. For any lease so made and executed, the lessee shall pay to the State sixty percent (60%) of all bonuses agreed to be paid therefor, and sixty percent (60%) of all rentals and royalties payable thereunder, and the lessee shall pay to the owner of the soil forty percent (40%); provided that, in the event of production, the State shall receive not less than one-sixteenth (1/16th) of the value of said minerals so produced.

Contents of lease; filing

Sec. 3. No lease executed by the owner of the soil shall be binding on the State unless it recites the actual and true consideration paid or promised therefor, and no lease shall be effective until a certified copy thereof is filed in the General Land Office and the bonus accruing to the State paid to the Commissioner. The Commissioner of the General Land Office is hereby given the right to reject and refuse for filing any lease submitted which he feels is not to the best interest of the State.

Payments to owner in lieu of damages

Sec. 4. All payments made by the lessee to the owner of the soil as herein provided and the acceptance thereof by the owner shall be in lieu of all damages to the soil.

Payments to State through Commissioner of General Land Office; affidavits; inspection of documents or papers

Sec. 5. All royalties and other payments accruing to the State under this Act shall be paid to the State through the Commissioner, at Austin,

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Texas, and deposited to the fund to which the minerals presently belong; and each payment shall be accompanied by the affidavit of the owner of the lease, or his authorized agent, showing the amount produced and marketed during the month, to whom sold, the selling price as shown by the copies of smelter, mint, mill, refinery, or other returns or documents attached thereto. All books, accounts, weights, wage contracts, correspondence and other documents or papers in any way pertaining to production hereunder shall at all times be open to the inspection of the Commissioner, or his authorized representatives.

Failure of lessee to comply with law or lease; forfeiture of lease; notice; reinstatement

Sec. 6. If the lessee, or his assignee, or sub-lessee, or receiver, or other agent in control of said lease, shall fail or refuse to make payment of any royalty within thirty (30) days after it becomes due, or if such person should fail or refuse the proper authorities access to the records pertaining to the operations, or if such person should knowingly fail or refuse to give correct information to the proper authorities, the lease and all rights thereunder shall be subject to forfeiture by the Commissioner, and he may forfeit same when sufficiently informed of the facts which authorize a forfeiture, and, in such event, shall write on the wrapper containing the papers relating to such lease, and sign officially, words declaring such forfeiture; and the lease and all rights thereunder shall thereupon be forfeited, together with all payments made thereunder. Notice of such action shall be forthwith mailed to the persons shown by the records of the General Land Office to be the owner of the soil and the owner of the forfeited lease at their last known addresses as shown by the records of said Office. Upon proper compliance with the provisions of this Act by the owner of the forfeited lease within thirty (30) days after the declaration of forfeiture, the lease may, at the discretion of the Commissioner, and under the terms of this Act, and such other terms as the Commissioner may prescribe, be reinstated. If such lease is not reinstated within the time prescribed above, the owner of the soil shall again have the right, as Agent of the State, to lease the minerals as herein provided.

Lien of state

Sec. 7. The State shall have a first lien on all minerals produced from any lease to secure the payment of all unpaid royalty or other sums that may be due hereunder.

Application of law

Sec. 8. The provisions of this Act shall not apply to nor in any manner affect oil and gas, and shall not affect any of the provisions of Chapter 81, Acts of the 36th Legislature, Second Called Session, 1919,¹ and amendments thereto, commonly known as the Relinquishment Act, and Chapter 497, Acts of the 54th Legislature, Regular Session, 1955,² and amendments thereto, pertaining to the prospecting and leasing of other minerals.

¹ Article 5367 et seq.

² Article 5421c—7.

Savings clause

Sec. 9. If any section, paragraph, sentence, or any part of this Act be declared unconstitutional or void for any reason, such declaration shall not affect, impair, or nullify the validity of any of the remaining portions hereof.

Repeals

Sec. 10. Articles 5383 through 5403, inclusive, Vernon's Texas Civil Statutes, and all other laws, or parts of laws, which may be in conflict

herewith, are hereby repealed; provided that any rights acquired under and pursuant to Article 5388 et seq. prior to the effective date of this Act shall not be affected by such repeal, and the rights, powers, duties and obligations conferred or imposed by such laws with reference thereto shall be governed by the laws herein repealed.

Acts 1967, 60th Leg., p. 35, ch. 16, emerg. eff. March 15, 1967.

Art. 5421m. Veteran's Land Board

Conditional Amendments, see notes at end of Article

* * * * *

Bond issue

Sec. 3. The Board, by appropriate action, is hereby authorized at one time, or from time to time, to provide by resolution for the issuance and sale of such negotiable bonds as have heretofore or may be hereafter authorized by the Constitution, the proceeds therefrom to become a part of the Veterans' Land Fund. At the option of the Board, said bonds may be issued in one or several installments. The bonds of each installment shall bear a rate or rates of interest as may be prescribed by the Board; but the "weighted average annual interest rate," as that phrase is commonly and ordinarily used and understood in the municipal bond market, of all the bonds in each installment may not exceed four and one-half percent (4½%). The bonds shall be payable as prescribed by the Board; shall mature serially or otherwise and not later than forty (40) years from their date; provided, however, that any bonds previously issued shall mature in accordance with their provisions; shall be payable in such medium of payment as to both principal and interest as may be determined by the Board; and may be made redeemable before maturity, at the option of the Board, at such price or prices, and under such terms and conditions, as may be fixed by the Board in the resolution providing for the issuance and sale of the bonds. The Board shall determine the form of the bonds, including the forms of any interest coupon to be attached thereto, and shall fix the denomination or denominations of said bonds and the place or places of the payment of the principal and interest thereon. Said bonds shall be executed by and on behalf of the Veterans' Land Board as obligations of the State of Texas in the following manner: they shall be signed by the Chairman and Secretary respectively of the Board, and the seal of the Board shall be impressed thereon, and they shall be signed by the Governor of the State of Texas, and attested by the Secretary of State of the State of Texas with the seal of the State of Texas impressed thereon. The resolution authorizing the issuance of any installment or series of bonds may prescribe the extent to which facsimile signatures and facsimile seals in lieu of manual signatures and manually impressed seals may be used in executing such bonds and appurtenant coupons. Interest coupons may be signed by the facsimile signatures of the Chairman and Secretary of the Board. In the event any officer whose manual or facsimile signature appears on any bond, or whose facsimile signature shall appear on any coupon, shall cease to be such officer before the delivery of any bonds, the signature shall, nevertheless, be valid and sufficient for all purposes, the same as if he had remained in office until such delivery had been made. Before any such bonds so issued are delivered to the purchasers, the record pertaining thereto shall have been examined by the Attorney General of Texas and said record and bonds shall be approved by him. After such approval, the bonds shall be registered in the office of the State Comptroller of Public Accounts of Texas. Such bonds having been approved by the Attorney General and registered in the Comptroller's Office shall be held, in every action, suit or proceeding in which their

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validity is or may be brought into question, valid and binding obligations of the State. In every action brought to enforce collection of such bonds or any rights incident thereto, the certificate of approval by the Attorney General, or a duly certified copy thereof, shall be admitted and received in evidence of their validity. The only defense which can be offered against the validity of such bonds shall be forgery or fraud. All bonds issued under the provisions of this Act shall have, and are hereby declared to have, all of the qualities and incidents of negotiable instruments under the laws of this State. The Board is fully authorized to provide for the replacement of any bond which becomes mutilated, lost or destroyed.

Sec. 3 amended by Acts 1967, 60th Leg., p. 269, ch. 129, § 1, Effective date, see notes at end of Article.

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Veterans' land fund

Sec. 8. The Veterans' Land Fund shall consist of any lands heretofore or hereafter purchased by the Board, until the sale price therefor, together with any interest and penalties due, have been received by the Board (although nothing herein shall be construed to prevent the Board from accepting full payment for a portion of any tract), and of the moneys attributable to any bonds heretofore or hereafter issued and sold by the Board which moneys so attributable shall include but shall not be limited to the proceeds from the issuance and sale of such bonds; the moneys received from the sale or resale of any lands, or rights therein, purchased with such proceeds; the moneys received from the sale or resale of any lands, or rights therein, purchased with other moneys attributable to such bonds; the interest and penalties received from the sale or resale of such lands, or rights therein; the bonuses, income, rents, royalties, and any other pecuniary benefit received by the Board from any such lands; sums received by way of indemnity or forfeiture for the failure of any bidder for the purchase of any such bonds to comply with his bid and accept and pay for such bonds or for the failure of any bidder for the purchase of any lands comprising a part of said Fund to comply with his bid and accept and pay for any such lands; and interest received from investments of any such moneys. All moneys comprising the Veterans' Land Fund shall be deposited in the State Treasury to the credit of the said Fund."

Sec. 8 amended by Acts 1967, 60th Leg., p. 270, ch. 129, § 2, Effective date, see notes at end of Article.

Payment of principal and interest; retirement of bonds;
deposit of unexpended moneys; fiscal agent;
appropriations; legal investments

Sec. 9. The principal and interest on the bonds heretofore and hereafter issued by the Board shall be paid out of the moneys of the Veterans' Land Fund in conformance with the Constitutional provisions authorizing such bonds; but the moneys of the Fund which are not immediately committed to the payment of principal and interest on such bonds, the purchase of lands as herein provided, or the payment of expenses as herein provided may be invested in bonds or obligations of the United States until such funds are needed for such purposes.

All moneys comprising a part of the Fund and not expended for the purposes herein provided shall be a part of the Fund until there are sufficient moneys therein to retire fully all of the bonds heretofore or hereafter issued and sold by the Board, at which time all such moneys remaining in the Fund, except such portion thereof as may be necessary to retire all such bonds which portion shall be set aside and retained in the Fund for the purpose of retiring all such bonds, shall be deposited

to the credit of the General Revenue Fund to be appropriated to such purposes as may be prescribed by law. All moneys becoming a part of the Fund thereafter shall likewise be deposited to the credit of the General Revenue Fund.

When a Division of said Fund (each Division consisting of the moneys attributable to the bonds issued and sold pursuant to a single Constitutional authorization and the lands purchased therewith) contains sufficient moneys to retire all of the bonds secured by such Division, the moneys thereof, except such portion as may be needed to retire all of the bonds secured by such Division which portion shall be set aside and remain a part of such Division for the purpose of retiring all such bonds, may be used for the purpose of paying the principal and interest thereon, together with the expenses herein authorized, of any other bonds heretofore or hereafter issued and sold by the Board. Such use shall be a matter for the discretion and direction of the Board; but there may be no such use of any such moneys contrary to the rights of any holder of any of the bonds issued and sold by said Board or violative of any contract to which said Board is a party.

Said Board may, if it so desires, designate the Treasurer of this State as fiscal agent for the payment of principal of and interest on the bonds; if said Treasurer is so designated he shall act without compensation. Alternatively, the Board may employ a private fiscal agent to perform such services in which event adequate compensation shall be paid.

If said Board, at any time during the existence of said Veterans' Land Fund, shall determine that during the following biennium there will not be sufficient moneys in said Fund to pay principal of and/or interest on said bonds which will fall due during the said following biennium, the Legislature shall appropriate from the General Fund of the State sufficient moneys to meet such obligation, such appropriated moneys to be used for said purposes only if at the time said principal and/or interest actually fall due there are not sufficient moneys in the Veterans' Land Fund to pay same.

All bonds heretofore or hereafter issued pursuant to the provisions of Section 49-b of Article III of the Constitution and Statutes enacted to implement the provisions thereof shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, and all other political subdivisions and public agencies of the State of Texas. Such bonds, when accompanied by all unmatured coupons appurtenant thereto, shall be lawful and sufficient security for said deposits in the amount of the par value of said bonds.

"The Board is hereby authorized to use the moneys of the Veterans' Land Fund to purchase on the open market any of the bonds it has heretofore issued and sold or hereafter may issue and sell, upon the occurrence of which the debt represented by any such bonds so purchased shall be deemed cancelled. Any such bonds so purchased by the Board shall be mutilated, burned or otherwise destroyed by the State Treasurer, who shall certify such fact to the Board under the seal of his office, and no further interest thereon shall be paid."

Sec. 9 amended by Acts 1967, 60th Leg., p. 271, ch. 129, § 3, Effective date, see notes at end of Article.

Payment of fees and expenses

Sec. 9(A). The Board is hereby authorized to use the moneys of the Veterans' Land Fund attributable to any bonds hereafter issued and sold for the purpose of paying legal fees and fees for financial advice necessary in the opinion of the Board to the sale of bonds hereafter issued and sold; the expense of publishing notice of sale of any installment of such bonds; the expense of printing such bonds; and the

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expenses of delivering such bonds, including but not limited to the costs of travel, lodging, and meals of any officers or employees of the Board, the State Comptroller, the State Treasurer, and the Attorney General necessary in the opinion of the Board to effectuate delivery of such bonds, and the cost of manually signing such bonds. The Board further is hereby authorized to use the moneys of the Veterans' Land Fund attributable to any bonds hereafter issued and sold to remunerate any agent employed by the Board to pay the principal or interest due on any such bonds. No moneys of any Division of the Veterans' Land Fund created prior to the effective date of this Amendment may be used for paying the expenses listed herein until there are sufficient moneys of such Division to retire all of the bonds secured by such Division, at which time all such moneys, except such portion thereof as may be needed to retire all of the bonds secured by such Division which portion shall be set aside and remain a part of such Division for the purpose of retiring all such bonds, shall be usable to pay such expenses as fully as the moneys attributable to any bonds hereafter issued and sold by the Board.

Sec. 9(A) added by Acts 1967, 60th Leg., p. 272, ch. 129, § 4, Effective date, see notes at end of Article.

Purchase of lands; retirement of bonds and payment of interest

Sec. 10. All moneys attributable to the bonds issued and sold pursuant to the Constitutional Amendment adopted on November 6, 1956, shall be credited to the Veterans' Land Fund and may, until December 1, 1965, be used for the purpose of purchasing additional lands situated in the State of Texas owned by the United States or any governmental agency thereof, owned by the Texas Prison System or any other governmental agency of the State of Texas, or owned by any person, firm, or corporation, to be sold as provided herein; provided, however, that so much of such moneys as may be necessary to pay interest on such bonds shall be set aside for that purpose. After December 1, 1965, all moneys attributable to such bonds shall be set aside for the retirement of such bonds and to pay interest thereon; and when there are sufficient moneys to retire all such bonds, all of such moneys then remaining or thereafter becoming a part of the Veterans' Land Fund shall be governed as elsewhere provided herein.

All of the moneys attributable to any series of bonds hereafter issued and sold by the Board (a "series of bonds" being all of the bonds issued and sold in a single transaction as a single installment of bonds) may be used for the purchase of lands, likewise situated and owned, to be sold as herein provided, for a period ending eight (8) years after the date of sale of such series of bonds; provided, however, that so much of such moneys as may be necessary to pay interest on bonds hereafter issued and sold shall be set aside for that purpose in accordance with the resolution adopted by the Board authorizing the issuance and sale of such series of bonds. After such eight (8) year period, all of such moneys shall be set aside for the retirement of any bonds hereafter issued and sold and to pay interest thereon, together with any expenses as provided herein, in accordance with the resolution or resolutions authorizing the issuance and sale of such additional bonds, until there are sufficient moneys to retire all of the bonds hereafter issued and sold, at which time all such moneys then remaining a part of the Veterans' Land Fund and thereafter becoming a part of the Fund shall be governed as elsewhere provided herein."

Sec. 10 amended by Acts 1967, 60th Leg., p. 272, ch. 129, § 5, Effective date, see notes at end of Article.

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Subdivision of land; purchase and sale; payment of costs; rules and regulations for sale of lands

Sec. 12. Land acquired by the Board may be subdivided for the purpose of sale as provided herein into tracts of such size as the Board may deem advisable; and, with respect to land acquired with the moneys of the Veterans' Land Fund attributable to any bonds hereafter issued and sold, the Board is hereby authorized to use the moneys of the Veterans' Land Fund attributable to the bonds hereafter issued and sold for the purpose of paying the expenses of surveying and monumenting such land and the tracts thereof; the cost of constructing roads thereon; any legal fees, recordation fees, and advertising costs arising out of the purchase and sale or resale of such land and the tracts thereof; and other like costs necessary or incidental to the purchase and sale of any lands so acquired by the Board; but such expenses shall be added to the price of such lands when sold or resold by the Board. No moneys of any Division of the Veterans' Land Fund created prior to the effective date of this Act may be used for paying the expenses listed herein until there are sufficient moneys of such Division to retire all of the bonds secured by such Division, at which time all such moneys, except such portion thereof as may be needed to retire all of the bonds secured by such Division which portion shall be set aside and remain a part of such Division for the purpose of retiring all such bonds, shall be usable to pay such expenses as fully as the moneys attributable to any bonds hereafter issued and sold by the Board.

Land acquired and subdivided pursuant to this section shall be offered for sale in accordance with such rules and regulations as the Board may adopt and shall be sold by the Board to veterans qualified to participate in the Veterans' Land Program in conformance with the provisions of this Act governing the sale of lands purchased by the Board generally; but no tract may be sold under the provisions of this Section for a price, to include any addition of the expenses above mentioned, in excess of \$10,000.00 unless the purchaser pays in cash as a down payment the amount of the sale price in excess thereof in accordance with the Board's rules and regulations but by not later than the date of sale, in addition to the initial payment required by Section 17 of this Act. In the event that a sale hereunder is not consummated, any down payment received shall be refunded to the veteran.

The foregoing notwithstanding, any land acquired and subdivided pursuant to this Section which has first been offered for sale to veterans and which has not been sold to such purchasers may be sold to any purchaser in the same manner as lands forfeited under the provisions of this Act.

Sec. 12 amended by Acts 1967, 60th Leg., p. 273, ch. 129, § 6, Effective date, see notes at end of Article.

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Purchase of land selected by veteran

Sec. 16. Anything contained in this Act to the contrary notwithstanding, it is expressly provided that where the veteran desires a particular tract of land located in this State, containing not less than fifteen (15) acres, he may, upon proper showing of eligibility to benefits hereunder, be authorized by the Board to select the land which he desires and submit his selection to such Board on such form as it may prescribe. The Board may purchase such land from the owner thereof upon the terms agreed, if the Board is satisfied of the value and desirability of the property submitted, and pay not to exceed Ten Thousand Dollars (\$10,000.00) therefor unless the veteran pays to the Board in cash that portion of the price in excess of the amount that the Board

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agrees to pay in accordance with the Board's rules and regulations but by not later than the date on which the Board acquires title thereto. Any such cash payment shall be considered a down payment on the price of the land when sold by the Board to a veteran selecting same and shall be in addition to the initial payment required by Section 17 of this Act. The Board shall cause to be made such appraisal of the property as it deems necessary in order to determine value, and before consummating a purchase shall satisfy itself as to title as provided in Section 11 of this Act. No transaction under this Act shall be considered together with any other transaction so as to constitute a block deal between the State and two or more veteran purchasers, and each tract of land shall be considered as a wholly separate entity without dependence upon any other tract of land, substance, matter, person or thing in determining its value, purchase or sale, under any of the provisions of this Act; provided, however, that nothing in this Act shall be construed so as to prevent the purchase and/or sale of contiguous tracts of land to separate purchasers so long as the value of the land is determined in the above manner. The property so acquired shall become a part of the Veterans' Land Fund, but the veteran who has selected the land so acquired shall have a preference right to purchase the same from the Board. The rules and regulations governing the sale of land under this section shall be governed by the provisions hereinafter made with reference to sale of land generally by the Board, except where same conflicts with this section. In order to be entitled to such preference right, the veteran shall, before the Board purchases said land, have agreed in writing to purchase said selected land from the Board for the price paid therefor; but if the veteran fails or refuses to exercise such preference right, the land may be sold by the Board in the same manner as provided for the sale of land forfeited under the provisions of this Act. If the title to said land is not approved and accepted by the Board, any amount paid to the Board in excess of the amount which the Board agreed to pay for such selected land shall be refunded to the veteran together with any other down payment remitted to the Board. In so far as practical, all applications shall be processed in the order in which they are received by the Board."

Sec. 16 amended by Acts 1967, 60th Leg., p. 274, ch. 129, § 7, Effective date, see notes at end of Article.

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Contract of sale; payment; transfer; deed

Sec. 17. The sale of all lands hereunder by the Board may be properly initiated by Contract of Sale and Purchase, and said contract shall be recorded in the deed records in the County where the land is located. The purchaser shall make an initial payment of at least five percent (5%) of the selling price of the land if sold pursuant to Section 12 of this Act or at least five percent (5%) of the amount that the Board agrees to pay for the land if sold pursuant to Section 16 of this Act, in neither event to exceed five percent (5%) of Ten Thousand Dollars (\$10,000.00) together with any additional down payment as provided in said Sections 12 and 16. The balance of said selling price shall be amortized over a period to be fixed by the Board, but not exceeding forty (40) years, together with interest thereon at a rate to be fixed by the Board; not to exceed five and one-half percent (5½%) per annum; provided, however, that the purchaser shall have the right on any installment date to pay any or all installments still remaining unpaid; provided further, that in any individual case, the Board may, for good cause, postpone from time to time, upon such terms as the Board may deem proper, the payment of the whole or any part of any installment of the selling price or interest thereon. The Board is empowered in each in-

dividual case to specify the terms of the contract entered into with the purchaser, not contrary to the provisions of this Act, but no property sold under the provisions of this Act shall be transferred, sold, or conveyed in whole or in part, until the original veteran purchaser has enjoyed possession for a period of three (3) years from the date of purchase of said property, and complied with all the terms and conditions of this Act and the rules and regulations of the Board; provided, however, that should the veteran purchaser die or become financially incapacitated by reason of illness or accident, the property may be conveyed before the expiration of said three (3) years by said purchaser or his heirs, administrators, or executors by complying with the rules and regulations promulgated by the Board and by securing the approval of the Board. After said three year period, a purchaser may at any time, transfer, sell or convey land purchased under the provisions of this Act, provided all mature interest, principal and taxes have been paid and the terms and conditions of this Act and the rules and regulations of the Board have been met and the approval of the Board obtained; provided, however, if the sale is to other than a qualified Texas veteran, the assignee and all subsequent assignees shall assume an interest rate on the indebtedness to the Board to be fixed by the Board at not less than one percent (1%) per annum greater than the rate fixed by the Board for sales to veterans under Sections 12 and 16 of this Act as of the date on which such transfer, sale or conveyance is approved; provided, further, that property sold under the provisions of this Act may be transferred, sold or conveyed at any time after the entire indebtedness due the Board has been paid. No land purchased under the provisions of this Act may be leased by the purchaser for any term exceeding ten (10) years except for oil, gas or other minerals and so long thereafter as any minerals may be produced therefrom in commercial quantities, and no such lease shall contain any provision for option of any character or renewal of such lease or re-lease of such property for any term. The taking of any option of any character, renewal or re-lease agreement in a separate instrument to take effect in the future is prohibited; and any such lease or instrument containing such an option of any character, renewal or re-lease agreement executed after the effective date of this Act in violation hereof is expressly declared to be void. When the entire indebtedness due the State under the contract of sale is paid, the Chairman of the Board shall execute a deed under seal to the original purchaser of the land or to the last assignee whose assignment has been approved by the Board. Nothing herein, however, shall be construed to prohibit the Board from accepting full payment for a portion of a tract and issuing a deed thereto, in accordance with its rules and regulations; and all deeds issued by the Board and executed by the Chairman thereof under seal, whether conveying all the land contracted to be sold to a veteran or other purchaser or a part of such land, are hereby ratified, confirmed, and validated. If a deed is executed to other than the legal owner or to a deceased grantee, such deed and the rights conveyed therein shall nevertheless inure to the benefit of the lawful owner.

Sec. 17 amended by Acts 1967, 60th Leg., p. 275, ch. 129, § 8, Effective date, see notes at end of Article.

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Rules and regulations; forms; forfeitures; fees for processing and servicing applications

Sec. 21. The Board is hereby authorized and empowered to make and promulgate such rules and regulations under this Act, and not inconsistent herewith, as it shall deem to be necessary or advisable. Such rules and regulations shall be considered a part of this Act and any violation thereof shall subject the offender to prosecution under the provi-

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sions of Section 32 hereof. The Board shall likewise have the power to prescribe the form and contents of all notices, bids, applications, awards, contracts, deeds or instruments whatsoever in any manner used by it in so carrying out such project and plan when the same shall not be in conflict with the law. The Board is hereby made the sole judge of forfeiture of any purchase contract under this Act, and anyone availing himself of the provisions of this Act shall by so doing agree to abide by the same; and should the Board declare a forfeiture under said purchase contract, then the purchaser shall vacate the premises within forty-five (45) days after the date of letter giving notice of such declaration, such letter to be forwarded by registered mail to the last known address of such purchaser.

The Board is hereby authorized and required to collect a fee in the amount they feel necessary from each applicant under Section 16 of this Act and a fee of Twenty-five Dollars (\$25) from each successful bidder under Section 19(A) of this Act, which fees shall be held in a trust fund to be used for the purpose of payment for examination of title, recording fees and/or other expenses; and any unused balance remaining after payment for such items shall be refunded except as provided in Section 19(A) of this Act.

The Board is further authorized and required to charge and collect for the use of the State the following fees for the processing and servicing of purchase applications and Contracts of Sale and Purchase and matters incidental thereto. Any such fees, or a portion thereof, which in the opinion of the Board are unused shall be refunded:

- | | |
|---|---------|
| 1. Fee for each appraisal for each application under Section 16 of this Act | \$25.00 |
| 2. Contract of Sale and Purchase transfer fee for each transfer | \$25.00 |
| 3. Mineral lease service fee for each lease executed by purchasers | \$ 7.50 |
| 4. Reappraisal fee when required by the Board | \$25.00 |
| 5. Fee for each loan of abstract | \$ 5.00 |
| 6. Fee for servicing and filing each easement | \$ 7.50 |
| 7. Service fee for each Contract of Sale and Purchase | \$25.00 |
| 8. Fee for homesite, severance, or paid-in-full deed | \$10.00 |

All moneys received by payment of the above fees and not refunded shall be deposited in the State Treasury and credited to the Veterans' Land Board Special Fund and shall be expended as provided in the biennial appropriation bill.

Sec. 21 amended by Acts 1967, 60th Leg., p. 276, ch. 129, § 9, Effective date, see notes at end of Article.

* * * * *
 Amendment of sections 3, 8-10, 12, 16, 17, 21 and addition of section 9(A) to this article by Acts 1967, 60th Leg., p. 269, ch. 129 to become effective and operative as a law, was conditioned upon adoption by the electors of amendment to Const. art. 3, § 49-b, prepared by H.J.R. No. 17 of Acts 1967, 60th Leg., p. 2983. The proposed constitutional amendment was voted on at election held Nov. 11, 1967, and was approved by the electors.

Acts 1967, 60th Leg., p. 269, ch. 129, provided in sections 10-12 as follows:

"Sec. 10. The provisions herein shall be cumulative of all other laws not in conflict herewith; but where a conflict exists, the provisions hereof shall be controlling.

"Sec. 11. If any provision herein or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applica-

tions of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

"Sec. 12. This Act shall become effective and operative as a law only upon the condition that the Constitutional Amendment to Section 49-b, Article III of the Constitution of Texas, which is proposed by House Joint Resolution No. 17 of the Sixtieth Legislature, 1967, or as proposed by Senate Joint Resolution No. 7 of the Sixtieth Legislature, 1967, shall be adopted and become a part of the Constitution of Texas, and in the event of adoption of said Constitutional Amendment, this Act shall become operative as a law upon the date such Constitutional Amendment is effective. In the event the proposed Constitutional Amendment shall fail to be adopted, then in such event this Act shall never become effective or operative in whole or in part."

INDIAN LANDS

Art. 5421z. Indian Affairs

SUBCHAPTER A. STRUCTURE OF COMMISSION

Convict labor

* * * * *

Section 10A. The Commission may use the labor of trusty state convicts to assist in carrying out the purposes of this Act. The Texas Department of Corrections may supply available convicts for this purpose and shall retain control of the convicts at all times. The time spent by a convict working on the Reservation shall be counted as time served in the penitentiary.

Sec. 10A, added by Acts 1967, 60th Leg., p. 539, ch. 234, § 1, emerg. eff. May 19, 1967.

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Maturity; redemption

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Sec. 14. All bonds issued by the Tribal Council shall mature serially or otherwise not more than 40 years from the date of issuance, and they may be made redeemable prior to maturity, at the option of the Tribal Council, with the written approval of the Commission, at times and prices and under terms and conditions prescribed in the authorizing proceedings.

Sec. 14 amended by Acts 1967, 60th Leg., p. 930, ch. 407, § 1, emerg. eff. June 8, 1967.

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Acts 1965, 59th Leg., p. 552, ch. 279, eff. Sept. 1, 1965. Article amended by Acts 1967, 60th Leg., p. 662, ch. 276, § 1, emerg. eff. May 23, 1967.

The amendments of section 14 by Acts 1967, 60th Leg., p. 930, ch. 407, § 1 1967, 60th Leg., p. 662, ch. 276, § 1 and were identical.

Art. 5421z—1. Transfer of Trust Responsibilities Respecting the Tigua Indian Tribe

If the Congress of the United States so legislates, and the Tigua Indian Tribe indicates its consent by appropriate resolution, the governor may accept on behalf of the state a transfer of the trust responsibilities of the United States respecting the Tigua Indian Tribe. Those trust responsibilities shall be administered by the Commission for Indian Affairs. Acts 1967, 60th Leg., p. 666, ch. 277, § 1, emerg. eff. May 23, 1967.

Title of Act:

An Act relating to transfer of trust responsibilities concerning the Tigua Indians; and declaring an emergency. Acts 1967, 60th Leg., p. 666, ch. 277.

TITLE 87—LEGISLATURE

Art.
5429b—2. Code Construction Act [New].

Art. 5429b—2. Code Construction Act

SUBCHAPTER A. GENERAL PROVISIONS

Purpose

Sec. 1.01. This Act provides rules to aid in the construction of codes (and amendments to them) enacted pursuant to the state's continuing statutory revision program. The rules set out in this Act are not intended to be exclusive but are meant to describe and clarify common situations in order to guide the preparation and construction of the codes.

Applicability

Sec. 1.02. This Act applies to

- (1) each code enacted by the 60th or a subsequent Legislature as part of the state's continuing statutory revision program;
- (2) each amendment, repeal, revision, and reenactment of a code, or provision thereof, which amendment, repeal, revision, or reenactment is enacted by the 60th or a subsequent Legislature;
- (3) each repeal of a statute by a code; and
- (4) each rule promulgated under a code.

Citation of codes

Sec. 1.03. A code may be cited by its name followed by the specific part concerned. For example:

- (1) Business & Commerce Code, Tit. 1;
- (2) Business & Commerce Code, Ch. 5;
- (3) Business & Commerce Code, Sec. 9.304;
- (4) Business & Commerce Code, Sec. 15.06(a);
- (5) Business & Commerce Code, Sec. 17.18(b) (1) (B) (ii).

General Definitions

Sec. 1.04. The following definitions apply unless the statute or context in which the word or phrase is used requires a different definition:

- (1) "oath" includes affirmation;
- (2) "person" includes corporation, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, and any other legal entity;
- (3) "population" means that shown by the most recent federal decennial census;
- (4) "property" means real and personal property;
- (5) "rule" includes regulation;
- (6) "signed" includes any symbol executed or adopted by a person with present intention to authenticate a writing;
- (7) "state", when referring to a part of the United States, includes any state, district, commonwealth, territory, insular possession of the United States, and any area subject to the legislative authority of the United States of America;
- (8) "swear" includes affirm;
- (9) "United States" includes department, bureau, and any other agency of the United States of America;

- (10) "week" means seven consecutive days;
- (11) "written" includes any representation of words, letters, symbols, or figures; and
- (12) "year" means 12 consecutive months.

SUBCHAPTER B. CONSTRUCTION OF WORDS AND PHRASES

Common and Technical Usage of Words

Sec. 2.01. Words and phrases shall be read in context and construed according to the rules of grammar and common usage. Words and phrases that have acquired a technical or particular meaning, whether by legislative definition or otherwise, shall be construed accordingly.

Tense, Number, and Gender

- Sec. 2.02. (a) Words in the present tense include the future tense.
- (b) The singular includes the plural, and the plural includes the singular.
 - (c) Words of one gender include the other genders.

Authority and Quorum of Public Body

Sec. 2.03. (a) A grant of authority to three or more persons as a public body confers the authority upon a majority of the number of members fixed by statute.

(b) A quorum of a public body is a majority of the number of members fixed by statute.

Computation of Time

Sec. 2.04. (a) In computing a period of days, the first day is excluded and the last day is included.

(b) If the last day of any period is a Saturday, Sunday, or legal holiday, the period is extended to include the next day which is not a Saturday, Sunday, or legal holiday.

(c) If a number of months is to be computed by counting the months from a particular day, the period ends on the same numerical day in the concluding month as the day of the month from which the computation is begun, unless there are not that many days in the concluding month, in which case the period ends on the last day of that month.

Reference to a Series

Sec. 2.05. If a statute refers to a series of numbers or letters, the first and last numbers or letters are included.

SUBCHAPTER C. CONSTRUCTION OF STATUTES

Intentions in Enactment of Statutes

Sec. 3.01. In enacting a statute, it is presumed that

- (1) compliance with the constitutions of this state and the United States is intended;
- (2) the entire statute is intended to be effective;
- (3) a just and reasonable result is intended;
- (4) a result feasible of execution is intended; and
- (5) public interest is favored over any private interest.

Prospective Operation of Statutes

Sec. 3.02. A statute is presumed to be prospective in its operation unless expressly made retrospective.

Construction Aids

Sec. 3.03. In construing a statute, whether or not the statute is considered ambiguous on its face, a court may consider among other matters the

- (1) object sought to be attained;
- (2) circumstances under which the statute was enacted;
- (3) legislative history;
- (4) common law or former statutory provisions, including laws upon the same or similar subjects;
- (5) consequences of a particular construction;
- (6) administrative construction of the statute; and
- (7) title, preamble, and emergency provision.

Captions Not Part of Statute

Sec. 3.04. Title, subtitle, chapter, subchapter, and section captions do not limit or expand the meaning of any statute.

Irreconcilable Statutes and Amendments

Sec. 3.05. (a) Except as provided in Section 3.11(d) of this Act, if statutes enacted at the same or different sessions of the legislature are irreconcilable, the statute latest in date of enactment prevails.

(b) Except as provided in Section 3.11(d) of this Act, if amendments to the same statute are enacted at the same session of the legislature, one amendment without reference to another, the amendments shall be harmonized, if possible, so that effect may be given to each. If the amendments are irreconcilable, the latest in date of enactment prevails.

Special or Local Provision Prevails Over General

Sec. 3.06. If a general provision conflicts with a special or local provision, they shall be construed, if possible, so that effect is given to both. If the conflict between the provisions is irreconcilable, the special or local provision prevails as an exception to the general provision, unless the general provision is the later enactment and the manifest intent is that the general provision prevail.

Statutory References

Sec. 3.07. Unless expressly provided otherwise, a reference to any portion of a statute applies to all reenactments, revisions, or amendments of the statute.

Uniform Construction of Uniform Acts

Sec. 3.08. A uniform act included in a code shall be construed to effectuate its general purpose to make uniform the law of those states which enact it.

Enrolled Bill Controls

Sec. 3.09. If the language of the enrolled bill version of a statute conflicts with the language of any subsequent printing or reprinting of the statute, the language of the enrolled bill version controls.

Repeal of Repealing Statute

Sec. 3.10. The repeal of a repealing statute does not revive the statute originally repealed nor impair the effect of any saving provision in it.

Saving Provisions

Sec. 3.11. (a) Except as provided in Subsection (b) of this section, the reenactment, revision, amendment, or repeal of a statute does not affect

(1) the prior operation of the statute or any prior action taken under it;

(2) any validation, cure, right, privilege, obligation, or liability previously acquired, accrued, accorded, or incurred under it;

(3) any violation of the statute, or any penalty, forfeiture, or punishment incurred in respect to it, prior to the amendment or repeal; or

(4) any investigation, proceeding, or remedy in respect to any privilege, obligation, liability, penalty, forfeiture, or punishment; and the investigation, proceeding, or remedy may be instituted, continued, or enforced, and the penalty, forfeiture, or punishment imposed, as if the statute had not been repealed or amended.

(b) If the penalty, forfeiture, or punishment for any offense is reduced by a reenactment, revision, or amendment of a statute, the penalty, forfeiture, or punishment (if not already imposed) shall be imposed according to the statute as amended.

(c) The repeal of a statute by a code does not affect an amendment, revision, or reenactment of the statute by the same legislature which enacted the code. The amendment, revision, or reenactment is preserved and given effect as part of the code provision which revised the statute so amended, revised, or reenacted.

(d) If any provision of a code conflicts with a statute enacted by the same legislature which enacted the code, the statute controls.

Severability of Statutes

Sec. 3.12. If any Act passed by the Legislature shall contain a provision for severability, such provision shall prevail in the interpretation of such statute. If any Act passed by the Legislature shall contain a provision for non-severability, such provision shall prevail in the interpretation of such statute. In the absence of such determination by the Legislature in a particular Act for severability or non-severability, the following construction of such Act shall prevail: If any provision of a statute or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the statute which can be given effect without the invalid provision or application, and to this end the provisions of the statute are severable.

Acts 1967, 60th Leg., p. 1036, ch. 455, eff. Sept. 1, 1967.

Acts 1967, 60th Leg., p. 1036, ch. 455, § 2 provided: "The Code Construction Act takes effect September 1, 1967."

Title of Act:

An Act adopting a Code Construction Act; defining general terms and providing

general rules for the construction of codes (and amendments to them) enacted pursuant to the state's continuing statutory revision program; and declaring an emergency. Acts 1967, 60th Leg., p. 1036, ch. 455.

697 LIBRARY AND HISTORICAL COMMISSION **Art. 5429b—2**
For Annotations and Historical Notes, see V.A.T.S.

TITLE 89—LIBRARY AND HISTORICAL COMMISSION

Art. 5434. [5600–5601] Organization

The Governor shall, by and with the advice and consent of the Senate, appoint six (6) persons who shall constitute the Texas Library and Historical Commission. Appointments shall be made for a term of six (6) years.

Members of the Commission holding office at the time of passage of this Act shall continue in office until the expiration of their present terms.

Upon the expiration of the terms of office of the two (2) members which expire in 1953, the Governor shall, by, and with the advice of the Senate, appoint three (3) persons as members of the Commission. The Governor shall designate one (1) of the appointees to serve a term of two (2) years to expire concurrent with the term of the present member of the Commission whose term of office expires in 1955.

The other two (2) appointees shall serve for six (6) years.

Thereafter all appointments shall be for a six-year term, except that any person appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term.

The Commission shall be assigned suitable offices at the Capitol where they shall hold at least one regular meeting annually, and as many special meetings as may be necessary. Each such member while in attendance at said meetings shall receive his actual expenses incurred in attending the meetings, and shall be paid a per diem as set out in the General Appropriations Act.

Amended by Acts 1967, 60th Leg., p. 1755, ch. 661, § 1, eff. Aug. 28, 1967.

TITLE 90—LIENS

CHAPTER TWO—MECHANICS, CONTRACTORS
AND MATERIAL MEN

Art.
5472e. Construction Payments and Loan
Receipts as Trust Funds (New).

Art. 5460. [5631] [3304] Lien on homestead

When material is furnished, labor performed, or improvements as defined in this title are made, or when erections or repairs are made upon homesteads, if the owner thereof is a married man or woman, then to fix and secure the lien upon the same it shall be necessary for the person or persons who furnish the material or perform the labor, before such material is furnished or such labor is performed, to make and enter into a contract in writing, setting forth the terms thereof, which shall be signed and acknowledged by both the husband and wife. And such contract shall be recorded in the office of the county clerk in the county where such homestead is situated, in a well bound book to be kept for that purpose. When such contract has been made and entered into by the husband and wife and the contractor or builder, and the same has been recorded, as heretofore provided, then the same shall inure to the benefit of any and all persons who shall furnish material or labor thereon for such contractor or builder.

As amended Acts 1967, 60th Leg., p. 741, ch. 309, § 5, eff. Jan. 1, 1968.

<p>Section 1 of Acts 1967, 60th Leg., p. 735, ch. 309 revised and amended chapters 2 and 3 of Title 75; section 2 of the Act amended articles 6632 and 6647; section 3 of the act amended articles 1064, 5518, 5519 and 5535; section 4 of the act added article</p>	<p>3.49—3 to V.A.T.S. Insurance Code; and sections 6-8, which repealed various articles, validated certain acknowledgments of married women and provided an effective date, are set out as notes under article 4610.</p>
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Art. 5472e. Construction payments and loan receipts as trust funds

Construction payments and loan receipts declared trust funds

Section 1. All moneys or funds paid to a contractor or subcontractor or any officer, director or agent thereof, under a construction contract for the improvement of specific real property in this state, and all funds borrowed by a contractor, subcontractor, owner, or any officer, director or agent thereof, for the purpose of improving such real property which are secured in whole or in part by a lien on the specific property to be improved are hereby declared to be Trust Funds for the benefit of the artisans, laborers, mechanics, contractors, subcontractors or materialmen who may labor or furnish labor or material for the construction or repair of any house, building or improvement whatever upon such real property; provided, however, that moneys paid to a contractor or subcontractor or borrowed by a contractor, subcontractor, or owner may be used to pay reasonable overhead of said contractor, subcontractor, or owner, directly related to such construction contract. The contractor, subcontractor, owner, or any officer, director or agent thereof, receiving such payments or funds, or having control or direction of same, is hereby made and constituted a Trustee of such funds so received or under his control or direction.

Wrongful disbursement, use of retention of trust funds

Sec. 2. Any Trustee, who shall, directly or indirectly, with intent to defraud, retain, use, disburse, misapply, or otherwise divert, any trust funds, or part thereof, as defined in Section 1 of this Act, with-

For Annotations and Historical Notes, see V.A.T.S.

out first fully paying and satisfying all obligations of the Trustee to all artisans, laborers, mechanics, contractors, subcontractors, or materialmen, incurred or to be incurred in connection with the construction and improvements, for which said funds were received, shall be deemed to have misapplied said Trust Funds. Misapplication of Trust Funds hereunder, under the value of \$250, shall be punished by imprisonment in jail not exceeding two years and by fine not exceeding \$500, or by such imprisonment without fine. Misapplication of Trust Funds hereunder, of the value of \$250 or over shall be punished by confinement in the Department of Corrections for a period not exceeding ten years.

State's election as to other offense

Sec. 3. Where Trust Funds are paid, misapplied, used, or otherwise diverted, in such a manner that such act constitutes a violation of this Act and some other offense punishable under the laws of the State of Texas, the party thus offending shall be amenable to prosecution at the state's election for misapplication of trust funds under this Act or for such other offense as may have been committed by him.

Closing agents, lending institutions, and construction funds covered by payment bond exempt

Sec. 4. This Act shall have no application to any bank, savings and loan association or other lender or to any title company or other closing agent in connection with any transaction to which this Act is applicable. Further, moneys or funds received under a construction contract are exempt from the provisions of this Act if the full contract amount is covered by a corporate surety payment bond.

Severability clause

Sec. 5. If any section, paragraph, sentence, clause, or word of this Act is held to be unconstitutional, the remaining portions of the same, nevertheless shall be valid; and the Legislature declares that the Act would have been enacted without such unconstitutional portion.

Saving clause

Sec. 6. Any violation of existing law or laws prior to the effective date of this Act, whether prosecution is commenced or not, shall not be affected by this Act and the provisions of such existing law or laws shall remain in full force and effect as to the then existing violation.

Texas Trust Act inapplicable

Sec. 7. No trust created by this Act shall be subject to the Texas Trust Act nor shall this Act be construed to amend, repeal, or alter any provisions of the Texas Trust Act.

Acts 1967, 60th Leg., p. 770, ch. 323, eff. Aug. 28, 1967.

Title of Act:

An Act declaring construction payments and loan receipts to be trust funds; defining wrongful disbursement and misapplication of trust funds as a misdemeanor and felony and attaching a penalty; containing a severability clause; containing a saving clause; providing that the defined

offense shall not be exclusive and that the state may elect as to prosecution for other offenses; making the Texas Trust Act inapplicable and the application of the Act inapplicable to bonded jobs, closing agents and lending institutions; and declaring an emergency. Acts 1967, 60th Leg., p. 770, ch. 323.

CHAPTER SIX—CHATTEL MORTGAGES

Arts. 5489 to 5499a. Repealed. Acts 1965, 59th Leg., p. 179 (UCC), ch. 721, § 10—102. Eff. June 30, 1966

Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721, enacting the Uniform Commercial Code, repealed articles 5489 to 5499a effective June 30, 1966. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721 was itself repealed by Acts 1967, 60th Leg., vol. 2, p. 2343, ch. 785, adopting the Business & Commerce Code effective September 1, 1967. However, the latter Act specifically provided that the repeal did not affect the prior operation of the 1965 Act or any prior action taken under it.

For text of the Business and Commerce Code, with Tables and Index, see page 1485.

CHAPTER SIX—A—UNIFORM TRUSTS RECEIPTS ACT [NEW]

Art. 5499a—51. Uniform Trust Receipts Act

Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721, enacting the Uniform Commercial Code, repealed article 5499a—51 effective June 30, 1966. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721 was itself repealed by Acts 1967, 60th Leg., vol. 2, p. 2343, ch. 785, adopting the Business & Commerce Code effective September 1, 1967. However, the latter Act specifically provided that the repeal did not affect the prior operation of the 1965 Act or any prior action taken under it.

For text of the Business and Commerce Code, with Tables and Index, see page 1485.

Art. 5506c. Repealed. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721, § 10—102. Eff. June 30, 1966

Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721, enacting the Uniform Commercial Code, repealed article 5506c effective June 30, 1966. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721 was itself repealed by Acts 1967, 60th Leg., vol. 2, p. 2343, ch. 785, adopting the Business & Commerce Code effective September 1, 1967. However, the latter Act specifically provided that the repeal did not affect the prior operation of the 1965 Act or any prior action taken under it.

For text of the Business and Commerce Code, with Tables and Index, see page 1485.

TITLE 91—LIMITATIONS

1. LIMITATIONS OF ACTIONS FOR LANDS

Art. 5518. [5684] [3352] Person under disability

If a person entitled to sue for the recovery of real property or make any defense founded on the title thereto, be at the time such title shall first descend or the adverse possession commence:

1. A person, including a married person, under twenty-one years of age, or
2. In time of war, a person in the military or naval service of the United States, or
3. A person of unsound mind, or

4. A person imprisoned, the time during which such disability or status shall continue shall not be deemed any portion of the time limited for the commencement of such suit, or the making of such defense; and such person shall have the same time after the removal of his disability that is allowed to others by the provisions of this title; provided, that notwithstanding a person may be or may have been laboring under any of the disabilities mentioned in this Article, one having the right of action for the recovery of any lands, tenements or hereditaments against another having peaceable and adverse possession thereof, cultivating, using or enjoying same, shall institute his suit therefor within twenty-five years next after his cause of action shall have accrued and not thereafter.

Amended by Acts 1967, 60th Leg., p. 739, ch. 309, § 3, eff. Jan. 1, 1968.

Section 1 of Acts 1967, 60th Leg., p. 735, ch. 309 revised and amended chapters 2 and 3 of Title 75; section 2 of the act amended articles 6632 and 6647; section 4 of the act added article 3.49—3 to V.A.T.S. Insurance Code; section 5 of the act amended article 5460; and sections 6-8,

which repealed various articles, validated certain acknowledgements of married women and provided an effective date, are set out as notes under article 4610.

Section 3 of the act of 1967 also amended articles 1064, 5519 and 5535.

Art. 5519. [5684a] [3352] Action barred in twenty-five years

No person who has a right of action for the recovery of real estate shall be permitted to maintain an action therefor against any person having peaceable and adverse possession of such real estate for a period of twenty-five years prior to the filing of such action, under claim of right, in good faith, under a deed or deeds, or any instrument or instruments, purporting to convey the same, which deed or deeds or instrument or instruments purporting to convey the same have been recorded in the deed records of the county in which the real estate or a part thereof is situated; and one so holding and claiming such real estate under such claim of title and possession shall be held to have a good marketable title thereto, and on proof of the above facts shall be held to have established title by limitation to such real estate regardless of minority, insanity or other disability in the adverse claimant, or any person under whom such adverse claimant claims, existing at the time of the accrual of the cause of action, or at any time thereafter. Such peaceable and adverse possession need not be continued in the same person, but when held by different persons successively there must be a privity of estate between them. The adverse possession of any part of such real estate shall extend to and be held to include all of the property described in such deed or instrument conveying or purporting to convey, under which entry was made upon such land or any part thereof, and by instrument purporting to convey shall be meant any instrument in the form of a deed or which contains language

showing an intention to convey even though such instrument, for want of proper execution or for other cause is void on its face or in fact.

Amended by Acts 1967, 60th Leg., p. 740, ch. 309, § 3, eff. Jan. 1, 1968.

Section 1 of Acts 1967, 60th Leg., p. 735, ch. 309, revised and amended chapters 2 and 3 of Title 75; section 2 of the act amended articles 6632 and 6647; section 4 of the act added article 3.49—3 to V.A.T.S. Insurance Code; section 5 of the act amended article 5460; and sections 6-8,

which repealed various articles, validated certain acknowledgements of married women and provided an effective date, are set out as notes under article 4610.

Section 3 of the act of 1967 also amended articles 1064, 5518 and 5535.

2. LIMITATIONS OF PERSONAL ACTIONS

Art. 5535. [5708] [3373] [3222] Person under disability

If a person entitled to bring any action mentioned in this subdivision of this title be at the time the cause of action accrues either a minor, a married person under twenty-one years of age, a person imprisoned or a person of unsound mind, the time of such disability shall not be deemed a portion of the time limited for the commencement of the action and such person shall have the same time after the removal of his disability that is allowed to others by the provisions of this title.

Amended by Acts 1967, 60th Leg., p. 740, ch. 309, § 3, eff. Jan. 1, 1968.

Section 1 of Acts 1967, 60th Leg., p. 735, ch. 309, revised and amended chapters 2 and 3 of Title 75; section 2 of the act amended articles 6632 and 6647; section 4 of the act added article 3.49—3 to V.A.T.S. Insurance Code; section 5 of the act amended article 5460; and sections 6-8,

which repealed various articles, validated certain acknowledgements of married women and provided an effective date, are set out as notes under article 4610.

Section 3 of the act of 1967 also amended articles 1064, 5518 and 5519.

TITLE 92—MENTAL HEALTH

I. MENTAL HEALTH CODE

CHAPTER ONE—GENERAL PROVISIONS

Art. 5547—4. Definitions

As used in this Code, unless the context otherwise requires:

(a) "Department" means the Texas Department of Mental Health and Mental Retardation.

(b) "Person" includes firm, partnership, joint stock company, joint venture, association and corporation.

(c) "Political subdivision" includes a county, city, town, village or hospital district in this State but does not include the Department or any other department, board or agency of the State having state-wide authority and responsibility.

(d) "Physician" means a person licensed to practice medicine in the State of Texas or a person employed by a state mental hospital or by an agency of the United States, having a license to practice medicine in any state of the United States.

(e) "Head of hospital" means the individual in charge of a hospital.

(f) "General hospital" means a hospital operated primarily for the diagnosis, care and treatment of the physically ill.

(g) "Mental hospital" means a hospital operated for the primary purpose of providing in-patient care and treatment for the mentally ill. A hospital operated by an agency of the United States and equipped to provide in-patient care and treatment for the mentally ill shall be considered a mental hospital.

(h) "State mental hospital" means a mental hospital operated by the Department.

(i) "Private mental hospital" means a mental hospital operated by any person or political subdivision.

(j) "Patient" means any person admitted or committed to any mental hospital or any person under observation, care or treatment in a mental hospital.

(k) "Mentally ill person" means a person whose mental health is substantially impaired. For purposes of this Code the term "mentally ill person" includes a person who is suffering from the mental conditions referred to in Article 1, Section 15a of the Constitution of the State of Texas.

(l) "Mentally incompetent person" means a mentally ill person whose mental illness renders him incapable of caring for himself and managing his property and financial affairs.

(m) "Next of kin" means spouse or nearest known relative who is legally of age.

(n) "Resident of this State" means a person who has lived continuously in this State for a period of one (1) year or more and who has not acquired a residence in another state by living continuously therein for at least one (1) year subsequent to his residence in this State. Time spent in a public institution or on furlough therefrom is not included in determining residence in this or another State.

Article amended by Acts 1961, 57th Leg., p. 1029, ch. 454; Acts 1967, 60th Leg., p. 566, ch. 254, § 1, eff. Sept. 1, 1967.

Acts 1967, 60th Leg., p. 566, ch. 254, which transferred the authority to license private mental hospitals from the Texas State Department of Health to the Texas

Department of Mental Health and Mental Retardation, provided in sections 2 and 3: "Sec. 2. As soon as possible after the effective date of this Act all records in

the custody of the Texas State Department of Health pertaining to licensing of private mental hospitals shall be transferred to the Texas Department of Mental Health and Mental Retardation.

"Sec. 3. The effective date of this Act shall be September 1, 1967."

Sections 2-4 of the amendatory Act of 1961, amended articles 5547-27, 5547-28 and 5547-30.

Arts. 5547-13 to 5547-15. Repealed. Acts 1967, 60th Leg., p. 1785, ch. 680, § 2. Eff. Aug. 28, 1967

Section 1 of Acts 1967, 60th Leg., p. 1785, ch. 680 added article 3930(b); sections 2, 3 of the act of 1967 are set out as notes under article 3930(b).

CHAPTER THREE—INVOLUNTARY HOSPITALIZATION

Art. 5547-67. Detention in protective custody

(a) Persons detained in protective custody shall be detained in a mental hospital or other facility deemed suitable by the county health officer.

(b) No person may be detained in protective custody in a non-medical facility used for the detention of persons charged with or convicted of a crime except because of and during an extreme emergency and in no case for a period of more than seven days.

(c) The county health officer shall see that a person held in protective custody receives proper care and medical attention pending removal to a mental hospital.

(d) Patients placed in a mental hospital in protective custody pending a hearing upon an Application for Temporary Hospitalization or a Petition for Indefinite Commitment may be discharged by the head of the mental hospital if a final order has not been entered by the court after the expiration of fourteen days in the case of an Application for Temporary Hospitalization or after the expiration of thirty days in the case of a Petition for Indefinite Commitment.

Amended by Acts 1967, 60th Leg., p. 303, ch. 146, § 1, eff. Aug. 28, 1967.

II. MENTAL HEALTH AND RETARDATION ACT [NEW]

ARTICLE 2. TEXAS DEPARTMENT OF MENTAL HEALTH AND MENTAL RETARDATION

Art. 5547-202. Texas Department of Mental Health and Mental Retardation

* * * * *

Compensation of members

Sec. 2.06. Each member is entitled to receive per diem compensation for each day he actually performs the duties of his office and to be reimbursed for actual and necessary expenses incurred in discharging his duties. The daily per diem compensation shall be as provided by appropriation.

Sec. 2.06 amended by Acts 1967, 60th Leg., p. 774, ch. 326, § 1, emerg. eff. May 27, 1967.

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Contracts

Section 2.13. (a) The Department may cooperate, negotiate, and contract with local agencies and with persons, private organizations and foundations concerned with mental health and mental retardation in order to implement the planning and development of community-based mental health and mental retardation services.

For Annotations and Historical Notes, see V.A.T.S.

(b) For the purpose of expanding and improving mental health and mental retardation services to the people of this state, the Department may contract for mental health and mental retardation services to be furnished mentally ill and mentally retarded persons admitted or committed to mental hospitals and state schools under its control and management and for mentally ill and mentally retarded persons in need of mental health and mental retardation services who have not been admitted or committed to such facilities.

(1) Contracts may be made with licensed full time private hospitals, city and county hospitals, licensed nursing homes, foster homes, sheltered care homes, licensed private care facilities, community mental health centers, community mental retardation centers, community mental health and mental retardation centers, hospital districts, private physicians and other persons deemed by the Department capable of providing such services.

(2) These contracts may provide for payment for mental health and mental retardation services by Department out of funds available to it for this purpose. Amounts to be paid shall not exceed a maximum to be established from time to time by Department.

(3) The state shall have the same right to be reimbursed for expenses incurred in providing mental health and mental retardation services to persons by contract as it has to be reimbursed for expenses incurred in supporting, maintaining and treating a mentally ill person in a mental hospital or a mentally retarded person in a state school. A verified account sworn to by an employee of the Department stating the amount due for services rendered by contract shall be sufficient evidence to authorize rendition of a judgment by a court of competent jurisdiction.

(4) Under this subsection no services shall be provided an alleged mentally retarded person after a diagnostic center of the Department or a diagnostic center approved by the Department has diagnosed the person to be no longer in need of mental retardation services and no services shall be provided an alleged mentally ill person after a physician has diagnosed the person to be no longer in need of mental health services.

(c) Heads of facilities under control and management of Department, subject to the approval of the Commissioner, may contract with community centers for the provision of mental health or mental retardation services or both to such centers. Contracts under this Section may be made only when:

(1) The contracting facility under control and management of Department is located within the region served by the community center;

(2) It affirmatively appears that the provision of mental health or mental retardation services or both by the facility will not reduce the effectiveness and adequacy of services to persons for whom it is responsible; and

(3) The community center agrees to pay the reasonable expenses incurred by the facility providing the services. Payments received for these services shall be deposited in the appropriation from which payment for expenses incurred were made.

Sec. 2.13 amended by Acts 1967, 60th Leg., p. 155, ch. 82, § 1, eff. Aug. 28, 1967.

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Facilities of department

Sec. 2.17. (a) To provide mental health and mental retardation services and to do research, training, teaching, and demonstration in causes of and in improved treatment of mental illness and mental retardation, the Department shall have exclusive control and management of the

following State-owned and operated facilities and such others as shall be placed under its control and management:

- (1) the Austin State Hospital and its Austin State Hospital Annex;
- (2) the San Antonio State Hospital;
- (3) the Terrell State Hospital;
- (4) the Wichita Falls State Hospital and its Vernon Branch;
- (5) the Rusk State Hospital;
- (6) the Big Spring State Hospital;
- (7) the Confederate Women's Home;
- (8) the Kerrville State Hospital and its Legion Annex;
- (9) the Vernon Geriatric Center;
- (10) the Austin State School and its Austin State School Annex;
- (11) the Travis State School;
- (12) the Mexia State School;
- (13) the Abilene State School;
- (14) the Lufkin State School;
- (15) the Richmond State School;
- (16) the Denton State School;
- (17) the Corpus Christi State School;
- (18) the Lubbock State School;
- (19) the Houston State Psychiatric Institute for Research and Training;
- (20) the Dallas Neuropsychiatric Institute for Treatment, Research and Teaching;
- (21) the Beaumont State Center for Human Development;
- (22) the Amarillo State Center for Human Development;
- (23) The Fort Worth State Mental Health Out-patient Clinic;
- (24) the Dallas State Mental Health Out-patient Clinic;
- (25) the San Antonio State Mental Health Out-patient Clinic;
- (26) the Harlingen State Mental Health Out-patient and Day Care Clinic.

(b) The Department is authorized to operate half-way houses and community centers for the mentally ill and mentally retarded with funds made available to it for such purposes.

Sec. 2.17 amended by Acts 1967, 60th Leg., p. 543, ch. 239, § 1, emerg. eff. May 20, 1967.

* * * * *

Return of committed mentally retarded persons to state of residence

Sec. 2.20. (a) The Department may return a non-resident mentally retarded person committed to a facility for the mentally retarded in this state to the proper agency of the state of his residence.

(b) The Department may permit the return of any resident of this state who is committed to a facility for the mentally retarded in another state.

(c) The Department is authorized to enter into reciprocal agreements with the proper agencies of other states to facilitate the return to the state of their residence of persons committed to facilities for the mentally retarded in this or other states.

(d) The superintendent of a facility for the mentally retarded under the control and management of the Department may detain a mentally retarded person returned to this state from the state of his commitment for a period not to exceed ninety-six (96) hours pending order of the court in commitment proceedings in this state.

(e) All expenses incurred in returning committed mentally retarded persons to other states shall be paid by this state. The expense of returning mentally retarded residents of this state shall be borne by the states making the return.

Sec. 2.20 amended by Acts 1967, 60th Leg., p. 577, ch. 261, § 1, eff. Aug. 28, 1967.

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**ARTICLE 3. COMMUNITY CENTERS FOR MENTAL HEALTH
 AND MENTAL RETARDATION SERVICES**

Art. 5547—203. Community centers for mental health and mental retardation services

* * * * *

Selection and appointment of boards of trustees

Sec. 3.02. (a) Boards of trustees of community centers shall be selected and appointed by one of the following procedures:

(1) The governing body of each participating local agency may appoint two persons who are resident qualified voters to serve on a board selection committee. Members of the board selection committee shall serve terms of two years from the date of their appointment, or until their successors are appointed. The board selection committee shall appoint a board of trustees and fill vacancies which may occur on the board of trustees.

(2) The governing bodies of the participating local agencies may provide in the contract authorized by Section 3.01(a), Article 3, Chapter 67, Acts of the 59th Legislature, Regular Session, 1965,¹ a procedure by which a board of trustees shall be selected and appointed and by which vacancies on the board of trustees may be filled.

(3) If a community center is established by a single local agency, its governing body may select and appoint a board of trustees and fill any vacancies which may occur on the board.

(b) Boards of trustees shall consist of nine persons who are resident qualified voters of the region to be served by the community center. The term of office of each member is two years from the date of his appointment and until his successor is appointed and qualified. Members may be reappointed.

Sec. 3.02 amended by Acts 1967, 60th Leg., p. 489, ch. 218, § 1, emerg. eff. May 19, 1967.

¹ Section 3.01 of this article.

Saving clause

Sec. 3.03. This Act shall not affect the validity of board selection committees and boards of trustees appointed before it becomes effective nor shall it impair any act done by them. Local agencies which have selected a board of trustees under Sections 3.02 and 3.03, Article 3, Chapter 67, Acts of the 59th Legislature, Regular Session, 1965,² shall continue to select and appoint its board of trustees according to that procedure until such local agencies adopt a procedure under Section 3.02(a) (2) of this Act.

Sec. 3.03 amended by Acts 1967, 60th Leg., p. 490, ch. 218, § 2, emerg. eff. May 19, 1967.

² Sections 3.02 and 3.03 of this article.

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Fees for services

Sec. 3.14. A community center may provide services free of charge to indigent persons. It may charge reasonable fees, to cover costs, for services provided to other persons. With respect to the collection of fees for the treatment of non-indigent persons, it has the same rights, privileges, and powers granted to the Texas Department of Mental Health and Mental Retardation. County attorneys of counties where community centers are located shall, when requested by the director of the community center, file suits on behalf of the community centers in

courts of competent jurisdiction to collect for services provided to non-indigent persons.
Sec. 3.14 amended by Acts 1967, 60th Leg., p. 223, ch. 122, § 1, emerg. eff. May 5, 1967.

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ARTICLE 4. STATE GRANTS-IN-AID

Art. 5547—204. State grants-in-aid

* * * * *

Eligibility for grants-in-aid

Sec. 4.02. A community center is eligible to receive state grants-in-aid if:

(1) the population within the region served is 75,000 or more according to the last preceding federal census; provided, however, if the Commissioner determines that the purposes of this Act would be served by declaring a center serving a region of less than 75,000 persons eligible for grants-in-aid, then the center is eligible for grants-in-aid; and

(2) it qualifies according to the rules of the Department.

Sec. 4.02 amended by Acts 1967, 60th Leg., p. 203, ch. 115, § 1, emerg. eff. May 4, 1967.

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III. MISCELLANEOUS PROVISIONS

Art. 5561c. Commitment and Admission of Mentally Ill and Mentally Retarded Persons to Community Centers [New].

Art. 5561c. Alcoholism

* * * * *

Admission and Certification of Alcoholics

Sec. 9.

* * * * *

(c) Upon filing of a petition or application, the court shall set a day for the hearing, which hearing must be held not less than five (5) days and no more than fourteen (14) days from the filing of the petition. The alleged alcoholic shall be personally served with a copy of the petition or application and the order fixing the time of hearing of the same by the sheriff of the county in which he is found and the court may proceed to hear the cause at the stated time, with or without the presence of the alleged alcoholic and with or without an answer by him, provided such service is perfected at least three (3) days prior to the hearing. The court shall inform relatives of the alleged alcoholic and other persons to appear at the hearing to give evidence in the cause. The judge may, in his discretion or upon request, require an alleged alcoholic to be examined by the county health officer, or by other physicians, as the court may direct, the results of which examination to be considered by the court at the hearing of the application for commitment. If in the county court in which a petition or application is filed, a Certificate of Medical Examination for Alcoholism is filed showing that the proposed patient has been examined within five (5) days of the filing of the Certificate and stating the opinion of the examining physician that the proposed patient is an alcoholic and because of his alcoholism is likely to cause injury to himself or others if not immediately restrained, the Judge may order any health or peace officer to take the proposed patient into protective custody and immediate-

TITLE 93—MARKETS AND WAREHOUSES

CHAPTER SIX—PUBLIC WEIGHER

Art. 5681. [7828] [4308] Appointment

(a) The Secretary of State is authorized and required to appoint five persons as public weighers in every city which receives annually one hundred thousand bales of cotton on sale or for shipment. In all cities and towns which receive as much as fifty thousand bales of cotton, twenty-five thousand tons of cotton seed; one hundred thousand bushels of grain or rice, one hundred thousand pounds of wool; five thousand barrels of sugar, or any other commodity in large quantities, it shall be lawful for the Secretary of State to appoint a sufficient number of public weighers for such city or town to carefully and accurately weigh all produce tendered for the purpose of weighing for shipment.

Amended by Acts 1967, 60th Leg., p. 1144, ch. 508, § 1, eff. Aug. 28, 1967.

Acts 1967, 60th Leg., p. 1144, ch. 508, § 1, amended articles 5681, 5683, 5685, 5687, 5692 and 5702; section 2 of the 1967 act repealed article 5682; section 3 related to the terms of office of public weighers who held office on effective date of the amendatory act and is set out as a note under article 5685.

Art. 5682. Repealed. Acts 1967, 60th Leg., p. 1144, ch. 508, § 2. Eff. Aug. 28, 1967

Prior to repeal, article 5682 was amended by Acts 1963, 58th Leg., p. 912, ch. 344, § 1.

Art. 5683. [7828] [4308] Election

In all counties in which there are no city or cities in which the Secretary of State is authorized to appoint public weighers, there shall be elected at the general election a public weigher for each justice precinct in the manner and form governing the election of other precinct officers. The Commissioners Court at the regular February term preceding the election may unite two or more justice precincts for the purpose of electing such public weighers.

Amended by Acts 1967, 60th Leg., p. 1144, ch. 508, § 1, eff. Aug. 28, 1967.

Acts 1967, 60th Leg., p. 1144, ch. 508, § 1, amended articles 5681, 5683, 5685, 5687, 5692 and 5702; section 2 of the 1967 act repealed article 5682; section 3 related to the terms of office of public weighers who held office on effective date of the amendatory act and is set out as a note under article 5685.

Art. 5685. Term and removal

All public weighers appointed by the Secretary of State shall hold their office for the term of two years. The Secretary of State shall reappoint a public weigher designated by Exchanges and Boards of Trade who presently have Governor appointed public weighers as long as said Exchanges and Boards of Trade have such needs.

Amended by Acts 1967, 60th Leg., p. 1144, ch. 508, § 1, eff. Aug. 28, 1967.

Acts 1967, 60th Leg., p. 1144, ch. 508, § 1, amended articles 5681, 5683, 5685, 5687, 5692 and 5702; section 2 of the 1967 act repealed article 5682; section 3 of the amendatory act provided: "Sec. 3. This Act does not affect the term of office of any public weigher who holds office on the effective date of this Act."

Art. 5687. Bond of appointed weigher

Every public weigher appointed by the Secretary of State shall file a bond payable to the State of Texas in the sum of Five Thousand Dollars

For Annotations and Historical Notes, see V.A.T.S.

(\$5,000.00), conditioned that he will accurately weigh, or measure all produce tendered to him for weighing or measuring, and that all certificates of weights issued by him shall represent a true and accurate weight of the produce so weighed and that he will comply with the laws governing public weighers, and that he will not permit any one to molest, mutilate or destroy any article, produce or commodity while in his possession. Such bond shall not be void on first recovery, but may be sued on by any person injured by such public weigher. All bonds given by such public weighers or their deputies shall be subject to approval by the Commissioner of Agriculture.

Amended by Acts 1967, 60th Leg., p. 1144, ch. 508, § 1, eff. Aug. 28, 1967.

Acts 1967, 60th Leg., p. 1144, ch. 508, § 1, amended articles 5681, 5683, 5685, 5687, 5692 and 5702; section 2 of the 1967 act repealed article 5682; section 3 related to the terms of office of public weighers who held office on effective date of the amendatory act and is set out as a note under article 5685.

Art. 5692. Special weighers

In all counties of this state in which there are two or more cities, towns or shipping points that receive as much as fifty thousand bales of cotton, or twenty-five thousand tons of cotton seed, or one hundred thousand bushels of grain, or two hundred thousand bushels of rice, or one hundred thousand pounds of wool, or five thousand barrels of sugar, or any other commodity in large quantities, it shall be lawful for the Secretary of State to appoint a sufficient number of weighers for such county to carefully and accurately weigh all commodities tendered for the purpose of weighing for shipment, sale or purchase. All such appointments shall be made a bond payable to the State of Texas, in the sum of Five Thousand Dollars (\$5,000.00), conditioned that he will accurately weigh, or measure, all commodities tendered to him in said county for weighing or measuring, and that all certificates of weight issued by him shall represent a true and accurate weight of such produce so weighed, and otherwise complying with the law governing the conditions of bonds required of public weighers. Such bond so given shall not be void upon first recovery but may be sued on successively by any and all persons who are injured by such public weigher. Such public weigher shall have the right to appoint a sufficient number of deputies to aid him in weighing or measuring any commodity that is tendered to him for weighing. All bonds given by such public weighers or their deputies shall be subject to the approval of the Commissioner of Agriculture, and all bonds and oaths of such public weighers or their deputies shall be filed with said Commissioner.

Amended by Acts 1967, 60th Leg., p. 1145, ch. 508, § 1, eff. Aug. 28, 1967.

Acts 1967, 60th Leg., p. 1144, ch. 508, § 1, amended articles 5681, 5683, 5685, 5687, 5692 and 5702; section 2 of the 1967 act repealed article 5682; section 3 related to the terms of office of public weighers who held office on effective date of the amendatory act and is set out as a note under article 5685.

Art. 5702. Suspension or dismissal

Whenever any public weigher, or deputy public weigher appointed or elected under the provisions of this Chapter shall be guilty of malfeasance in office, or who is grossly incompetent in the performance of his duties, he shall be subject to suspension or dismissal from office by the Commissioners Court of the county in which he resides, or by the Secretary of State, should he be appointed by the Secretary of State. In all cases it shall be the duty of the Commissioner of Agriculture to file with the Commissioners Court or the Secretary of State the specific charges alleging malfeasance, misfeasance, dishonesty or incompetency or other cause. Such case may be set down for hearing not less than ten nor more than thirty days from the filing of such charges. The accused shall be furnished a copy of such charges and be notified of the date set for hearing of his case. He shall have the right to be represented by an

attorney, to introduce evidence in his own behalf, and to have compulsory process for witnesses and the production of records. If he is found guilty, the Commissioners Court or Secretary of State shall immediately discharge him as a public weigher, provided, he may have the right of appeal to the district court of his county or to the District Court of Travis County.

Amended by Acts 1967, 60th Leg., p. 1145, ch. 508, § 1, eff. Aug. 28, 1967.

Acts 1967, 60th Leg., p. 1144, ch. 508, § 1, amended articles 5681, 5683, 5685, 5687, 5692 and 5702; section 2 of the 1967 act repealed article 5682; section 3 related to the terms

of office of public weighers who held office on effective date of the amendatory act and is set out as a note under article 5685.

CHAPTER SEVEN—WEIGHTS AND MEASURES

Art. 5728. Fees; failure or refusal to pay; repairs; testing services; penalty

The Commissioner of Agriculture shall collect fees for testing all weights, scales, beams and any kind of instruments or mechanical devices for weighing or measuring whenever he is required to make such tests under the provisions of this Chapter. The fee for testing gasoline, kerosene and diesel fuel pumps not to exceed fifty cents (50¢) for each pump tested; the test certificate or seal shall be protected from weather and attached inside the glass cover, where applicable, of each gasoline, kerosene and diesel fuel pump; fee for testing scales up to nine hundred and ninety-nine (999) pounds not to exceed One Dollar (\$1) for each scale tested; fee for testing scales one thousand (1,000) pounds to one thousand four hundred and ninety-nine (1,499) pounds not to exceed Two Dollars and Fifty Cents (\$2.50) for each scale tested; fee for testing scales one thousand five hundred (1,500) pounds to four thousand nine hundred and ninety-nine (4,999) pounds not to exceed Five Dollars (\$5) for each scale tested; fee for testing scales four thousand nine hundred and ninety-nine (4,999) pounds and over not to exceed Ten Dollars (\$10) for each scale tested. The fee for testing butane and propane measuring devices not to exceed Five Dollars (\$5) for each measuring device tested. The fee for testing measuring devices located on raw milk storage tanks situated on farms up to two hundred (200) gallons not to exceed Five Dollars (\$5) for each tank tested; fee for testing measuring devices located on raw milk storage tanks situated on farms two hundred and one (201) gallons to four hundred (400) gallons not to exceed Ten Dollars (\$10) for each tank tested; fee for testing measuring devices located on raw milk storage tanks situated on farms four hundred and one (401) gallons to six hundred (600) gallons not to exceed Fifteen Dollars (\$15) for each tank tested; fee for testing measuring devices located on raw milk storage tanks situated on farms six hundred and one (601) gallons and over not to exceed Twenty Dollars (\$20) for each tank tested. Such fees shall be collected by the Commissioner of Agriculture, his deputies and agents not to exceed once annually, except where additional tests are requested by the owner of the measuring or weighing device in which event there shall be paid to the Commissioner, his deputies and agents a fee equal to the annual fee for each additional test. The proceeds of such fees shall be paid into the State Treasury by the Commissioner of Agriculture and placed by the State Treasurer in the Special Department of Agriculture Fund, and shall be used only for administration and enforcement purposes of this Act. Provided, however, that no city which maintains a Weights and Measures Department for checking all weights and checking devices shall be precluded by this Act from operating such a Weights and Measures Department.

Amended by Acts 1967, 60th Leg., p. 765, ch. 320, § 1, emerg. eff. May 27, 1967.

For Annotations and Historical Notes, see V.A.T.S.

Section 1 of the act of 1967 also amended article 5736b (Vernon's Ann.P.C. art. 1057b) and article 5736d; section 2 of the act provided: "Sec. 2. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such hold-

ing shall not affect the validity of the remaining portions of this Act, and the Legislature hereby declares it would have passed such remaining portions despite such invalidity."

Art. 5736d. Entry on premises for samples for tests: standard weights and measures from United States

In addition to the rights and powers given to the Commissioner of Agriculture and his inspectors and agents by the provisions of Chapter 7, Title No. 93, of the Revised Civil Statutes of 1925, as amended by Acts of the Regular Session of the 41st Legislature, the said Commissioner, his inspectors and agents, are hereby authorized to enter any creamery, cheese factory, building, premises or place where milk, cream and dairy products are handled for the purpose of securing samples and/or checking tests on same, and except as herein provided, all of the provisions of said Chapter and Title shall apply to the purchase of cream, milk and butter fat in this state, and particularly as pertains to the standard of weights and measures received from the United States under a resolution of Congress, approved June 14, 1836, and particularly such new weights and measures as shall be received from the United States or which have been received from the United States as standard weights and measures in addition thereto or in renewal thereof, and such as shall be procured by the state in conformity therewith and certified by the Bureau of Standards. The Commissioner of Agriculture or his authorized agents shall have the right to sample, inspect, make analysis of, and test all milk and milk products transported, sold, offered or exposed for sale within this state, at such time and place, and to such extent as he may deem necessary to determine whether said milk or milk products are in compliance with the provisions of this Act, and to notify promptly the person who transported, sold, offered, or exposed the milk or milk products for sale, of any violation; and to provide rules and regulations governing the methods of sampling and inspecting and analyzing said milk or milk products and the tolerances to be allowed in the administration of this Act. The Commissioner or his agents are authorized to enter upon any public or private premises, during regular business hours in order to have access to the milk or milk products subject to the Act and the rules and regulations thereunder. The Commissioner of Agriculture individually or through his authorized agents is authorized to issue and enforce a written or printed "stop-sale" order to the owner or custodian of any lot of milk or milk products which the Commissioner of Agriculture has reason to believe is in violation of any of the provisions of this Act which shall prohibit the further sale of such milk or milk products until such officer has evidence that the law has been complied with. Provided that in respect to milk or milk products which have been denied sale as provided in this paragraph, the owner or custodian of such milk or milk products shall have the right to appeal from such order to a court of competent jurisdiction where the milk or milk products are found, praying for a judgment as to the justification of said order and for the discharge of such milk or milk products from the order prohibiting the sale in accordance with the findings of the court; and provided further that the provisions of this paragraph shall not be construed as limiting the right of the enforcement officer to proceed as authorized by the Sections of this Act.

Amended by Acts 1967, 60th Leg., p. 766, ch. 320, § 1, emerg. eff. May 27, 1967.

Section 1 of the act of 1967 also amended article 5728 and article 5736b (Vernon's Ann.P.C. art. 1057b); section 2 of the act

is a severability provision and is set out as a note under article 5728.

TITLE 94—MILITIA—SOLDIERS, SAILORS AND MARINES

CHAPTER ONE—MILITIA AND STATE MILITARY FORCES

Art. 5767. Repealed. Acts 1967, 60th Leg., p. 421, ch. 186, § 2. Eff. May 12, 1967

The repealed article related to the Texas National Guard Armory Board. Prior to repeal, it was amended and revised by Acts 1965, 59th Leg., p. 1601, ch. 690, § 1. See, now, articles 5931—1 to 5931—13 in Title 97A.

Former article 5767, exempting certain persons from military duty, was repealed by Acts 1965, 59th Leg., p. 1601, ch. 690, § 3. See, now article 5765, § 3.

Section 1 of Acts 1965, 59th Leg., p. 1601, ch. 690 also amended and revised chapter 2 of Title 94. See article 5768.

Section 2 of Acts 1965, 59th Leg., p. 1601, ch. 690 was a severability clause and is set out as a note under article 5768. Section 3 thereof was a repealer provision and is set out as a note under article 5768.

CHAPTER THREE—NATIONAL GUARD

Art. 5783. Service and Duties

* * * * *

Disabled men

Sec. 10. (a) Every member of the Military Forces of this state who shall be wounded, disabled, or injured, or who shall contract any disease or illness, in line of duty while in the service of this state in case of riot, tumult, breach of the peace, resistance to process, invasion, insurrection, or imminent danger thereof, or whenever called upon in aid of the civil authorities, or when participating in any training formation or activity under order of the commanding officer of his unit, or while traveling to or from his place of duty in such instances, shall be entitled to and shall receive, or be reimbursed for, hospitalization, rehospitalization, and medical and surgical care in a hospital and at his home appropriate for the treatment of such wounding, disability, injury, disease or illness, and necessary transportation incident thereto so long as such wounding, disability, injury, disease or illness exists, and shall receive the same pay and allowance whether in money or in kind, to which he was entitled at the time when the injury was incurred or the disease or illness contracted, during the period of his disability but not for more than a total of twelve (12) months after the end of his tour of duty.

(b) A member of the Military Forces of the state who incurs a permanent disability while performing a military duty as provided in Subsection (a) of this section is entitled to receive a compensation based on a percentage of total disability. In addition to this compensation the disabled person shall be entitled to and shall receive or be reimbursed for hospitalization, rehospitalization, and medical and surgical care in a hospital or at his home as appropriate for the treatment of such wounding, disability, injury, disease or illness, and necessary transportation incident thereto for the duration of his disablement. The Adjutant General of Texas shall appoint at least five persons, including at least one officer of the Medical Corps, to a board of officers which shall determine the percentage of total disability and award compensation for the disability. A person who incurs a permanent disability as provided in this subsection is entitled to receive a compensation set by the board of officers of up to \$120 per month plus 12½ percent of the basic pay of the grade or rank held by that person at the time the disability was incurred.

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The board of officers shall review each award of compensation annually on a date set by the Adjutant General of Texas to determine whether each award of compensation should be continued, increased, reduced, or eliminated. Compensation under this subsection may not be awarded or paid until the provisions of Subsection (a) have been complied with.

(c) If a member of the Military Forces of the state dies as a result of injuries or disease incurred as provided in Subsection (a) of this section, his estate shall be entitled to any reimbursement for which the deceased would have been entitled and to his accrued pay and allowances and compensation or reimbursement for actual funeral expenses not to exceed the sum of Five Hundred Dollars (\$500). His surviving spouse is entitled to receive a compensation of \$120 per month plus 12½ percent of the basic pay established for the member of State Military Forces until the surviving spouse dies or remarries. If the surviving spouse remarries and there are surviving children, the children will receive compensation as follows:

1 child	\$77 per month to age 18 or when married or to age 21 if still in school
2 children	\$110 per month, equally divided, to age 18 or when married or to age 21 if still in school
3 children	\$143 per month, equally divided, to age 18 or when married or to age 21 if still in school
More than 3 children	\$143 per month plus \$28 per month for each child in excess of 3, equally divided, to age 18 or when married or to age 21 if still in school.

If a member of the Military Forces of this state dies as a result of injuries or disease incurred as provided in Subsection (a) of this section and is not married but is survived by children under 18 years of age, the children are entitled to compensation as enumerated above. If the surviving spouse of the member of the State Military Forces dies and there are children under age 18, the compensation for children as set forth in this section will be payable to the children or guardian. The compensation or reimbursement, as well as the cost of carrying out the other provisions of this section, shall be paid out of any funds in the State Treasury available to or appropriated for the use of the Military Forces of this state in the same manner provided for other expenditure of state funds; provided, however, that no compensation or reimbursement shall be paid in any case where the same is payable under the provisions of any federal law or regulation, and the claim results from activity related to the performance of duty or training in compliance with the provisions of federal law or regulations.

(d) The Adjutant General shall administer the provisions of this Act and shall prescribe such rules and regulations not inconsistent with law as may be necessary to carry out the provisions of this Act and the decision as to whether any wounding, disability, injury, disease, illness or death is in line of duty or as a result thereof, shall be made by the Adjutant General after proper investigation and hearing pursuant to such regulations as he may prescribe. Further, the Adjutant General shall have power to make interagency agreements or contracts with any agency of the state government to carry out the provisions of this Act.

Sec. 10 amended by Acts 1967, 60th Leg., p. 166, ch. 87, § 1, eff. Aug. 28, 1967.

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Art. 5787. Veterans County Service Office

Section 1.

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(b) Appointment of officers, term, qualifications. Such Veterans County Service Officer and/or Assistant Veterans County Service Officers, shall, if so appointed, serve for the remainder of the current county fiscal year during which they are appointed and thereafter shall be appointed for and serve for, a term of two (2) years, unless sooner removed for cause by the appointing authority. Such Veterans County Service Officer and such Assistant Veterans County Service Officer shall be qualified by education and training for the duties of such office. They shall be experienced in the law, regulations, and rulings of the United States Veterans Administration controlling cases before them, and shall themselves have served in the active Military, Naval or other Armed Forces or Nurses Corps of the United States or Canada during the Spanish American War, World War I, World War II, the Korean War (commonly referred to as the Korean Conflict or the Korean Police Action) or during the period from July 1953 through the Viet Nam conflict, for a period of at least four (4) months or, if less than four (4) months have a service-connected disability, and have been honorably discharged from such service, or a widowed Gold Star Mother or un-remarried widow of a serviceman or veteran whose death resulted from service, and shall have been given a certificate of approval by the Veterans Affairs Commission, and/or a letter of approval from the State Commander of a veterans organization chartered by Congress; provided however, that lack of such certificate or letter shall not disqualify a person otherwise qualified. A statement showing that applicant possess the above necessary qualifications shall be filed with the county Commissioners Court at or before the time said appointments are made, and the filing thereof shall be a condition precedent to such appointment.

Sec. 1(b) amended by Acts 1967, 60th Leg., p. 282, ch. 133, § 1, emerg. eff. May 5, 1967.

Veterans Affairs Commission

Section 3.

* * * * *

(f) Executive Director. The Commission shall employ a well-qualified Executive Director. He shall be appointed with due regard to his fitness by past experience and training and should be well-qualified to administer the policies of the Commission. He shall devote his entire time to the duties of the office, as prescribed by this Act, and shall not actively engage or be employed in any other business, vocation, or profession while serving as Executive Director. The Director shall be responsible for placing into operation the policies and instructions promulgated by the Veterans Affairs Commission, and shall serve as Executive Officer of the Commission, but he shall not have the power to vote. The Director shall be in charge of the offices of the Commission, shall direct the paid personnel of the Commission, and be responsible to the Commission for all reports, data, and so forth, required by the Commission.

Sec. 3(f) amended by Acts 1967, 60th Leg., p. 282, ch. 133, § 2, emerg. eff. May 5, 1967.

(g) Assistant Directors. There shall be employed by the Commission, upon recommendation of the Executive Director, two (2) assistant directors who shall, by training and experience, be well-qualified to perform the duties assigned to them, and one (1) of whom must have been finally separated from the service under honorable conditions as an enlisted man. One (1) assistant director, in addition to other duties, which may be assigned to him by the Commission, shall subject to the supervision and

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control of the Commission and the Executive Director, be in charge of claims and shall assist in such manner as the Commission may deem proper in the coordination of veterans claims work throughout the state. One (1) assistant director, in addition to such other duties as may be assigned to him by the Commission, shall be in charge of records, contracts, and coordination of the various agencies pertaining to veterans affairs. Sec. 3(g) amended by Acts 1967, 60th Leg., p. 283, ch. 133, § 2, emerg. eff. May 5, 1967.

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Art. 5789. Awards, Decorations and Medals

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Lone Star Medal of Valor

Sec. 3. The Lone Star Medal of Valor shall be awarded to any member of the state military forces who distinguishes himself by specific acts of bravery or outstanding courage, or a closely related series of heroic acts performed within an exceptionally short period of time, which act or acts involve personal hazard or danger and the voluntary risk of life, and which acts result in an accomplishment so exceptional and outstanding as to clearly set the individual apart from his comrades, or from other persons in similar circumstances. The required gallantry for award of the Lone Star Medal of Valor, while of lesser degree than that required for the award of the Texas Legislative Medal of Honor, must nevertheless have been performed with marked distinction.

(a) The Lone Star Distinguished Service Medal shall be awarded to any member of the state military forces who, while serving in any capacity with the state military forces, shall have distinguished himself by exceptionally outstanding achievement or service to the state in the performance of a duty of great responsibility.

Sec. 3 amended by Acts 1967, 60th Leg., p. 300, ch. 144, § 1, eff. Aug. 28, 1967.

Award of medals by Governor; approval and recommendation

Sec. 4. The award of the Texas Legislative Medal of Honor shall be made by the Governor upon approval by the Texas Legislature by Concurrent Resolution. The award of the Lone Star Medal of Valor shall be made by the Governor upon recommendation of the Adjutant General of Texas.

(a) The award of the Lone Star Distinguished Service Medal shall be made by the Governor upon recommendation of the Adjutant General of Texas.

Sec. 4 amended by Acts 1967, 60th Leg., p. 301, ch. 144, § 1, eff. Aug. 28, 1967.

Forwarding recommendations; endorsement by Adjutant General

Sec. 5. Recommendations for award of either the Texas Legislative Medal of Honor or the Lone Star Medal of Valor shall be forwarded through military channels to the Texas Adjutant General. It shall be the privilege of any individual having personal knowledge of an act or achievement believed to warrant the award of either decoration to submit a recommendation in letter form to the Adjutant General, giving an account of the occurrence, and accompanying such recommendation with statements of eyewitnesses, extracts from official records, sketches, maps, diagrams or photographs so as to support and amplify the stated facts. Upon determination by the Adjutant General that any individual case meets the criteria prescribed for the awarding of the Texas Legislative Medal of Honor as prescribed in Section 2 of this Article, he shall by endorsement recommend to the Governor the awarding of said Texas Legislative Medal of Honor in accordance with Section 4 of this Article.

(a) Recommendations for award of the Lone Star Distinguished Service Medal shall be forwarded through state military channels to the Texas Adjutant General. It shall be the privilege of any individual having personal knowledge of exceptional service or achievement believed to warrant the award of this decoration to submit in letter form to the Adjutant General, giving an account of the exceptional service or achievement, accompanying such recommendation with facts, extracts of official documents and photographs so as to support and amplify the stated facts. Upon determination by the Adjutant General that any individual case meets the criteria prescribed for the awarding of the Lone Star Distinguished Service Medal as prescribed in Section 3(a) of this Article, he shall by endorsement recommend to the Governor the awarding of the Lone Star Distinguished Service Medal in accordance with Section 4(a) of this Article.
 Sec. 5 amended by Acts 1967, 60th Leg., p. 301, ch. 144, § 1, eff. Aug. 28, 1967.

Design and manufacture of medals; ribbons

Sec. 6. (a) The Adjutant General of the State of Texas is hereby directed to design, and cause to be manufactured, the Texas Legislative Medal of Honor and the Lone Star Medal of Valor, and such other awards, decorations, medals and ribbons as this Statute gives him the right to award.

(b) The Adjutant General of Texas shall promulgate rules and regulations to prescribe when ribbons may be appropriately worn in lieu of medals, provided the ribbon symbolizes the appropriate medal.

(c) The Adjutant General of the State of Texas is hereby directed to design, and cause to be manufactured, the Lone Star Distinguished Service Medal.

Sec. 6 amended by Acts 1967, 60th Leg., p. 301, ch. 144, § 1, eff. Aug. 28, 1967.

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TITLE 97A—NATIONAL GUARD ARMORY BOARD

<p>Art. 5931—1. Composition. 5931—2. Headquarters. 5931—3. Meetings. 5931—4. General powers. 5931—5. Specific powers. 5931—6. Transfer. 5931—7. Tax exemption. 5931—8. Records.</p>	<p>Art. 5931—9. Transfers and sales. 5931—10. Conditions requiring reservation of mineral interests. 5931—11. Bonds, etc., to be authorized investments. 5931—12. Refunding bonds. 5931—13. Relationship to previous boards.</p>
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Title 97A, National Guard Armory Board, consisting of articles 5931—1 to 5931—13, was adopted and enacted by Acts 1967, 60th Leg., p. 415, ch. 186.

Art. 5931—1. Composition

There is hereby created the Texas National Guard Armory Board to be composed of the Commanding General of the 36th Infantry Division, Texas National Guard, the Commanding General of the 49th Armored Division, Texas National Guard, and the Chief of Staff for Air, Texas Air National Guard. The board shall be composed of three members and the term of office for members of the Texas National Guard Armory Board shall be of six years' duration except that in the event of a vacancy, the person qualifying for the position shall complete the unexpired term of his predecessor. Each officer of the Texas National Guard or the Texas Air National Guard who may thereafter fill the position qualifying him for membership on the Texas National Guard Armory Board, as provided in this Act, shall be certified by the Adjutant General of Texas to the secretary of state, and to the officer concerned within 10 days after the occurrence of a vacancy. Each member of the Texas National Guard Armory Board shall, within 15 days from the date of his receipt of notice of his eligibility to serve to fill a vacancy, qualify by taking and filing with the secretary of state the constitutional oath of office.

The senior and junior in military rank, of the members of said board shall be, respectively, chairman and treasurer thereof, and the persons holding such offices shall change as military rank may determine when changes in membership of said board occur.

In the event any member of the board is unable to serve because of his induction into federal service or the induction of his military unit into federal service, the Governor of Texas shall designate a member from among the state military forces as successor in function, who shall thereupon be and become a member of the board only for the duration of such term of induction into federal service, thereafter the military successor in function of the Texas National Guard shall qualify as a member of the board.

It is further provided that none of the members of this board shall at the same time hold any other office or position of honor, trust, or profit under the state or federal government, except as a member of the Texas National Guard or as a member of the Texas State Guard operating as successor in military function.

Should any officer fail to qualify as a member of the board under the provisions of the State Constitution or the provisions of this Act, the next senior officer in military rank of the respective military units to qualify shall be certified by the Adjutant General of Texas to the secretary of state as provided in this Act.

Acts 1967, 60th Leg., p. 415, ch. 186, § 1, emerg. eff. May 12, 1967.

Acts 1967, 60th Leg., p. 415, ch. 186, § 2 provided: "That Article 5767, Revised Civil Statutes of the State of Texas, 1925, and all other laws and parts of laws in conflict herewith be and the same are hereby repealed."

Title of Act:

An Act revising and rearranging certain provisions of Title 94, "Militia," of the Revised Civil Statutes of Texas relating to the Texas National Guard Armory Board into a new title to be known as Title 97A, "National Guard Armory Board," of the Revised Civil Statutes of Texas, 1925; providing for the composition of the Texas National Guard Armory Board, the terms of members, and the filling of vacancies; requiring that a headquarters be maintained in Travis County; requiring the board to act by resolution; providing that a majority shall constitute a quorum; designating the board a public authority and corporate body with general powers relating to Texas National Guard Armories; listing certain specific powers to be exercised

by the board either alone or in connection with designated state agencies or officials; authorizing the transfer of property, under specified conditions, to the State of Texas; providing for tax exemptions; requiring the keeping of records; authorizing transfers of property to the board and sale of surplus property; providing conditions requiring reservation of mineral interests; declaring bonds, debentures and other evidences of indebtedness to be authorized investments; providing for refunding bonds; specifying relationship to previous boards; repealing Article 5767 of the Revised Civil Statutes of Texas and other laws and parts of laws in conflict herewith; and declaring an emergency. Acts 1967, 60th Leg., p. 415, ch. 186.

Art. 5931—2. Headquarters

The board must maintain a headquarters, and the headquarters must be located in Travis County, but the board may, within the county, change the location of its headquarters from time to time.

Acts 1967, 60th Leg., p. 416, ch. 186, § 1, emerg. eff. May 12, 1967.

Art. 5931—3. Meetings

The board shall act by resolution adopted at a meeting held in accordance with its bylaws. A simple majority of the members of the board constitutes a quorum for the transaction of business.

Acts 1967, 60th Leg., p. 416, ch. 186, § 1, emerg. eff. May 12, 1967.

Art. 5931—4. General powers

The board shall constitute a public authority and a body politic and corporate and shall possess all powers necessary for the acquisition, construction, rental, control, maintenance, and operation of all Texas National or Texas State Guard Armories, including all property and equipment necessary or useful in connection with the armories.

Acts 1967, 60th Leg., p. 416, ch. 186, § 1, emerg. eff. May 12, 1967.

Art. 5931—5. Specific powers

The board shall possess but is not limited to the following powers:

- (1) to sue and be sued;
- (2) to enter into contracts in connection with any matter within the objects, purposes or duties of the board. It shall be the duty of the State Board of Control of the State of Texas to, for and on behalf of the said Armory Board, supervise the taking and tabulation of bids for work approved for bids by the said Armory Board and the construction under contracts executed by said Armory Board and the purchase of furniture and equipment such as is desired by the said Armory Board;
- (3) to have and use a corporate seal;
- (4) to appoint, employ and pay, and dismiss an executive secretary, and also such other officials, counsel, lawyers, agents, and employees as may be necessary to carry out the objects, purposes and duties of the board, and to prescribe their duties and fix their compensation;
- (5) to adopt, and from time to time to change or amend, all necessary bylaws for the conduct of the business and affairs of the board;
- (6) to acquire, by gift or purchase, for use as building sites or for any other purposes deemed by said board to be necessary in connection with or for the use of units of the Texas National Guard, property of any and every description, whether real, personal or mixed, including, but without limitation on the foregoing, leasehold estates in real property, and

hold, maintain, sublease, convey, and exchange or sell as hereinafter provided, such property, in whole or in part, and/or pledge the rents, issues and profits thereof in whole or in part; also, to acquire, by gift or purchase, or by construction of the same, furniture and equipment suitable for Armory purposes and to hold, maintain, sublease, convey, and exchange or sell as hereinafter provided, such furniture, and equipment, in whole or in part;

(7) to construct buildings on any of its real property, whether held in fee simple or otherwise, and to furnish and equip the same and to hold, manage and maintain all of said property and to lease to the State of Texas, in the same manner as hereinafter provided with respect to other property, the buildings, and the sites thereon situated, which it may construct, and to lease and sublease, convey and exchange, or sell as hereinafter provided, in whole or in part, all of its property and/or to pledge the rents, issues, and profits of all of said property, wherever located, in whole or in part; provided, however, that before any building is constructed by said board on the lands comprising any state camps, the site therefor, in maximum area 200,000 square feet, shall, promptly on said board's request therefor to the said Adjutant General, be selected and described by a board of officers appointed from time to time for the purpose by the said Adjutant General, and such description shall be certified to said Armory Board and a copy thereof shall be furnished to and preserved in the office of said Adjutant General; and provided further, that when so selected and described and constructed upon, such sites shall be and become the property of the said Armory Board, for all the purposes contemplated by the Act of which this section is a part, as fully and absolutely as if the same had been acquired by a gift to or purchase by said Armory Board;

(8) from time to time, to borrow money, and to issue and sell bonds, debentures, and other evidences of indebtedness for the purposes of acquiring one or more building sites and buildings, and for the purpose of constructing, remodeling, repairing, and equipping one or more buildings, such bonds, debentures, or other evidences of indebtedness to be fully negotiable and to be secured as follows: by a pledge of, and payable solely from, the rents, issues, and profits of all of the property of the board; of the property acquired or constructed by the board, in whole or in part, with the proceeds of the borrowing transactions. Provided, however, that interest falling due within 24 months after the issuance and sale of any particular bonds, debentures, or other evidences of indebtedness, or any series thereof, may be paid out of the proceeds of the sale thereof. Any such bonds, debentures, or other evidences of indebtedness may be issued in series, and if so issued, all series thereof issued under or secured by the same trust indenture or trust agreement, shall rank equally, without preference or priority of one series over another, whether by reason of the date of issue or negotiation thereof or date of maturity thereof or for any other reason. All such bonds, debentures, or other evidences of indebtedness and the interest thereon, shall be exempt from taxation (except inheritance taxes) by the State of Texas or by any municipal corporation, county or political subdivision, or taxing district of the state. All bonds, debentures, or other evidences of indebtedness authorized and issued under authority of this Act shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, insurance companies, fiduciaries, trustees, and for all public funds of the State of Texas including, but not limited to, the permanent free school fund, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds, debentures, or other evidences of indebtedness, shall be eligible to secure the deposit of any and all public funds of the State of Texas, and any and all public funds of cities, towns, villages, counties,

school districts, or other political corporations or subdivisions of the State of Texas; and such bonds, debentures, or other evidences of indebtedness shall be lawful and sufficient security for said deposits to the extent of their value, when accompanied by all unmatured coupons appurtenant thereto. Said bonds, debentures, or other evidences of indebtedness may be sold by the board in any manner it may determine; provided that no bonds, debentures, or other evidences of indebtedness shall be issued and sold at a price which will be such that the interest costs of the money received by the board from the sale thereof will exceed six percent per annum, computed to maturity according to standard tables of bond values, and provided further, that no bonds, debentures, or other evidences of indebtedness shall be sold unless and until same shall have been approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts. The board shall have power from time to time to execute and deliver trust deeds and trust agreements whereunder any bank or trust company authorized by the laws of the state or of the United States of America to accept and execute trusts in the state, or any individual selected by the board, may be named and act as trustee. Any such trust deed or trust agreement shall be signed in the name and on behalf of the board by the chairman of the board and countersigned by the treasurer thereof and the corporate seal of the board shall be thereto affixed and such seal attested by the executive secretary of the board; and any such trust deed or trust agreement may, if it name such bank or trust company to act as trustee, contain provisions for the deposit with the trustee thereunder and the disbursement by such trustee of the proceeds of the bonds, debentures, or other evidences of indebtedness issued thereunder or secured thereby, and/or the rents, issues, and profits of all property acquired or constructed out of such proceeds, and, whether or not such bank or trust company be named as trustee, may also contain such provisions for the protection and enforcement of the rights and remedies of the trustee and the holders of such bonds, debentures, or other evidence of indebtedness as the board may approve, including provisions for the acceleration of the maturity of any such bonds, debentures, or other evidences of indebtedness upon default by the board in the performance or observance of any of the covenants or provisions of such bonds, debentures, or other evidences of indebtedness or of the trust deed or trust agreement whereunder the same are issued or secured. Any such trust deed or trust agreement shall provide that all bonds, debentures, or other evidences of indebtedness issued at any time thereunder shall be equally secured thereby but any such trust deed or trust agreement may contain and impose upon the board limitations and conditions governing the right of the board to issue additional bonds, debentures, or other evidences of indebtedness. All such bonds, debentures, or other evidences of indebtedness shall be signed by the chairman of the board, countersigned by the treasurer thereof, and the corporate seal of the board shall be thereto affixed, and such seal attested by the executive secretary of the board, and in case any officer of the board who shall have signed or attested any such bond, debenture, or other evidence of indebtedness shall cease to be such officer before such bond, debenture, or other evidence of indebtedness shall have been actually issued by the board, such bond, debenture, or other evidence of indebtedness may nevertheless be validly issued by the board. Such bonds, debentures, or other evidence of indebtedness may be issued in fully registered form without interest coupons, or in coupon form registrable as to principal only, or in bearer form with coupons attached. All of coupons shall be authenticated by the facsimile signature of the treasurer of the board; and

(9) to execute and deliver leases, or subleases in the case of buildings located upon leasehold estates acquired by the board, demising and leasing to the State of Texas through the Adjutant General, who shall execute the

For Annotations and Historical Notes, see V.A.T.S.

same for said state, for such lawful term as may be determined by the board, any building or buildings, and the equipment therein and the site or sites therefor, to be used for Armory and other purposes and to renew such leases or subleases from time to time; provided, however, that if at any time the State of Texas shall fail or refuse to pay the rental reserved in any such lease or sublease, or shall fail or refuse to lease or sublease any such building and site, or to renew any existing lease or sublease thereon at the rental provided to be paid, then the board shall have the power to lease or sublease such building and equipment and the site therefor to any person or entity and upon such terms as the board may determine. The law requiring notice and competitive bids shall not apply to leasing or subleasing of such property. The annual rental (which may be made payable in such installments as the board shall determine) to be charged the State of Texas for the use of such property leased or subleased to it by the board shall be sufficient to provide for the operation and maintenance of the property so leased or subleased, to pay the interest on the bonds, debentures, or other evidences of indebtedness, if any, issued for the purpose of acquiring, constructing, or equipping such property, to provide for the retirement of such bonds, debentures, or other evidences of indebtedness, if any, and the payment of the expenses incident to the issuance thereof, as well as the necessary and proper expense of the board not otherwise provided for.

Acts 1967, 60th Leg., p. 416, ch. 186, § 1, emerg. eff. May 12, 1967.

Art. 5931—6. Transfer

As and when any of the property owned by the board shall be fully paid for, free of all liens, and all debts and other obligations incurred in connection with the acquisition or construction of such property have been fully paid, the board may donate, transfer, and convey such property by appropriate instruments of transfer, to the State of Texas, and such instruments of transfer and conveyance shall be kept in the custody of the Adjutant General's Department.

Acts 1967, 60th Leg., p. 419, ch. 186, § 1, emerg. eff. May 12, 1967.

Art. 5931—7. Tax exemption

All property held by the board, together with the rents, issues, and profits thereof shall be exempt from taxation by the State of Texas or by any municipal corporation, county or other political subdivision, or taxing district of this state.

Acts 1967, 60th Leg., p. 419, ch. 186, § 1, emerg. eff. May 12, 1967.

Art. 5931—8. Records

The board shall cause to be kept accurate minutes of its meetings, and accurate records and books of account in conformity with approved methods of accounting, clearly reflecting the income and expenses of the board and all transactions in relation to its property. In the execution and administration of objects and purposes herein set forth, the board shall have power to adopt means and methods reasonably calculated to accomplish such objects and purposes and this Act shall be construed liberally in order to effectuate such objects and purposes.

Acts 1967, 60th Leg., p. 419, ch. 186, § 1, emerg. eff. May 12, 1967.

Art. 5931—9. Transfers and sales

The board may receive from the Adjutant General state-owned National Guard Camps and all land and improvements, buildings, facilities, installations, and personal property in connection therewith and administer the same or transfer it and/or any of the board's other property to the Board of Control for sale, or make proper disposal of such property other-

wise when designated by the board and the Adjutant General as "Surplus" and when in the best interest of the Texas National Guard, its successors or components. The Armory Board and the Board of Control are further authorized to remove, dismantle, and sever, or authorize the removal, dismantling, and severance of any of said property to accomplish the above purposes. All of such property so designated for sale, shall, when transferred by the Armory Board, be sold by the Board of Control to the highest bidder for cash and in the manner provided by law for the sale of property belonging to the state which is no longer needed, and all funds received from such sale shall be deposited in the State Treasury to the credit of the Texas National Guard Armory Board for the use and benefit of the Texas National Guard or their successors or components; provided, however, that none of these funds may be expended except by legislative appropriation.

Acts 1967, 60th Leg., p. 419, ch. 186, § 1, emerg. eff. May 12, 1967.

Art. 5931—10. Conditions requiring reservation of mineral interests

Any sale or deed made pursuant to the terms of this Act shall reserve unto the State of Texas a one-sixteenth mineral interest free of cost of production; provided, however, that the board shall be authorized to reconvey to the original grantor or donor all rights, title, and interests, including mineral interests, to all or any part of the lands conveyed by such grantor or donor, and the board shall further be authorized, upon a negotiated basis at fair market value, to convey to such original grantor or donor improvements constructed on the land to be reconveyed. All funds derived from any such sales shall be deposited by the board in the State Treasury, as hereinbefore provided with regard to other funds derived from other authorized sales.

Acts 1967, 60th Leg., p. 420, ch. 186, § 1, emerg. eff. May 12, 1967.

Art. 5931—11. Bonds, etc., to be authorized investments

All bonds, debentures, or other evidences of indebtedness authorized and issued by the Texas National Guard Armory Board, under authority of Senate Bill No. 326, passed at the Regular Session of the 46th Legislature of Texas and approved May 1, 1939, and laws amendatory thereof, shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, insurance companies, fiduciaries, trustees, and for all public funds of the State of Texas including, but not limited to, the permanent free school fund, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations, or subdivisions of the State of Texas. Such bonds, debentures, or other evidences of indebtedness shall be eligible to secure the deposit of any and all public funds of the State of Texas, and any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds, debentures, or other evidences of indebtedness shall be lawful and sufficient security for said deposits to the extent of their value, when accompanied by all unmatured coupons appurtenant thereto.

Acts 1967, 60th Leg., p. 420, ch. 186, § 1, emerg. eff. May 12, 1967.

Art. 5931—12. Refunding bonds

The Texas National Guard Armory Board is hereby authorized to provide by resolution for the issue of refunding bonds for the purpose of refunding any bonds issued under the provisions of Chapter 366, Acts of the 45th Legislature, Regular Session, 1937, page 740, and/or Chapter 2, Senate Bill No. 326, Acts of the 46th Legislature, 1939, page 487; provided, however, that this authority to issue refunding bonds is limited to those situations where a savings in interest can be effected thereby.

NATIONAL GUARD ARMORY BOARD Art. 5931—13

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The issuance of such refunding bonds, the maturities and all other details thereof, the rights of the holders thereof, and the duties of the board in respect to the same shall be governed by the provisions of this Article, insofar as the same may be applicable.

Acts 1967, 60th Leg., p. 420, ch. 186, § 1, emerg. eff. May 12, 1967.

Art. 5931—13. Relationship to previous boards

The board shall succeed to the ownership of all property of, and all lease and rental contracts entered into by, the Texas National Guard Armory Board that was created by prior statutes and all of the obligations contracted or assumed by the last-mentioned board with respect to any such property and contracts shall be the obligations of the board created by this Act. With this exception, no obligation of said former board shall be binding upon the board hereby created.

Acts 1967, 60th Leg., p. 420, ch. 186, § 1, emerg. eff. May 12, 1967.

TITLE 98—NEGOTIABLE INSTRUMENTS ACT

Arts. 5932 to 5948. Repealed. Acts 1965, p. 179 (UCC), ch. 721, § 10—102. Eff. June 30, 1966.

Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721 enacting the Uniform Commercial Code, repealed articles 5932–5948 effective June 30, 1966. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721 was itself repealed by Acts 1967, 60th Leg., vol. 2, p. 2343, ch. 785, adopting the Business & Commerce Code effective September 1, 1967. However, the latter Act specifically provided that the repeal did not affect the prior operation of the 1965 Act or any prior action taken under it.

For text of the Business and Commerce Code, with Tables and Index, see page 1485.

TITLE 100—OFFICERS—REMOVAL OF

Art.
5966a. State Judicial Qualifications Commission [New].

Art. 5966a. State Judicial Qualifications Commission

"Commission", "Master", and "Judge"

Section 1. As used in this chapter, "commission" means the State Judicial Qualifications Commission provided for in Section 1-a of Article V of the Constitution, "master" means a special master appointed by the Supreme Court pursuant to said Section 1-a, and, unless the context otherwise requires, "judge" means a justice or judge who is the subject of an investigation or proceeding under said Section 1-a.

**Employment of Employees: Compensation and Expenses of Experts,
Reporters and Witnesses: Attorney General to Act as Counsel:
Employment of Special Counsel: Seal**

Sec. 2. The commission may employ such employees as it deems necessary for the performance of the duties and exercise of the powers conferred upon the commission and upon the master, may arrange for and compensate medical and other experts and reporters, may arrange for attendance of witnesses, including witnesses not subject to subpoena, and may pay from funds available to it all expenses reasonably necessary for effectuating the purposes of Section 1-a of Article V of the Constitution, whether or not specifically enumerated herein. The Attorney General shall, if requested by the commission, act as its counsel generally or in any particular investigation or proceeding. The commission may employ special counsel from time to time when it deems such employment necessary. The commission may also employ a seal of such form as it shall determine.

Expense Allowances of Members and Master

Sec. 3. Each member and employee of the commission and each master shall be allowed his necessary expenses for travel, board and lodging incurred in the performance of his duties, but the members of the commission shall not receive any compensation for their services.

Cooperation with and Assistance and Information to Commission

Sec. 4. State and local public bodies and departments, officers and employees thereof, and officials and attaches of the courts of this state shall cooperate with and give reasonable assistance and information to the commission and any authorized representative thereof, in connection with any investigations or proceedings within the jurisdiction of the commission.

**Duty of Sheriffs and Constables to Serve Process and
Execute Orders of Commission**

Sec. 5. It shall be the duty of the sheriffs and constables in the several counties, upon request of the commission, any member thereof, any master or any authorized representative of the commission, to serve process and execute all lawful orders of the commission. Such process and orders may also be served by any other person designated by the commission, any member thereof, any master or any authorized representative of the commission.

General Powers of Commission or Master

Sec. 6. In the conduct of investigations and formal proceedings any member of the commission or the master may (a) administer oaths; (b) order and otherwise provide for the inspection of books and records; and (c) issue subpoenas for the attendance of witnesses and the production of papers, books, accounts, documents and testimony relevant to any such investigation or formal proceeding.

Extent of Process

Sec. 7. In any investigation or formal proceeding in any part of the state the process extends to all parts of the state.

Petition for Order Compelling Person to Attend or Testify or Produce Writings or Things: Service of Order to Appear Before Court: Order to Appear Before Commission or Master: Contempt

Sec. 8. If any person other than the judge refuses to attend or testify or produce any writings or things required by any such subpoena, the commission or the master may petition any district court for an order compelling such person to attend and testify or produce the writings or things required by the subpoena before the commission or the master. The court shall order such person to appear before it at a specified time and place and then and there show cause why he has not attended or testified or produced the writings or things as required. A copy of the order shall be served upon him. If it appears to the court that the subpoena was regularly issued, the court shall order such person to appear before the commission or the master at the time and place fixed in the order and testify or produce the required writings or things. Upon failure to obey the order, such person shall be dealt with as for contempt of court.

Depositions: Petition for Order Requiring Person to Appear and Testify Before Designated Officer: Subpoena

Sec. 9. In any pending investigation or formal proceeding, the commission or the master may order the deposition of a person residing within or without the State to be taken in such form and subject to such limitations as may be prescribed in the order. If the judge and counsel for the commission do not stipulate as to the manner of taking the deposition, either the judge or counsel may file in any district court a petition entitled "In the Matter of Proceeding of State Judicial Qualifications Commission No. _____ (state number)," and stating generally, without identifying the judge, the nature of the pending matter, the name and residence of the person whose testimony is desired, and, directions, if any, of the commission or master, asking that an order be made requiring such person to appear and testify before a designated officer. Upon the filing of the petition, the court may make an order requiring such person to appear and testify. A subpoena for such deposition shall be issued by the clerk and the deposition shall be taken and returned, in the manner prescribed by law for depositions in civil actions. If the deposition is that of a person residing or present within this state, the petition shall be filed in the district court of the county in which such person resides or is present, otherwise in the district court of any county in which the commission maintains an office. Upon the failure to obey such subpoena or any order issued in connection therewith, such a person shall be dealt with as for contempt of court.

Fees and Mileage of Witnesses

Sec. 10. Each witness, other than an officer or employee of the state or a political subdivision or an officer or employee of a court of this

state, shall receive for his attendance the same fees and all witnesses shall receive the same mileage allowed by law to a witness in civil cases. The amounts shall be paid by the commission from funds appropriated for the use of the commission.

Costs

Sec. 11. No award of costs shall be made in any proceeding before the commission, master, or district court.

Compensation of Active or Retired Judge or Justice as Master

Sec. 12. Any active district judge or justice of the court of civil appeals appointed to act as master under said Section 1-a shall, in addition to and cumulative of all other compensation and expenses authorized by law, receive, while in the performance of their duties as master, a per diem of \$25 for each day, or fraction thereof, spent in the performance of their duties as such master. Any retired judge or justice of the court of civil appeals appointed to act as such master shall receive while in the performance of their duties as such master a per diem of \$25 for each day or fraction thereof spent in the performance of their duties as master and in addition an amount representing the difference between all of the retirement benefits of such judge as a retired judge and the salary and compensation received from the state by active district judges or justices of the court of civil appeals as the case might be. Such retirement allowances shall continue to be paid by and from the same source as in the instance of a retired judge who had not been assigned duties. Payments of the additional amounts provided for by this section shall be upon certificates of approval by the State Judicial Qualifications Commission.

Commencement of Initial Term

Sec. 13. The initial term of the members of said commission shall commence as of the 22nd day of May, 1967.

Immunity

Sec. 14. Any person other than the judge who refuses to testify, give testimony or produce documents or things in any proceeding or deposition in connection with any proceeding before the commission upon the ground that his testifying, his testimony or the production of such document or thing may tend to incriminate him, may nevertheless be required to testify and to produce such document or thing, but when so required under the provisions of Section 8 hereof over his proper claim of privilege against self-incrimination or his right not to testify, such person shall not be subject to indictment or prosecution for any transaction, matter or thing concerning which he truthfully testified or produced evidence, documentary or otherwise.

Physical and mental examinations

Sec. 15. The commission shall have authority to require a judge to submit to a physical and mental examination, at the expense of the commission, by physicians selected by the commission, where the proceeding before the commission involves the question of the involuntary retirement of such judge because of physical or mental incapacity to discharge his duties.

Such examination or examinations may be had upon 10 days' written notice to the judge specifying the name of the examining physician, the date, time and place it is to be made. The examination may be made at a place in the city, town, or village where the judge either permanently or temporarily resides, provided he may, with his consent, be examined elsewhere within this state.

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The examining physician shall make his written report to the commission and a copy of said report shall be furnished the judge by the commission upon his written request or that of his attorney.

Any such report shall be received as evidence without further formality, but subject to the right of the commission to require the oral or deposition testimony of any reporting physician whether for purposes of cross-examination or otherwise, in respect of the content of the report, and subject to the same right on the part of the judge, if duly demanded by or for him in writing.

Repealer

Sec. 16. If any word, phrase, clause, paragraph, sentence, part, portion or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act shall nevertheless be valid, the Legislature hereby declares that this Act shall have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion or provision. Acts 1967, 60th Leg., p. 1159, ch. 516, emerg. eff. June 14, 1967.

Title of Act:

An Act relating to the State Judicial an emergency. Acts 1967, 60th Leg., p. Qualifications Commission; and declaring 1159, ch. 516.

TITLE 101—OFFICIAL BONDS

Art.

6003c. Filing bond with secretary of state
[New].

Art. 6003c. Filing bond with secretary of state

Section 1. Each member of the governing body of political subdivisions of the State created pursuant to Section 59 of Article XVI or Section 52 of Article III of the Texas Constitution who is required by law to file an official bond shall file a copy of the same with the secretary of state within 10 days from the date such bond is required by law to be filed.

Sec. 2. Each member of such a governing body holding office on the effective date of the Act shall file a copy of his official bond with the secretary of state within 60 days after the effective date of this Act.

Acts 1967, 60th Leg., p. 1374, ch. 594, eff. Aug. 28, 1967.

Title of Act:

An Act requiring members of the gov- tary of state; and declaring an emergency. erning body of certain districts to file a Acts 1967, 60th Leg., p. 1374, ch. 594. copy of their official bond with the secre-

TITLE 102—OIL AND GAS

GENERAL PROVISIONS

Art.
6029b. Salt Water Haulers Permit Act
[New].

GENERAL PROVISIONS

Art. 6029b. Salt Water Haulers Permit Act

Short title

Section 1. This Act may be cited as the "Salt Water Haulers Permit Act."

Definitions

Sec. 2. In this Act, unless the context requires a different meaning:

- (1) "person" means an individual, association of individuals, partnership, corporation, receiver, trustee, guardian, executor, and a fiduciary or representatives of any kind;
- (2) "commission" means the Railroad Commission of Texas;
- (3) "salt water" means water containing salt or other mineralized substances produced by the drilling of an oil or gas well; or produced in connection with the operation of an oil or gas well; and
- (4) "hauler" means a person who transports salt water for hire by any method other than by pipeline.

Procedure for issuing permits

Sec. 3. (a) Any person may apply to the commission for a permit to haul and dispose of salt water.

(b) To be eligible to receive a permit, a person who applies for a permit must, in his application,

- (1) state the number of vehicles he plans to use for salt water hauling;
- (2) affirmatively show that his vehicles are designed so that they will not leak during the transportation of salt water;
- (3) include an affidavit from a person who operates an approved system of salt water disposal stating that the person who applies for the permit has permission to use the approved system;
- (4) state his name, his business address, his permanent mailing address; and
- (5) state other relevant information that the commission may require in its rules.

(c) Before issuing a permit to a person whose application it has approved, the commission shall require the person to file with it a bond in the amount of \$5,000, guaranteed by a corporate surety company, conditioned on the payment of full damages to any person who may acquire a judgment against the permittee for damages done to his property by the permittee's improper hauling, handling, or disposal of salt water; provided, however, at the discretion of the commission, upon a proper showing of financial responsibility said bond may not be required.

(d) Permits issued under this Act expire August 31 of each year. A permittee may apply to renew his permit by submitting an application for renewal on or before August 31 of each year.

Powers and duties of commission

Sec. 4. (a) The commission shall devise a form on which applications for a permit to haul and dispose of salt water may be made. The

For Annotations and Historical Notes, see V.A.T.S.

commission shall provide the form to any person who wishes to make application for such a permit.

(b) The commission may reject an application for a permit submitted under Section 3 of this Act,

(1) if the application does not comply with Section 3 of this Act; or

(2) if the application does not comply with reasonable rules promulgated by the commission.

(c) The commission shall adopt rules effectuating the provisions of this Act. The commission shall print the rules and provide copies to persons who apply for them. No rule or amendment to a rule is effective until at least 30 days have expired after the date on which a copy of the rule was filed with the secretary of state.

(d) The commission shall revoke for a period of six months or shall refuse to renew for a period of six months a hauler's permit who

(1) violates the provisions of this Act;

(2) violates reasonable rules promulgated pursuant to Section (c) of this section; or

(3) does not maintain his operation at the standards that entitled him to a permit under the provisions of Section 3 of this Act.

Appeal

Sec. 5. (a) Any person to whom the commission has refused to issue a permit, whose permit has been revoked by the commission, or whose application for permit renewal has been refused by the commission may file a petition in an action to set aside the commission's act before 30 days have expired after the date on which he was notified of the commission's action.

(b) If the commission does not act within a reasonable time, a person who has applied for a permit or who has applied for a renewal of his permit, after 10 days have expired after the date on which he notified the commission of his intent to file suit, may file a petition in an action to compel the commission to show cause why it should not be directed by the court to take immediate action.

(c) The venue in actions under this section is fixed exclusively in the District Courts of Travis County, Texas.

Hauling without a permit prohibited

Sec. 6. No hauler may haul and dispose of salt water off the lease, unit or other oil or gas property where same is produced unless such hauler has a permit under the provisions of this Act.

Use of haulers without a permit prohibited

Sec. 7. No person may knowingly utilize the services of a hauler to haul and dispose of salt water off the lease, unit or other oil or gas property where same is produced if such hauler does not have a permit as required under this Act.

Disposing of salt water on public or private property prohibited

Sec. 8. No hauler may dispose of salt water on public roads or on the surface of public land or private property in this state in other than a commission approved disposal pit without written authority from the commission, and in the case of private property, from the land owner.

Use of unmarked vehicles prohibited

Sec. 9. No person who is required to have a permit under this Act may utilize a vehicle to haul salt water that does not bear the owner's name and the permit number under which the hauler operates on both sides and the rear of his vehicle in characters not less than three inches high.

Exception

Sec. 10. Notwithstanding any provision of this Act, any person who hauls salt water for use in connection with the drilling or servicing of an oil or gas well shall not be required to obtain a hauler's permit under this Act nor shall said hauling be deemed to be in violation of any provisions of this Act.

Penalties

Sec. 11. Any person who violates any provision of this Act is guilty of a misdemeanor and upon conviction shall be punished by imprisonment in the county jail for not more than 10 days, or by a fine of not less than \$100 nor more than \$1,000, or by both such imprisonment and fine.

Acts 1967, 60th Leg., p. 844, ch. 355, eff. Aug. 28, 1967.

TITLE 103—PARKS

<p>1. STATE PARKS BOARD</p> <p>Art. 6070h. Texas Park Development Fund [New].</p> <p>4S. GUADALUPE MOUNTAINS NATIONAL PARK [NEW]</p> <p>6077u. Creation of Guadalupe Mountains National Park.</p>	<p>7. RECREATIONAL AREAS, FACILITIES AND HISTORICAL SITES</p> <p>Art. 6081s. Historical structures and sites; acquisition [New].</p> <p>6081t. Joint establishment and operation of recreational facilities [New].</p>
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1. STATE PARKS BOARD

Art. 6070h. Texas Park Development Fund

Conditional enactment

Section 1. That this Act shall become effective and operate only upon conditions that House Joint Resolution No. 12 adopted by the 60th Legislature, 1967, and proposed as an amendment adding Section 49e to Article III of the Constitution of Texas, shall be adopted; and in that event, the effective date of this Act shall be the date on which the Governor declares such constitutional amendment adopted; otherwise, this Act shall be of no force or effect.

Definitions

Sec. 2. For the purpose of this Act the terms:

- (a). "Department" means the Parks and Wildlife Department.
- (b). "Commission" means the Parks and Wildlife Commission.
- (c). "Chairman" means the Chairman of the Parks and Wildlife Commission.
- (d). "Director" means the Executive Director of the Parks and Wildlife Department.
- (e). "Bonds" shall mean the Texas Park Development Bonds authorized or permitted by the constitutional amendment submitted at the election held on November 11, 1967.

Governmental functions of Parks and Wildlife Department

Sec. 3. The Parks and Wildlife Department is hereby authorized to perform the governmental functions authorized by this Act.

Bond issues; resolution; proceeds; interest; form of bonds; registration and approval; replacement bonds

Sec. 4. The department, by appropriate action, is hereby authorized from time to time to provide, by resolution of the commission, for the issuance of negotiable bonds in a total aggregate amount not exceeding \$75,000,000. All of such bonds shall be issued on a parity and shall be called "Texas Park Development Bonds". The proceeds from the sale of any bond, or bonds, shall be used for the purpose of creating the Texas Park Development Fund provided for in the Constitution. At the option of the department, said bonds may be issued in one or several installments. The bonds of each issue shall bear such date as the department shall select, and shall bear interest as the department shall select at a rate not exceeding four and one-half percent per annum, which interest may, at the option of the department, be payable annually or semiannually; shall mature serially or otherwise not later than 10 years from their date; and may be redeemable before maturity, at the option of the department, at such price or prices, and under such terms and conditions as may be fixed

by the department in the resolution of the commission providing for the issuance of the bonds. The department shall determine the form of the bonds, including the form of any interest coupon to be attached thereto, and shall fix the denomination or denominations of said bonds and the place or places of the payment of the principal and interest thereon. Said bonds shall be executed on behalf of the department as general obligations of the State of Texas in the following manner: They shall be signed by the chairman and the director, and the seal of the department shall be impressed thereon, and they shall be signed by the Governor and attested by the Secretary of State of the State of Texas with the Seal of the State of Texas impressed thereon. The resolution of the commission authorizing the issuance of any installment or series of bonds may prescribe the extent to which facsimile signatures and facsimile seals in lieu of manual signatures and manually impressed seals may be used in executing such bonds and appurtenant coupons. Interest coupons may be signed by the facsimile signatures of the chairman and the director. In the event any officer whose signature or facsimile signature appears on any bond, or whose facsimile signature shall appear on any coupon shall cease to be such officer before the delivery of the bond, the signature shall, nevertheless, be valid and sufficient for all purposes the same as if he had remained in office until such delivery had been made. The resolution of the commission may provide for registration of the bonds as to ownership and for successive conversion and reconversion from registered to bearer bonds and vice versa. Before any such bonds so issued are delivered to the purchasers, the record pertaining thereto shall have been examined by the Attorney General of Texas and said records and bonds shall be approved by him. After which approval, the bonds shall be registered in the office of the Comptroller of Public Accounts of Texas. All such bonds, after approval by the Attorney General of Texas, registration by the Comptroller of Public Accounts of Texas, and delivery to the purchasers, shall be incontestable and shall constitute general obligations of the State of Texas. Such bonds having been approved by the attorney general and registered in the comptroller's office shall be held, in every action, suit or proceeding in which their validity is or may be brought into question, valid and binding obligations of the State of Texas. In every action brought to enforce collection of such bonds or any rights incident thereto, the certificate of approval by the attorney general and a certificate of registration by the comptroller, or duly certified copies thereof, shall be admitted and received in evidence as proof of their validity. All bonds issued in accordance with and under the provisions of this Act shall be, and are hereby declared to be negotiable instruments under the laws of this state. The department is fully authorized to provide for the replacement of any bond which might have become mutilated, lost, or destroyed.

Refunding bonds

Sec. 5. The department is hereby authorized to provide by resolution of the commission for the issue of refunding bonds for the purposes of refunding any bonds issued under the provisions of this Act and then outstanding, together with accrued interest thereon. The issuance of such refunding bonds, the maturities and all other details thereof, the rights of the holders thereof, and the duties of the department in respect to the same, shall be governed by the foregoing provisions of this Act in so far as the same may be applicable. The refunding bonds may be sold and the proceeds used to retire the outstanding bonds or may be used in exchange for the outstanding bonds.

Legal and authorized investments; security for deposit of state funds; taxation

Sec. 6. All state bonds hereafter issued pursuant to the provisions of this Act shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, and all other political subdivisions and public agencies of the State of Texas. Such state bonds when accompanied by all unmatured coupons appurtenant thereto shall be lawful and sufficient security for all deposits of state funds, and all funds of any agency or political subdivision of the state, of counties, school districts, cities, and all other municipal corporations or subdivisions at the par value of said bonds. Such state bonds and the income therefrom, including the profits made in the sale thereof, shall at all times be free from taxation within this state.

Notice of sale of bonds; bids

Sec. 7. When the department shall have authorized the issuance of a series of said bonds and shall have determined to call for bids therefor, it shall be the duty of the department to publish at least one time not less than 10 days before the date of said sale an appropriate notice thereof. Said notice shall be published for such number of times as the department may determine in one or more recognized financial publications of general circulation published within the state and one or more such publications published outside the state. The department shall demand of bidders, other than the administrators of the state funds, that their bids be accompanied by exchange or bank cashier's check for such sum as it may consider adequate to be a forfeit guaranteeing the acceptance and payment for all bonds covered by such bids, and accepted by the department. No installment or series of said bonds shall be sold for an amount less than the face value of all of the bonds comprising such installment or series with accrued interest from their date, and all of such bonds shall be sold after competitive bidding to the highest and best bidder. The department shall have the right to reject any and all bids.

Entrance or gate fees; deposit of funds

Sec. 8. The department, from and after the effective date of this Act, and continuing so long as any of said bonds are outstanding, shall, wherever feasible, charge and collect entrance or gate fees to state park sites. All income derived from the charging of entrance or gate fees, less any amounts necessary to pay for expenses incurred in making these charges, shall be deposited in a special fund with the state treasurer, and said amounts to be deposited shall hereinafter be referred to as net income.

Special funds

Sec. 9. For the purposes of administering the moneys provided for in this Act, there are hereby created the following special funds:

(a) The "Texas Park Development Fund," hereinafter called "Development Fund"; into which shall be deposited the proceeds derived from the sale of the Texas Park Development Bonds, and which fund shall be used for the purpose of acquiring lands for state park sites and for developing said sites as state parks.

(b) The "Texas Park Development Bonds Interest and Sinking Fund," hereinafter called "Interest and Sinking Fund," to be used exclusively for the purpose of paying principal of and interest on the bonds herein provided as the same mature and exchange and collection charges in con-

nection therewith. Accrued interest received in the sale of any bonds shall be deposited in the Interest and Sinking Fund and the commission may, in the resolution authorizing any series of bonds, provide for the appropriation from the proceeds thereof an amount which, together with any payment for accrued interest received in the sale of such bonds, shall be sufficient to pay interest coupons to mature on such series of bonds within the then current State of Texas fiscal biennium. All net income derived from entrance or gate fees to state park sites shall also be deposited to the Interest and Sinking Fund.

Transfer of funds out of treasury to pay principal and interest on bonds

Sec. 9-A. In the event the amount of moneys on hand in the Interest and Sinking Fund at the end of any fiscal year is insufficient to pay the interest becoming due and the principal maturing on the bonds during the ensuing fiscal year, the state treasurer upon certification by the director as of August 15 of each fiscal year shall transfer out of the first moneys coming into the treasury of the State of Texas, not otherwise appropriated by the Constitution, such amount as stipulated in the certification of the director as shall be required to pay principal and interest on such bonds during such fiscal year. After all bonds have been paid, the balance of the Interest and Sinking Fund shall be transferred to the "State Parks Fund" established by Chapter 168, Acts of the 42nd Legislature, 1931, General Laws, page 287, as amended by Chapter 431, Acts of the 47th Legislature, Regular Session, 1941.¹

¹ Article 6070a.

Authority of Controller and Treasurer; mandamus

Sec. 9-B. The Comptroller of Public Accounts is hereby authorized and directed to make the transfers required under any provision of this Act. The Treasurer of the State of Texas is hereby authorized and directed to pay or cause to be paid principal and interest on bonds as they mature and come due. The performance of official actions by the Comptroller of Public Accounts and by the Treasurer of the State of Texas may be enforced through mandamus or other appropriate proceedings.

Surplus moneys; investment

Sec. 9-C. Surplus moneys in the Development Fund and in the Interest and Sinking Fund which may not be needed for at least 90 days may be invested in direct obligations of the United States of America maturing on or prior to the contemplated date on which said funds will be needed.

Use of Development Fund; acquisition of property

Sec. 10. The Development Fund shall be used by the department for the purpose of acquiring state park sites from the United States or any governmental agency thereof, from any governmental agency of the State of Texas, or from any person, firm or corporation, by purchase, condemnation or otherwise, and for the purpose of improving, developing, beautifying, and equipping, said state park sites, and said department is hereby authorized to contract with any state or federal agency, or with any person, firm, or corporation for the purposes set out in this section. Property already devoted to a public use may be acquired in like manner; provided, that no real property belonging to the State or any political subdivision thereof, may be acquired without its consent. Condemnation authorized herein shall follow procedures as are now provided in the statutes of the State of Texas, including those provisions as provided for in Paragraph 3, Section 1 of Senate Bill No. 165, Chapter 112, 59th Legislature, Regular Session, 1965, and codified as Section 1 of Article 6081r of Vernon's Civil Statutes of Texas.

Repealer

Sec. 11. All laws which are in conflict in whole or in part, and specifically including Senate Bill 267, Chapter 145, Acts of the 59th Legislature, Regular Session, 1965, and codified as Section 5(a) of Article 6077j of Vernon's Civil Statutes of the State of Texas, are hereby repealed to the extent of such conflict only.
Acts 1967, 60th Leg., p. 1031, ch. 453.

Conditional Enactment

Enactment of this article by Acts 1967, 60th Leg., p. 1031, ch. 453, to become effective and operative as a law, was conditioned on the addition, by the electors, of section 49—e to Const. art. 3, proposed by H.J.R. No. 12 of Acts 1967, 60th Leg. p. 2980. The constitutional amendment was adopted at the election held on Nov. 11, 1967. See section 1 of this article.

Section 12 of the act of 1967 provided: "If any section, provision or part whatsoever of this Act should be held to be void as in violation of the Constitution, it shall not affect the validity of the remaining portions thereof, and it is hereby declared to be the legislative intent that this Act would have been passed as to the remaining portions thereof, regardless of the invalidity of any part."

Title of Act:

An Act to carry into effect the provisions of the proposed amendment adding Section 49e to Article III of the Constitution of Texas; defining certain terms; designating the Parks and Wildlife Department to perform the governmental functions authorized by this Act; authorizing the issuance of \$75,000,000 state bonds to create the Texas Park Development Fund; providing the method, manner, and

mechanics of issuing and paying such bonds; authorizing the department to issue refunding bonds; declaring such state bonds to be legal investments and free from taxation; providing for the method of the sale of bonds; providing for charging of entrance or gate fees at state parks; creating special funds; requiring the setting aside of certain funds for certain purposes; providing for the deposits to, transfers between, and payments from state funds; providing for deposit of certain excess moneys in the State Parks Fund; authorizing investment of surplus funds; providing for acquisition of lands by purchase, condemnation or otherwise, and for development of said lands as state parks, and authorizing contracts for land acquisition and development; repealing conflicting laws; providing a saving clause; and declaring an emergency. Acts 1967, 60th Leg., p. 1031, ch. 453.

4H. PALO DURO CANYON STATE PARK

Art. 6077j. Palo Duro Canyon State Park—renewing outstanding indebtedness—entrance fees—leases—lands included

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Sec. 5(a). Repealed. Acts 1967, 60th Leg., p. 1031, ch. 453, § 11.

* * * * *

Section 5(a), added by Acts 1965, 59th Leg., p. 314, ch. 145, § 1, related to the collection of gate or entrance fees. See now, art. 6070, §§ 8 and 11.

4M. OIL AND GAS LEASES OF PARK LANDS

Art. 6077o. Leasing for oil and gas

* * * * *

Payment of royalty and bonus; sworn statement; inspection of books and accounts

Sec. 11. Royalty and bonus as stipulated in the sale shall be paid to the General Land Office at Austin, Texas, for the benefit of the State Park Development Fund on or before the last day of each month for the preceding month during the life of the rights purchased, and it shall be

accompanied by the sworn statement of the owner, manager or other authorized agent showing the gross amount of oil produced and saved since the last report and the amount of gas produced and sold off the premises and the market value of the oil and gas, together with a copy of all daily gauges of tanks, gas meter readings, pipeline receipts, gas line receipts, and other checks and memoranda of the amounts produced and put into pipelines, tanks or pools and gas lines or gas storage. The books and accounts, receipts and discharges of oil wells, tanks, pools, meters, pipelines, and all contracts and other records pertaining to the production, transportation, sale and marketing of the oil and/or gas shall at all times be subject to inspection and examination by the Commissioner of the General Land Office, the Attorney General, or any member of the State Parks Board.

As amended Acts 1967, 60th Leg., p. 914, ch. 400, § 8, emerg. eff. June 8, 1967.

* * * * *

Acts 1967, 60th Leg., p. 910, ch. 400, §§ 1-7, 9 amended articles 2603a, § 11; 2613a-3, § 10; 2628a-9, § 10; 3183a, § 11; 5380; 5382d, § 9; 5382e, § 1(b) and 6203a, § 11, by changing the day on which oil and gas royalties on public lands must be paid to the state.

4S. GUADALUPE MOUNTAINS NATIONAL PARK [NEW]

Art. 6077u. Creation of Guadalupe Mountains National Park

Setting aside mineral estate for park purposes; area

Section 1. The mineral estate of that part of the following lands situated in Culberson and Hudspeth Counties, Texas, to which the State of Texas has title, is hereby set aside for park purposes only, to be used as part of the "Guadalupe Mountains National Park." The park area is shown on the drawing entitled "Proposed Guadalupe Mountains National Park, Texas," numbered SA-GM-7100C, and dated February 1965, which is on file and available for public inspection in the offices of the National Park Service, Department of the Interior, Washington, D. C., and the Secretary of the State of Texas.

Conveyance of mineral estate; concurrent jurisdiction

Sec. 2. The United States of America through the Secretary of the Interior is granted permission, subject to the limitations contained in this Act, to acquire the area that has been defined as Guadalupe Mountains National Park, and the School Land Board of the State of Texas shall execute a deed of conveyance to the United States of America conveying all of the right, title and interest of the State of Texas in the mineral estate of all lands described in Section 1 of this Act, for the Guadalupe Mountains National Park, to be used by the public as a recreational area, in consideration of the United States of America agreeing to establish and maintain the land described in Section 1 of this Act as a National Park area, as provided for under an Act of Congress, Public Law 89-667¹ enacted by the 89th Congress of the United States, and to cede to the United States of America jurisdiction over the lands, in conformity with the provisions of Article 5247, Revised Civil Statutes of Texas, 1925. The deed shall be executed by a majority of the then members of the School Land Board and shall also reserve to the State of Texas the right of concurrent jurisdiction with the United States of America, both civil and criminal, over every portion of the lands described under Section 1 of this Act, so that all process, civil and criminal, issuing under the authority of this state or any of the courts or judicial officers thereof, may be executed by the proper officers of the state, upon any person amenable to the same within the limits of the land constituting the Guadalupe Mountains National Park, as set out in

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Section 1 of this Act, in like manner and like effect as if no cession had taken place; and, reserving further to the state the right to levy and collect taxes on sales, use or gross receipts from sales of products or commodities upon which a tax is levied in this state, and to tax persons and corporations, their franchises, properties and incomes, on land or lands conveyed under the terms of this Act; and reserving also, to persons residing in or on any of the land or lands conveyed, the right to vote at all elections within the counties in which the land or lands are located, upon like terms and conditions and to the same extent as they would be entitled to vote in the counties had not the lands been conveyed to the United States of America; and reserving also the rights set out in Section 7 of this Act.

¹ See 16 U.S.C.A. §§ 283-283e.

List of lands; copy for School Land Board

Sec. 3. The Commissioner of the General Land Office shall prepare a list of the lands in the area described in Section 1 of this Act, the mineral rights of which are owned by the State of Texas or its governmental subdivisions for any purpose, and deliver a certified copy of the list to the School Land Board for its records. Provided, however, that no employee of the State of Texas at the time of the introduction of this bill shall receive any compensation or commission from the sellers for the sale of this land.

Transfer of funds

Sec. 4. The Treasurer of the State of Texas shall transfer from the General Revenue Fund to the Public School Permanent Fund for conveyance the amount of \$5 per acre, the funds to be taken from appropriations that may be hereafter made for this purpose.

Severability

Sec. 5. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

Repeal of conflicting laws

Sec. 6. All laws or parts of laws in conflict with the provisions of this Act are repealed to the extent of conflict only.

Right of reverter; reservations

Sec. 7. (a) Should any or all of the lands described in Section 1 of this Act cease to be used for the purpose of Guadalupe Mountains National Park, the State of Texas reserves its preferential right to a reconveyance, without consideration, of the mineral rights donated by the State of Texas under this Act.

(b) If at any time in the future an Act of Congress provides that the national welfare or an emergency requires the development and production of the minerals underlying the lands within the boundaries of the national park, or any portion thereof, and such Act authorizes the United States Secretary of the Interior to lease said land for the purpose of drilling, mining, developing, and producing said minerals, the State of Texas reserves the preferential right, without consideration to the United States, to lease all of the mineral rights and interests which were donated by the State of Texas under this Act.

(c) If at any time oil, gas, or other minerals should be discovered and produced in commercial quantities from lands outside the boundaries of the park, thereby causing drainage of oil, gas, or other minerals from lands within the boundaries of the park, and if the Secretary of the Interior par-

icipates in a communitization agreement or takes other action to protect the rights of the United States, the State of Texas reserves the right to its proper share of the proceeds, if any, derived from such agreement or action; said proper share to be not less than all bonuses, rentals, and royalties attributable to all minerals and mineral rights to be conveyed to the United States of America under the terms of this Act. Acts 1967, 60th Leg., p. 26, ch. 8, emerg. eff. March 6, 1967.

Title of Act:

An Act setting aside for park purposes only the mineral estate of certain land in the Counties of Culberson and Hudspeth to be used as a part of the Guadalupe Mountains National Park; making other provisions relating to the creation of Guadalupe Mountains National Park; pro-

viding certain powers and duties of the Commissioner of the General Land Office and other officials relating thereto; providing a severability clause; providing a repealing clause; providing a reverter clause; and declaring an emergency. Acts 1967, 60th Leg., p. 26, ch. 8.

7. RECREATIONAL AREAS, FACILITIES AND HISTORICAL SITES

Art. 6081s. Historical structures and sites; acquisition

Authority of Parks and Wildlife Department

Section 1. (a) The Parks and Wildlife Department may acquire by purchase, by gift or otherwise

(1) a structure or site at which events occurred that have made an outstanding contribution to, and are identified prominently with, or which best represent, some important aspect of the cultural, political, economic, military, or social history of the nation or state;

(2) a structure or site significantly associated with the lives of outstanding historic persons, or with an important event that well represents some great idea or ideal;

(3) a structure embodying the distinguishing characteristics of an architectural type, which structure is inherently valuable for study of a period, style, or method of construction;

(4) a structure or site that contributes significantly to the understanding of aboriginal man in the nation or state; and

(5) a structure or site of significant geologic interest which relates to prehistoric animal or plant life.

(b) The Parks and Wildlife Department shall restore and maintain each structure or site acquired under Subsection (a) of this section for the benefit of the general public. The department may enter into one or more interagency contracts for the purpose of restoring or maintaining a structure or site.

(c) The department shall use the money provided in the General Appropriations Act for this purpose to pay for the restoration and maintenance of each structure or site acquired under Subsection (a) of this section. The department shall also prescribe and collect a nominal fee for admission to every structure and site and shall use all admission fees collected to pay for the restoration and maintenance of structures and sites.

Participation in federal program; contracts; records and reports

Sec. 2. The department may apply to any appropriate agency or officer of the United States for participation in or the receipt of aid from any federal program as are now or in the future may be provided by law respecting the planning, acquisition, and development of historical sites and structures. The department may enter into contracts and agreements with the United States or its agencies for the purpose of planning, acquiring, and developing historic sites and structures in this state in conformity with any federal act the purpose of which is the development of historical sites and structures. The department shall keep financial and other

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records relating to such programs and shall furnish to appropriate officials and agencies of the United States and of this state all reports and information reasonably necessary to enable them to carry out their responsibilities in the administration of the programs.

Acts 1967, 60th Leg., p. 57, ch. 27, eff. Aug. 28, 1967.

Title of Act:

An Act relating to the acquisition, restoration, and maintenance of historical structures and sites by the Parks and Wildlife

Department and structures and sites relating to prehistoric animal or plant life; and declaring an emergency. Acts 1967, 60th Leg., p. 51, ch. 8.

Art. 6081t. Joint establishment and operation of recreational facilities

Section 1. In this Act, "governmental unit" means a city, town, independent school district, or any other political subdivision.

Sec. 2. Any governmental unit may by agreement establish, provide, maintain, construct, and operate jointly with another governmental unit located in the same or adjacent counties, playgrounds, recreation centers, athletic fields, swimming pools, and other park and recreational facilities located on property now owned or subsequently acquired by either of the governmental units.

Acts 1967, 60th Leg., p. 1023, ch. 450, eff. Aug. 28, 1967.

Title of Act:

An Act providing for the joint establishment and operation of recreational facilities by a city, town, independent school

district, or any other political subdivision; and declaring an emergency. Acts 1967, 60th Leg., p. 1023, ch. 450.

TITLE 106—PATRIOTISM AND THE FLAG

Art. 6144g. Texas Fine Arts Commission

Creation and establishment of commission; membership

Section 1. The Texas Fine Arts Commission is hereby created and established. The Commission shall consist of eighteen (18) members representing all fields of the fine arts, to be appointed by the Governor with the advice and consent of the Senate from among private individuals who are widely known for their professional competence and experience in connection with the fine arts.

Sec. 1 amended by Acts 1967, 60th Leg., p. 53, ch. 28, § 1, eff. Aug. 28, 1967.

* * * * *

Powers

Sec. 4. The Commission shall have power:

a. To elect from its members a chairman and other such officers as may be desirable; provided that the first chairman of the Commission shall be named by the Governor and shall call the first meeting of the Commission and serve as such until his successor shall be elected by the Commission.

b. To hold such meetings, at such places within the State of Texas and at such times as the Commission may designate.

c. To conduct research, investigations, and inquiries as may be necessary so as to inform the Commission of the fine arts development in Texas.

d. To appoint committees from its membership and prescribe their duties.

e. To appoint consultants to the Commission.

f. To make rules and regulations for its government and that of its officers and committees; and to prescribe the duties of its officers, consultants, and employees.

g. To employ a director and other such clerical employees as it may deem necessary within the limits of funds made available for such purposes.

Sec. 4 amended by Acts 1967, 60th Leg., p. 53, ch. 28, § 1, eff. Aug. 28, 1967.

Donations; appropriations; audit of funds

Sec. 5. The Commission may accept on behalf of Texas such donations of money, property, art objects and historical relics as in its discretion shall best further the orderly development of the artistic and cultural resources of Texas. Appropriations may be made by the Legislature to the Commission to carry out the purposes of this Act. All funds shall be subject to audit by the State Auditor.

Sec. 5 amended by Acts 1967, 60th Leg., p. 53, ch. 28, § 1, eff. Aug. 28, 1967.

* * * * *

Annual reports

Sec. 7. On or before the first day of December of each year the Commission shall make in writing a complete and detailed report to the Governor and to the presiding officer of each House of the Legislature of its activities.

Sec. 7 amended by Acts 1967, 60th Leg., p. 53, ch. 28, § 1, eff. Aug. 28, 1967.

* * * * *

TITLE 107—PAWNBROKERS AND LOAN BROKERS

1. PAWNBROKERS

Arts. 6146–6161. Repealed. Acts 1967, 60th Leg., p. 659, ch. 274, § 5.
 Eff. Oct. 1, 1967

See, now, art. 5069—1.01 et seq.

3. TEXAS REGULATORY LOAN ACT

Art. 6165b. Repealed. Acts 1967, 60th Leg., p. 659, ch. 274, § 5. Eff.
 Oct. 1, 1967

Article 6165b, derived from Acts 1963, 58th Leg., p. 550, ch. 205, was the Regulatory Loan Act. See, now, article 5069—3.01 et seq.

DISPOSITION TABLE

Showing where provisions of the Texas Regulatory Loan Act, former article 6165b, are now covered in article 5069—1.01 et seq., as enacted by Acts 1967, 60th Leg., p. 608, ch. 274.

Former article and section	New Article	Former article and section	New Article
6165b, § 1		6165b, § 13(a)	5069—3.10
6165b, § 2		6165b, § 13(b)	5069—3.11
6165b, § 3	5069—2.01	6165b, § 14	5069—3.12
6165b, § 4	5069—2.02	6165b, § 15	5069—3.13
6165b, § 5	5069—3.01	6165b, § 16	5069—3.14
6165b, § 7	5069—3.02	6165b, § 17(a)	5069—3.15
6165b, § 8	5069—3.03	6165b, § 17(b)	5069—3.16
6165b, § 9	5069—3.05	6165b, § 18	5069—3.18
6165b, § 10	5069—3.06	6165b, § 19	5069—3.19
6165b, § 11	5069—3.07	6165b, § 20	5069—3.20
6165b, § 12(a)	5069—3.09	6165b, § 21	5069—3.21
6165b, § 12(b)	5069—3.09	6165b, § 22	5069—3.20
6165b, § 12(c)–(g)	5069—2.03		

TITLE 108—PENITENTIARIES

1. DEPARTMENT OF CORRECTIONS

Art.

6166x-2. Convict labor on Sam Houston State College Campus [New].

1. DEPARTMENT OF CORRECTIONS

Art. 6166x-2. Convict labor on Sam Houston State College Campus

Sam Houston State College may use the labor of trusty state convicts on the campus of the college. The Texas Department of Corrections may supply available convicts for this purpose and shall retain control of the convicts at all times. The time spent by a convict working on the campus shall be counted as time served in the penitentiary. Acts 1967, 60th Leg., p. 434, ch. 199, § 1, eff. Aug. 28, 1967.

Title of Act:

An Act relating to use of convict labor and declaring an emergency. Acts 1967, on the Sam Houston State College Campus; 60th Leg., p. 434, ch. 199.

2. REGULATIONS AND DISCIPLINE

Art. 6203a. Lease of prison lands for oil and gas

* * * * *

Royalties paid to General Land Office; sworn statements as to production

Sec. 11. Royalty as stipulated in the sale shall be paid to the General Land Office at Austin, Texas, for benefit of the General Revenue Fund on or before the last day of each month for the preceding month during the life of the rights purchased and it shall be accompanied by the sworn statement of the owner, manager or other authorized agent showing the gross amount of oil produced and saved since the last report and the amount of gas produced and sold off the premises and the market value of the oil and gas, together with a copy of all daily gauges of tanks, gas meter readings, pipeline receipts, gas line receipts, and other checks and memoranda of the amounts produced and put into pipelines, tanks or pools and gas lines or gas storage. The books and accounts and all bids, receipts and discharges of all wells, tank pools, meters, pipelines, and all contracts and other records pertaining to the production, transportation, sale and marketing of the oil and/or gas shall at all times be on file in the General Land Office and be subject to inspection and examination by the Commissioner of the General Land Office, the Attorney General, the Governor or any member of the State Prison Board.

Sec. 11 amended by Acts 1967, 60th Leg., p. 914, ch. 400, § 9, emerg. eff. June 8, 1967.

* * * * *

Acts 1967, 60th Leg., p. 910, ch. 400, §§ 1-8 amended articles 2603a, § 11; 2613a-3, § 10; 2628a-9, § 10; 3183a, § 11; 5380; 5382d, § 9; 5382c, § 1(b); and 6077o, § 11 by changing the day on which oil and gas royalties on public lands must be paid to the state.

TITLE 109—PENSIONS

- 1. STATE AND COUNTY PENSIONS Art. 6228f. Payments of assistance by State to survivors of law enforcement officers, etc., killed in performance of duties [New].
- Art. 6228g. Texas County and District Retirement System [New].

1. STATE AND COUNTY PENSIONS

Art. 6228a. Retirement system for State employees

Membership

Section 3.

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B. The membership of said Retirement System as an elective State official of the State of Texas shall be composed as follows:

1. The membership of said Retirement System shall be composed of any elective state official or appointee in an elective office of the state, including all elected or appointed members of the State Legislature, and also including District Attorneys receiving salaries paid by the state from the State General Revenue Fund, but shall not include any elective official in the Judicial, Education, District, or County, of the State of Texas other than those expressed eligible as provided herein.

Sec. 3B, par. 1 amended by Acts 1967, 60th Leg., p. 668, ch. 279, § 1, emerg. eff. May 25, 1967.

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Art. 6228b. Retirement of justices, judges and commissioners of appellate and district courts

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Qualifications for retirement; retirement pay; reduced annuity plans

Sec. 2. (a) Any judge in this state may, at his option, retire from regular active service after attaining the age of sixty-five (65) years and after serving on one or more of the courts of this State at least ten (10) years continuously or otherwise, provided that his last service prior to retirement shall be continuous for a period of not less than one year. Any person who has served on one or more of the courts of this State at least sixteen (16) years, continuously or otherwise, shall, after attaining the age of sixty-five (65) years, be qualified for retirement pay under this Act. Any person retiring in accordance with this Act after the effective date of this amendment shall, during the remainder of such person's lifetime, receive from the State of Texas monthly a base retirement payment equal to fifty percent (50%) of the salary being received by such person per month from the State of Texas at the time of retirement or the monthly salary last received while serving on a Court of this State, whichever is applicable. An additional ten percent (10%) of the applicable salary shall be added to the base retirement payments to the following judges: (1) those eligible for retirement under any provisions of this Act as amended who retire at or before age seventy (70); (2) those who are not eligible by length of service to retirement benefits at age 70 but who retire immediately upon becoming eligible; and (3) those in office on September 1, 1967, who then are or during their current term of office will be seventy (70) or more years of age and who retire at or before the end of their current term of office; provided, however, the additional ten

percent (10%) benefit shall not be paid to any judge who has been out of office for a period of longer than one (1) year at the time he applies for retirement benefits under this Act.

(b) The retirement payments of all persons who have retired under provisions of prior law shall continue without regard to the provisions of subsection (a) and such subsection shall not have the effect of increasing or diminishing such payments.

(c) A person retiring under the provisions of this Act after September 1, 1967, shall have the right to accept a reduced annuity similar to that provided in the State Employees Retirement System Act so as to convert the actuarial equivalent of the retirement payments which would accrue to such person hereunder during the life expectancy of such person to either a joint survivorship annuity plan or a fixed term annuity plan similar to that provided in the State Employees Retirement System Act for the benefit of the spouse or a specified dependent of such person. Application for such plan shall be made to the State Employees Retirement Board within thirty (30) days after such person retires under this Act. A person who has retired under the provisions of this Act prior to September 1, 1967, shall have the right to accept a reduced annuity in the manner set forth above provided (1) such person makes application therefor within ninety (90) days after September 1, 1967, and (2) repays to the State of Texas the difference between the reduced annuity and the amount actually received by such person in retirement payments. The ages upon which the reduced annuity shall be computed shall be the ages of the retired judge and the beneficiary as of the date of retirement. The beneficiary of an annuity plan under this subsection (c) shall not be entitled to any benefits under Section 6A of this Act.

Sec. 2 amended by Acts 1963, 58th Leg., p. 1134, ch. 439, § 1, eff. Aug. 24, 1963; Acts 1967, 60th Leg., p. 1808, ch. 692, § 1, eff. Sept. 1, 1967.

* * * * *

Payment of accumulated contributions upon death or resignation from office; removal from office; ineligibility for retirement pay

Sec. 6. In the event a judge dies, resigns his office or otherwise ceases to be a judge prior to the time he has the requisite length of service for retirement benefits under the provisions of this Act, the amount of his accumulated contributions shall be paid to his estate or to any beneficiary nominated by written designation of such judge duly filed with the Board of Trustees of the Employees Retirement System, or to him, as the case may be. In the event a judge who has the requisite length of service for retirement dies before retiring, his accumulated contributions shall be paid to his estate, or to any beneficiary nominated by written designation of such judge duly filed with the Board of Trustees of the Employees Retirement System. Provided, however, if any person subject to the foregoing provision later becomes a judge of a court of this state he must pay back to the state the amount of the contributions which he received before being entitled to retirement benefits under the provisions of this Act. The fact that a judge resigns his office prior to applying for retirement benefits shall not prejudice the right of such judge to such benefits if he is otherwise eligible. Any judge who is removed from office by impeachment, or is otherwise removed for official misconduct, shall be ineligible to draw retirement pay under the provisions of this Act.

Sec. 6 amended by Acts 1967, 60th Leg., p. 820, ch. 346, § 1, emerg. eff. June 8, 1967.

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For Annotations and Historical Notes, see V.A.T.S.

Ineligibility to practice law; continuance as judicial officer; assignments and compensation

Sec. 7. During the time judges who have retired under the provisions of the Act are receiving retirement pay they shall not be allowed to appear and plead as attorneys at law in any court in this state. Any person who has retired under the provisions of this Judicial Retirement Act may elect in writing addressed to the Chief Justice of the Supreme Court within ninety (90) days after such retirement or within ninety (90) days after the effective date of this amended Section, whichever is the later date, to continue as a judicial officer, in which instance they shall, with their own consent to each assignment, be subject to assignment by the Chief Justice of the Supreme Court to sit in any court of this state of the same dignity, or lesser, as that from which they retired, and if in a District Court, under the same rules as provided by the present Administrative Judicial Act 1, and while so assigned, shall have all the powers of judges thereof. While assigned to said court, such judges shall be paid an amount equal to the salary of judges of said court, in lieu of retirement allowance. No person who has heretofore retired under the provisions of this Judicial Retirement Act shall be considered to have been a judicial officer of this state after such retirement, unless such person has accepted an assignment by the Chief Justice to sit in a court of this state. Sec. 7 amended by Acts 1967, 60th Leg., p. 820, ch. 346, § 1, emerg. eff. June 8, 1967.

1 Article 200a.

* * * * * Acts 1967, 60th Leg., p. 1808, ch. 692, §§ 2 and 3, provided: "Sec. 2. This Act is effective September 1, 1967. "Sec. 3. If any word, sentence, or provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable."

Art. 6228e. Former Texas Rangers and their widows

* * * * * Sec. 2. The pensions provided for in this Act shall be paid from the Confederate Pension Fund created by Section 17, Article VII of the Constitution of Texas, upon warrants of the Comptroller of Public Accounts. Persons entitled to pensions under this Act shall make application to the Comptroller of Public Accounts. Said application shall recite facts showing that the applicant meets the qualifications set out in Sections 1(a) or 1(b) of this Act depending upon the status of the applicant, shall be accompanied by a certificate executed by the custodian of the service record of the applicant, or of the applicant's deceased husband as the case may be, showing the applicant's qualifications under paragraphs (1) and (3) of Subsection (a) of Section 1 of this Act, provided however, that such certificate shall not be required for applicants (or their widows) whose service in the Texas Rangers was for periods prior to the year 1922 and in such instances such applicants must satisfy the Comptroller of Public Accounts that such former Texas Ranger meets the qualifications set out in paragraphs (1) and (3) of Subsection (a) of Section 1 of this Act, and shall be sworn to by the applicant. Full monthly payment shall be made for each month commencing with the month in which the completed application is filed and ending with the month in which the recipient dies.

Sec. 2 amended by Acts 1967, 60th Leg., p. 1048, ch. 459, § 1, emerg. eff. June 12, 1967.

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Art. 6228f. Payments of assistance by State to survivors of law enforcement officers, etc., killed in performance of duties

Declaration of policy

Section 1. It is hereby declared to be the public policy of this state, under its police power, to provide financial assistance to the surviving spouse and minor children of law enforcement officers, custodial personnel of the Texas Department of Corrections and full-paid firemen where such law enforcement officers, custodial personnel or full-paid firemen suffer violent death in the course of the performance of their duties as law enforcement officers, custodial personnel of the Texas Department of Corrections, or as full-paid firemen.

Definitions

Sec. 2. As used in this Act:

(1) "Violent death in the course of performance of duty" means loss of life from external means resulting from exposure to a risk inherent in the particular duty being performed and which risk is one to which the general public is not customarily exposed.

(2) "Law enforcement officer" means a commissioned peace officer with authority to make arrests and also includes employees of the Parks and Wildlife Department holding commissions as law enforcement officers.

(3) "Custodial personnel of the Texas Department of Corrections" means the class of employees of the Department of Corrections designated as custodial personnel by a resolution adopted by the Texas Board of Corrections.

(4) "Full-paid fireman" means a person employed by the state or its political or legal subdivisions whose principal occupation is fire fighting and whose salary for fire fighting services is paid by the state or a legal or political subdivision of the state.

(5) "Minor child" means a child who, on the date of the violent death of any person covered by this Act, has not reached the age of 21 years.

Assistance payable

Sec. 3. In any case in which a law enforcement officer, custodial personnel of the Texas Department of Corrections, and/or full-paid fireman, as defined in Section 2 hereof, suffers violent death in the course of performance of his duty as such law enforcement officer, custodial personnel of the Texas Department of Corrections or full-paid fireman, the State of Texas shall pay to the surviving spouse of such law enforcement officer, custodial personnel of the Texas Department of Corrections or full-paid fireman the sum of \$10,000 and in addition thereto, if such law enforcement officer, custodial personnel of the Texas Department of Corrections or full-paid fireman shall be survived by a minor child or minor children, the State of Texas shall pay to the duly appointed or qualified guardian or other legal representative of each minor child the following assistance:

If one minor child—\$100 per month

If two minor children—\$150 per month

Three or more minor children—\$200 per month.

Provided, that when any child entitled to benefits under this Act ceases to be a minor child as that term is defined herein, his entitlement to benefits shall terminate and any benefits payable under this Act on behalf of his minor brothers and sisters, if any, shall be adjusted to conform with the foregoing schedule if necessary.

Administration

Sec. 4. This Act shall be administered by the State Board of Trustees of the Employees Retirement System of Texas, under rules and regulations adopted by said Board. Proof of death claimed to be violent death in the course of performance of duty of a law enforcement officer, custodial personnel of the Texas Department of Corrections or full-paid fireman shall be furnished to said Board of Trustees in such form as it may require, together with such additional evidence and information as it may require.

Payment

Sec. 5. If it is determined that a claim under this Act is valid and justifies a payment or payments hereunder, it shall be the duty of the State Board of Trustees of the Employees Retirement System of Texas to cause the comptroller of public accounts to be notified of such determination and the comptroller upon receipt of the notification shall issue a warrant or warrants to the claimants in the proper amount from the fund appropriated for that purpose. Payments on behalf of children shall be deemed to be payable dating from the first day of the first month following the death of a person to whose children payments may be made. If a claim is denied, the fact of such denial shall be sent to the person making the claim, or if a claim is being made on behalf of a minor child or children, shall be sent to the duly qualified guardian or legal representative of the child or children.

Appeals

Sec. 6. If a claim for payment to a surviving spouse or on behalf of a minor child or children is denied, such spouse or the legal representative of a minor child or children shall have the right to appeal such denial to a district court of the residence of the surviving spouse or minor child or children or to a district court in Travis County, Texas. Any appeal made pursuant to this section shall be made within 20 days after the date the surviving spouse or the person making the claim for the minor child or children receives notice of the denial of the claim. Proceedings on appeal shall be by trial de novo as in the appeals from the justice court to the county court.

Effect of award

Sec. 7. Any finding that any benefit is payable to the surviving spouse and/or minor child or children of a person to whom this Act applies shall not be declaratory of the cause, nature or effect of such death for any other purpose whatsoever, and a finding that a particular loss of life is within the provisions of this Act shall not affect in any manner any other claim or cause of action whatsoever arising from or connected with such loss of life.

Benefits non-assignable

Sec. 8. No part of any benefit payable under this Act shall be transferable or assignable, at law or in equity, and none of the money paid or payable under the provisions of this Act shall be subject to execution, levy, attachment, garnishment, or other legal process, or to the operation of any insolvency law.

Duty of the Texas Board of Corrections

Sec. 9. It shall be the duty of the Texas Board of Corrections to adopt a formal designation spread on its minutes identifying the classes of persons who are custodial personnel of the Texas Department of Corrections. It is the intent of the Legislature in enacting this provision that the con-

stitutional provisions of Section 51—d, Article III, of the Texas Constitution, be observed in order that there be no uncertainty about which persons are custodial personnel and which are not.

Application

Sec. 10. This Act shall not apply to the death of any law enforcement officer, custodial personnel of the Texas Department of Corrections or full-paid fireman occurring before the effective date of this Act.

Acts 1967, 60th Leg., p. 163, ch. 86, emerg. eff. April 27, 1967.

Title of Act:

An Act providing for the payment of assistance by the State of Texas to the surviving spouse and minor children of law enforcement officers, custodial personnel of the Texas Department of Corrections or of full-paid firemen who suffer violent death in the course of the performance of their duties; defining certain terms; providing for the amount of assistance payable; providing for administration of this Act; pro-

viding the method of payment of assistance; providing for appeals from denials of claims hereunder; providing for the effect of finding of entitlement to assistance; providing for nonassignability of assistance payments hereunder; stating the duty of the Texas Board of Corrections; providing for non-application of this law for any death prior to its effective date; and declaring an emergency. Acts 1967, 60th Leg., p. 163, ch. 86.

Art. 6228g. Texas County and District Retirement System

Establishment of System

Section 1. Pursuant to Section 62(c) of Article XVI of the Constitution of Texas, there is hereby established a System of Retirement, Disability and Death Benefits for all of the officers and employees of the several counties and other political subdivisions of the State, and of the various political subdivisions of the several counties of the State.

The System shall have the powers and privileges of a corporation, and shall be known as the "Texas County and District Retirement System," and by such name all of its business shall be transacted, all of its funds invested and all of its cash and other properties held.

Definitions

Sec. 2. Unless a different meaning is plainly indicated by their context, the following words and phrases as hereafter used in this Act shall have the following meanings:

1. "System" shall mean the Texas County and District Retirement System established by this Act, unless the term is accompanied by descriptive words clearly indicating a different retirement fund or system.

2. "Board" means the Board of Trustees of the Texas County and District Retirement System.

3. The term "subdivision" means and includes: the several counties of this State; all other political subdivisions of this State now existing or hereafter established, which consist of all of the geographical area of a county, or of all or parts of more than one county; the several political subdivisions of each county of this State which have the power of taxation; and all counties and cities operating a city-county hospital under the provisions of Chapter 383, Acts of the 48th Legislature, Regular Session, 1943, as amended.¹ The term also includes, for the purpose of providing similar coverage for its own employees, the Texas County and District Retirement System. But the term "subdivision" excludes all incorporated cities and towns, and all school districts and junior college districts established under the laws of this State.

4. "Governing body" shall mean the Commissioners' Court of a county; as to other subdivisions, it means the Court, Board of Trustees, Board of Directors, Board of Managers, or other body which is empowered by law to raise or provide for raising of revenue for the subdivision, and for expenditure thereof.

For Annotations and Historical Notes, see V.A.T.S.

5. "Participating subdivision" means any subdivision included within the System by virtue of determination made by its governing body that such subdivision shall participate in the System in accordance with the provisions of this Act.

6. "Employee" means any person who is certified by a subdivision as being regularly engaged in performance of the duties of an elective or appointive office, or of any position of employment with the subdivision, which office or position normally requires actual performance of duty during not less than nine hundred (900) hours a year, and as receiving compensation from such subdivision for the performance of such duties. The term "employee" does not include any person as to any period of service for which he would be eligible to be included in or entitled to receive credit in the Teacher Retirement System of Texas, the Employees Retirement System of Texas, the Judicial Retirement System of Texas, the Texas Municipal Retirement System, or any other pension fund or retirement system supported wholly or partly at public expense, except that nothing herein contained shall be construed as precluding simultaneous coverage of persons under the Federal Old Age and Survivors Insurance System or any successor thereto, and this System, by reason of the same service.

7. "Member" means any employee included in the membership of the System as provided in this Act.

8. "Service" means the act and period of performance of duty as an employee of the employing subdivision.

9. "Current service" means service as an employee of a participating subdivision rendered while a member of the System.

10. "Prior service" means service as an employee of a participating subdivision rendered prior to the effective date of participation of such subdivision in the System.

11. "Creditable service" means current service and prior service for which credit is allowable to a member as provided in Section VI of this Act in measuring eligibility for benefits hereunder.

12. "Deposits" means the amounts required to be paid to this System by a member, exclusive of contributions required to be made to the expense fund for maintenance and operation of the System.

13. "Accumulated deposits" means the sum of all deposits received from a member then credited to his account with the System, together with interest allowed thereon as provided in this Act at the effective rate for the respective years during the period of their accumulation.

14. "Earnings" means an amount equal to the sum of the payments made to an employee for the performance of service, as certified to the System by the employing subdivision (in such form and manner as the Board may prescribe), plus the money value, as determined and certified by the governing body, of any meals, lodgings, fuel or other allowances provided to such employee in lieu of money.

15. "Current service earnings" means the earnings of an employee which do not exceed for the payroll period the rate of earnings as fixed and prescribed by the governing body of the participating subdivision (in accordance with subsection 1(c) of Section IV of this Act) as the maximum annual earnings upon which current-service deposits by employees shall be made.

16. "Average prior service earnings" shall mean the average monthly earnings received by an employee for service rendered to a participating subdivision during the thirty-six (36) months immediately preceding the effective date of participation of such subdivision in the System, or if there be less than thirty-six (36) months of such service, the average shall be computed for the number of months of such service within such thirty-six (36) months period; provided, however, that in calculating the average prior service earnings of any member, actual earnings in

any month shall be excluded to the extent that they exceed the lower of the following rates of earnings:

(a) the annual earnings prescribed by the governing body at the time of its determination to participate in the System as the maximum current service earnings for current service deposits and contributions; or (b) annual earnings in excess of Twelve Thousand Dollars (\$12,000.00) per annum.

17. "Actuarial Tables" means such experience, probability and other tables as are adopted by the Board as necessary to administration of this Act.

18. "Annuitant" means a person receiving an annuity from this System.

19. "Annuity" means a series of equal monthly payments payable at the end of each calendar month during the life of the annuitant. The first payment shall be due at the end of the first calendar month following the effective date of retirement of a member. No payment shall be made for any fraction of a month elapsing at the time of death.

20. "Current service annuity" means the annuity, actuarially determined, derived from reserve funds arising from a member's deposits, and an additional amount of reserve funds arising from the normal contributions of the employing subdivision, and allocable in the amounts and manner hereinbelow provided.

21. "Prior service annuity" means the annuity, actuarially determined, which can be provided from the accumulated allocated prior service credit of a member at retirement.

22. "Retirement" shall mean withdrawal from service with a retirement benefit granted under the provisions of this Act.

23. "Service Retirement" means the retirement of a member from service with a service retirement benefit as provided in Section VII of this Act.

24. "Disability Retirement" means the retirement of a member from service with a disability retirement benefit as provided in Section VII of this Act.

25. "Annuity Reserve" shall mean the present value computed upon the basis of such annuity or mortality tables as shall be adopted by the Board with regular interest, of all payments to be made on account of the annuity or benefit in lieu thereof, granted to a member under the provisions of this Act.

26. "Actuarial Equivalent" shall mean a benefit of equal value when computed upon the basis of such annuity or mortality tables as shall be adopted by the Board, and upon the assumption of regular interest.

27. "Current Interest" shall mean interest at a rate per centum per annum ascertained each year by dividing (1) the amount in the Interest Fund on December 31 of such year before the transfer of interest to other funds, less an amount equal to three per centum (3%) of the sum of the mean amount in the Current Service Annuity Reserve Fund during such year and the mean amount in the Subdivision Prior Service Accumulation Fund during such year and the mean amount in the Prior Service Annuity Reserve Fund during such year by (2) an amount equal to the amount in the Subdivision Current Service Accumulation Fund at the beginning of such year plus the amount in the Endowment Fund at the beginning of such year and plus the sum of the accumulated deposits in the Employees Saving Fund at the beginning of such year to the credit of all members included in the membership of the System on December 31 of such year before any transfers for retirements effective December 31 of such year, are made, it being provided that the above division shall be carried to only three (3) decimal places and shall never be taken as greater than three per centum (3%).

28. "Regular Interest" means interest at the rate of three per centum (3%) per annum compounded annually.

For Annotations and Historical Notes, see V.A.T.S.

29. "Beneficiary" means the person or persons designated as such by the member or annuitant in the last written designation on file with the Board, or if no person so designated survives, or if no designation is on file, the estate of the member or annuitant.

30. "Director" means the Executive Secretary appointed by the Board to manage and administer this System under the supervision and direction of the Board.

¹ Article 4494f.

Participation

Sec. 3.

1. Participation of Subdivisions.

(a) Each subdivision electing to participate in this System shall be included within and subject to the provisions of this System. Election to participate shall be by vote of the governing body of the subdivision in accordance with the usual procedure prescribed for other official actions of the subdivision. The governing body of any subdivision so electing shall notify the Board of such action within ten (10) days thereafter. Participation of any subdivision shall begin as of the first day of any month designated by the governing body and approved by the Board.

(b) The Board is hereby authorized to make and enforce rules with reference to the time of beginning of participation, and to notice, information and reports required of subdivisions electing to participate in this System.

(c) A subdivision which once elects to participate in the System may subsequently elect to discontinue the enrollment of new employees into the System, but shall never discontinue as to any members.

2. Participation of Employees.

The membership of the System shall be composed as follows:

(a) All persons who are employees of a participating subdivision on the effective date of its participation in the System shall become members of the System as of that date; provided, however, that this provision shall not apply to any person, except by his consent, who on the effective date of participation has a basis of employment with the subdivision which would be violated by the requirement that he become a member; but each such person, being notified that the governing body has determined that the subdivision shall participate in the System, shall be deemed to have consented and elected to become a member of the System, unless prior to the date fixed for participation he shall file with the governing body, written notice of his election not to become a member. Any person so electing not to become a member, may at any time thereafter during his employment by the subdivision and before he becomes fifty-eight years of age elect to become a member of the System as of the first day of the calendar month following filing by him with the Board and with the governing body, of notice of his wish to become a member; but in such event he shall enter the System without credit or claim of credit for prior service or other service, and shall for purposes of this Act be considered as a person entering the employment of the subdivision for the first time on the date he becomes a member of the System.

(b) Any person not a member of this System, who becomes an employee for the first time of a participating subdivision after the effective date of participation of such subdivision, shall become a member of the System, upon the first day of the month following the date such person becomes an employee, provided he is then under the age of fifty-eight (58) years but any such person who is then fifty-eight (58) years or over shall not be eligible to become a member of this System.

(c) Any person, not a member of this System, who has been an employee of a participating subdivision prior to the effective date of participation of such subdivision but who is not an employee of such par-

¹ Tex.St.Supp. 1968—48

ticipating subdivision on the effective date of participation of such subdivision, shall, if he again becomes an employee of such subdivision after the effective date of its participation become a member of the System upon the date he again becomes an employee, provided he is then under the age of fifty-eight (58) or as to persons fifty-eight (58) years or over, if such re-employment is within five (5) years after the effective date of the subdivision's participation, provided the extent of his prior service to such subdivision is equal to or in excess of the period by which his then attained age exceeds the age of fifty-eight (58) years; and otherwise such person shall not be eligible to become a member of this System.

(d) Any person who has been a member of this System and whose membership has terminated by withdrawal, shall, if he again becomes an employee of a participating subdivision, become a member of the System upon the first day of the month following the date such person again becomes an employee if he is then under the age of fifty-eight (58) years, but any such person who is then fifty-eight (58) years or over shall not be eligible to become a member of the System.

(e) Membership in the System shall cease and terminate if:

(1) A member is absent from service in a participating subdivision more than sixty (60) consecutive months prior to accumulating twenty (20) years of creditable service; provided, however, that during the time the United States is at war, and for a period of twelve (12) months thereafter, time spent by a member of the System (1) on active duty in the Armed Forces of the United States and their auxiliaries and/or in the Armed Forces Reserve of the United States and their auxiliaries and/or in the service of the American Red Cross as a result of having volunteered or having been drafted and/or conscripted thereinto; or (2) in war work as a direct result of having been drafted or conscripted by governmental action into said war work, shall not be construed as absent from service insofar as the provisions of this Act are concerned but shall count toward membership service. "War" means declared or undeclared war or any conflict between the Armed Forces of the United States and any foreign armed forces.

(2) A member's service in a participating subdivision is discontinued and the member withdraws his accumulated deposits, or

(3) A member dies, or

(4) A member becomes an annuitant.

Revenue

Sec. 4.

1. Member Deposits.

(a) Each subdivision electing to participate in this System shall designate by order or resolution of its governing body whether the deposits to be made to the System on account of current service of the employees of such subdivision shall be at the rate of four per centum (4%), five per centum (5%), six per centum (6%) or seven per centum (7%) of the current-service earnings of such employees. The rate so designated to be effective at and after the date of participation is the "initial deposit rate" of such subdivision. The rate of deposits fixed by the governing body of a participating subdivision shall not be changed until it has been in effect at least five (5) years. After a particular deposit rate has been in effect for at least five (5) years, the governing body of the subdivision may increase or decrease the same to one or the other permitted rates of contribution, and the rate so altered shall thereafter remain in effect for at least five (5) years before it shall again be changed. Any such change shall be effective only on an anniversary of the participation date of the subdivision, and upon ninety (90) days prior written notice to the Board; and provided further, that no reduction of a deposit rate shall be permitted, if the result thereof (according to cal-

For Annotations and Historical Notes, see V.A.T.S.

culations made by the actuary and approved by the Board) is to impair the ability of the subdivision to fund within twenty five (25) years from date of participation all obligations arising from Allocated Prior Service Credits granted by the subdivision.

(b) Each member shall make deposits to the System at the rate of four per centum (4%), five per centum (5%), six per centum (6%) or seven per centum (7%) of current-service earnings as fixed by the governing body of the employing subdivision.

(c) The governing body of any participating subdivision by appropriate order or resolution, certified to the Board, shall provide that earnings of the several employees of the subdivision in excess of the sum of Three Thousand Six Hundred Dollars (\$3,600) in any year, or earnings in excess of any other greater multiple of One Thousand Two Hundred Dollars (\$1,200) per year, shall be excluded in calculating the deposits and contributions to be made by reason of current service of its employee-members; and the amounts required to be paid in each month by the members as deposits shall not exceed deposits calculated on the basis of one-twelfth ($\frac{1}{12}$)th of the maximum annual earnings to be considered for retirement purposes as specified by such order or resolution. In like manner, the governing body may increase the amount of earnings on which such deposits and contributions shall be made.

(d) As to each and every payroll subsequent to the effective date of participation of the subdivision by which such person is employed, the employing subdivision shall cause to be deducted from the compensation due to each member of the System in the employment of the subdivision, the deposit which the member is required under this Act to pay to the System on account of such earnings.

(e) The Treasurer or proper disbursing officer of each participating subdivision shall make deductions from salaries of members as provided in this Act, and shall transmit monthly, or at such time as the Board shall designate, such payroll and other pertinent information in substance and form as the Board may prescribe, together with the amount specified to be deducted, which shall be paid to the Board at its home office. After making a record of all such receipts, the said Board shall deposit such receipts to the credit of the Employees Saving Fund, as hereinafter provided, and such funds shall be deemed as appropriated for use according to the provisions of this Act.

(f) For the purpose of efficient handling of members' deposits to be made as simple as possible, the Treasurer or other payroll disbursing officer of each participating subdivision shall prepare and file with the Director such reports as the Board may require, in such form and within the time specified by the Board.

(g) The records of the Board shall be open to public inspection and any member shall be furnished with a statement of the amount to the credit of his individual account upon written request, provided that the Board shall not be required to answer more than one such request of a member in any one year.

(h) Each member shall pay, along with his deposits to the Employees Saving Fund, an expense contribution to the System at a rate, not exceeding fifty cents (50¢) per month per member, as is set by the Board, and certified to the participating subdivision.

2. Subdivision Contributions.

(a) Each participating subdivision shall make benefit contributions to the System each month equal to the amount paid to the System by all of its employees for the same payroll period.

(b) Until such time as the participating subdivision shall have fully funded the reserves for all Allocated Prior Service Credits granted by it, and all such reserves have been transferred to the Prior Service Annuity Reserve Fund as hereinafter provided, the benefit contributions to the System by each participating subdivision shall be allocated into nor-

mal contributions to the System, determined as provided in subsection (c) of this section, and prior service contributions to the System determined as provided in subsection (d) of this section.

(c) Each participating subdivision shall make payment of normal contributions to the Subdivision Current Service Accumulation Fund of the System each month of an amount equal to the per cent of the current-service earnings during such month of the members of the System employed by such participating subdivision which per cent shall be calculated annually by the actuary and approved by the Board as being the necessary and required per cent: (1) to maintain a reserve in such subdivision's account in the Subdivision Current Service Accumulation Fund equal to the present and prospective liabilities of such subdivision's account in the Subdivision Current Service Accumulation Fund, and (2) to amortize over a period of five (5) years the amount by which the present and prospective liabilities of such subdivision's account in the Subdivision Current Service Accumulation Fund was greater or less than the amount in such account on January 1st of the year preceding the then current year. "Present and prospective liabilities" as used in this subsection shall mean, at any time, an amount equal to that amount in the Employees Saving Fund standing to the credit of a participating subdivision's members at that time which will eventually be transferred to the Current Service Annuity Reserve Fund, adjusted proportionately for all such amounts in the Employees Saving Fund for which the participating subdivision is obligated to provide reserves at retirement in a ratio other than one to one, according to calculations made by the actuary and approved by the Board on the basis of mortality and other tables adopted by the Board.

(d) Each participating subdivision shall make payment of Prior Service Contributions to the Subdivision Prior Service Accumulation Fund of the System each month of an amount equal to a per cent of the current-service earnings during such month of the members of the System employed by such participating subdivision which per cent shall be the difference between the normal contribution rate, as above determined, and the subdivision benefit contribution rate as determined pursuant to paragraph (a) of subsection 1 of this section.

(e) The above percentages for each participating subdivision shall be determined annually from the most recent data available at the time of such determination, and shall be certified by the Board to each participating subdivision prior to the beginning of each calendar year.

(f) Each participating subdivision shall make payment of the expense contribution to the System each month of the same amount as the contributions made to the Expense Fund by all of its employees for the same payroll periods.

(g) On or before the fifteenth day of each month, each participating subdivision shall remit or cause to be paid to the System at its office the amounts of the normal contributions, prior service contributions and expense contributions due for the preceding month as herein provided.

(h) Unless otherwise provided for and paid by a subdivision all contributions of the subdivision shall be paid out of the fund from which earnings are paid to the members or out of the General Fund of the subdivision.

Method of financing

Sec. 5.

All the assets of the System shall be credited according to the purpose for which they are held to one (1) of eight (8) funds, namely, the Employees Saving Fund, the Subdivision Current Service Accumulation Fund, the Subdivision Prior Service Accumulation Fund, the Current Service Annuity Reserve Fund, the Prior Service Annuity Reserve Fund, the Interest Fund, the Endowment Fund and the Expense Fund.

For Annotations and Historical Notes, see V.A.T.S.

1. The Employees Saving Fund:

The Employees Saving Fund shall be a Fund in which shall be accumulated the deposits from the compensation of members plus current interest earnings. Contributions to and payments from the Employees Saving Fund shall be made as follows:

(a) Each participating subdivision shall cause to be deducted from the salary of each member, on each and every payroll of such employer for each and every payroll period, a sum of money equal to seven per centum (7%), six per centum (6%), five per centum (5%), or four per centum (4%) of his current-service earnings, as fixed by the governing body of the participating subdivision. In determining the amount earnable by a member in a payroll period, the Board may consider the rate of annual compensation payable to such member on the first day of the payroll period as continuing throughout such payroll period, and it may omit deductions from earnings for any period less than a full payroll period, if the employee was not a member on the first day of the payroll period, and to facilitate the making of deductions, it may modify the deduction required of any member for any payroll period by the amount of twenty-five cents (25¢) or less.

(b) The deductions provided for herein shall be made notwithstanding that the minimum compensation provided for by law for any member shall be reduced thereby. Every member shall be deemed to consent and agree to the deductions made and provided for herein and shall receipt for his full salary or compensation and payment of salary or compensation, less said deduction, shall be a full and complete discharge and acquittance of all claims and demands whatsoever for the services rendered by such person during the period covered by such payment, except as to the benefits provided under this Act. The employer shall certify to the Board on each and every payroll, or in such other manner as said Board may prescribe, the amounts to be deducted; and each of said amounts shall be deducted, and when deducted shall be paid into said Employees Saving Fund, and shall be credited to the individual account of the member from whose compensation said deduction was made.

(c) During the time that the United States is at war (as hereinabove defined) and for twelve (12) months thereafter, a member of the System (1) in the Armed Forces of the United States or their auxiliaries or in the Armed Forces Reserve of the United States and their auxiliaries or in the service of the American Red Cross, as a result of having volunteered or having been drafted or conscripted thereto, or (2) in war work as a direct result of having been drafted or conscripted by governmental action into said war work, shall be permitted to deposit each year to the System a sum not to exceed the amount deposited by him to said System during the last year that he was employed as an employee under the provisions of this Act. The sum so deposited by such member and received by the System shall be deposited by said System in the Employees Saving Fund to the credit of the member's individual account and shall be treated in the same manner as funds deposited by the member while he was last employed as under the provisions of this Act. The subdivision by which such person was last employed shall make concurrent benefit contributions matching those so made by such member.

(d) Current interest on member's deposit shall be credited annually as of the thirty-first day of December and shall be allowed on the amount of the accumulated deposits standing to the credit of the member at the beginning of the year and shall not be allowed for parts of a year.

(e) Should a member cease to be an employee of a participating subdivision except by death or retirement under the provisions of this Act, upon the filing of formal application therefor, such member's accumulated deposits shall be paid to him and his account in the Employees Saving Fund closed.

Following the automatic termination of membership in the System for those members who have been absent from service in all participating subdivisions more than sixty (60) consecutive months, the Employees Saving Fund account of such members shall cease to draw interest.

(f) Should a member die before retirement the amount of his accumulated deposits shall be paid as provided in Section VII of this Act.

(g) Upon the retirement of a member his accumulated deposits shall be transferred from the Employees Saving Fund to the Current Service Annuity Reserve Fund.

2. Subdivision Current Service Accumulation Fund:

The Subdivision Current Service Accumulation Fund shall be the Fund in which shall be accumulated all normal contributions made to the Texas County and District Retirement System by the participating subdivisions and from which shall be transferred to the Current Service Annuity Reserve Fund, at the retirement of a member, an amount equal to that proportion of the accumulated deposits of the member which the participating subdivision has agreed to provide.

Contributions to and payments from this Fund shall be made as follows:

(a) All normal contributions payable by participating subdivisions shall be paid into the Subdivision Current Service Accumulation Fund and shall be credited to the accounts of the respective participating subdivisions in such Fund.

(b) Upon the retirement of a member, an amount equal to that proportion of his accumulated deposits in the Employees Saving Fund which the participating subdivision has agreed to provide shall be transferred from the Subdivision Current Service Accumulation Fund into the Current Service Annuity Reserve Fund. If the accumulated deposits of such retiring members have accumulated from deposits made while an employee of a single participating subdivision, such subdivision's account in the Subdivision Current Service Accumulation Fund shall be reduced by the amount so transferred. If such accumulated deposits arose from service in more than one participating subdivision, the accounts of the involved participating subdivisions in the Subdivision Current Service Accumulation Fund shall be reduced by the respective amounts chargeable to such participating subdivisions.

3. Subdivision Prior Service Accumulation Fund:

The Subdivision Prior Service Accumulation Fund shall be the Fund in which shall be accumulated all prior service contributions made to the System by the participating subdivisions for the purpose of providing the amounts required for payment of prior service annuities; and from which prior service annuities shall be paid to the extent herein provided.

Contributions to and payments from this Fund shall be made as follows:

(a) All prior service contributions payable by participating subdivisions shall be paid into the Subdivision Prior Service Accumulation Fund and shall be credited to the accounts of the respective participating subdivisions in such Fund.

(b) All payments under prior service annuities arising from allocated prior service credits granted by a participating subdivision shall be paid from this Fund and charged to such participating subdivision's account in this Fund subject to the following: The Board shall have the power to reduce proportionately all payments under prior service annuities arising from allocated prior service credits granted by any participating subdivision, at any time and for such period of time as is necessary so that the payments under such prior service annuities in any year shall not exceed the amounts available in such participating subdivision's account in the Subdivision Prior Service Accumulation Fund for payment of prior service annuities in such year.

(c) Whenever, at the end of the twenty-fifth or any subsequent year of participation, the amount accumulated in any subdivision's account in the Subdivision Prior Service Accumulation Fund shall equal or exceed

For Annotations and Historical Notes, see V.A.T.S.

the reserve required, as of the end of such year, according to calculations made by the actuary and approved by the Board on the basis of mortality and other tables adopted by the Board, to meet all future payments in full under prior service annuities, arising from prior service credits granted by such participating subdivision, then in effect or to become effective thereafter, then,

(1) the amount of the reserve required at the end of such year under such prior service annuities as are then in effect shall be transferred from the Subdivision Prior Service Accumulation Fund to the Prior Service Annuity Reserve Fund and such subdivision's account in the Subdivision Prior Service Accumulation Fund shall be reduced by such amount so transferred; and

(2) future payments under such prior service annuities so transferred shall thereafter be paid by the System from the Prior Service Annuity Reserve Fund; and

(3) the payment of prior service contributions to the System by such participating subdivision shall be discontinued.

Thereafter, upon retirement of a member with prior service credits granted by such participating subdivision the amount of the reserve required as of the effective date of such retirement to meet all future payments in full under such member's prior service annuity shall be transferred from the Subdivision Prior Service Accumulation Fund to the Prior Service Annuity Reserve Fund and such municipality's account in the Subdivision Prior Service Accumulation Fund shall be reduced by such amount so transferred.

Thereafter, should it be determined, according to calculations made by the actuary and approved by the Board on the basis of mortality and other tables adopted by the Board, that the amount to the credit of such participating subdivision's account in the Subdivision Prior Service Accumulation Fund at the end of any year is less than the reserve required to meet all future payments in full under prior service annuities, arising from allocated prior service credits granted by such participating subdivision, to become effective after the end of such year, such subdivision shall resume payment of Prior Service Contributions, subject to the limitations of Section IV of this Act of such percentage as is required to amortize such deficiency over a period of five (5) years or less.

Whenever all prior service annuities, arising from allocated prior service credits granted by a participating subdivision have become effective and the reserves therefor transferred to the Prior Service Annuity Reserve Fund as provided above, any then remaining balance to the credit of such subdivision's account in the Subdivision Prior Service Accumulation Fund shall be transferred to such subdivision's account in the Subdivision Current Service Accumulation Fund, and the subdivision's account in the Subdivision Prior Service Accumulation Fund closed.

4. Current Service Annuity Reserve Fund:

The Current Service Annuity Reserve Fund shall be the Fund in which shall be held all reserves for current service annuities granted and in force and from which shall be paid all current service annuities and all benefits in lieu of current service annuities, payable as provided in this Act. This Fund shall be made up of transfers as follows:

(a) At the time of service or disability retirement, the accumulated deposits of a retiring member shall be transferred from the Employees Saving Fund to the Current Service Annuity Reserve Fund as reserves for the current service annuity purchased by said member's deposits.

(b) An amount equal to that proportion of the accumulated deposits of each retiring member which the participating subdivision has agreed to provide at retirement, shall be transferred, upon such member's retirement, from the Subdivision Current Service Accumulation Fund as additional current service annuity reserves.

Transfers and payments from the Current Service Annuity Reserve Fund shall be made as provided in Section VII of this Act, upon the death, restoration to active service or removal from the disability list, of an annuitant retired on account of disability.

5. Prior Service Annuity Reserve Fund:

The Prior Service Annuity Reserve Fund shall be the Fund in which shall be accumulated all transfers from the Subdivision Prior Service Accumulation Fund as herein provided. All prior service annuity payments under prior service annuities, the reserves for which have been transferred to this Fund, shall be paid from this Fund. The Board shall have the power to reduce proportionately all payments for prior service annuities payable from this Fund at any time and for such period of time as is necessary so that payments under such prior service annuities in any year shall not exceed the available assets in the Fund in such year.

Transfers from this Fund shall be made as provided in Section VII of this Act, upon the restoration to active service as an annuitant retired on account of disability.

6. Interest Fund:

The Interest Fund is hereby created to facilitate the crediting of interest to the various other Funds. All income, interest and dividends derived from the deposits and investments authorized by this Act shall be paid into the Interest Fund. Once each year on the thirty-first day of December, interest shall be allowed and transferred to the other Funds respectively. After interest-bearing funds have been duly credited with interest for the year in the manner provided by this Act, the Board annually shall transfer all excess earnings from the Interest Fund to one or another of the several special accounts of the Endowment Fund as in its judgment the needs and condition of the System may require.

7. Endowment Fund:

The Endowment Fund shall be a Fund in which shall be accumulated gifts, awards, funds and assets accruing to the System which are not specifically required by other Funds established by this Act. The Endowment Fund shall consist of the following special accounts: the general reserves account; the distributive benefits account; the perpetual endowment account; and such other special accounts as the Board by resolution may establish.

(a) There shall be credited to the general reserves account all current interest allocable to the Endowment Fund, and there shall be transferred from the Interest Fund to said account such portion of the excess earnings, as in the judgment of the Board may be necessary: (1) to provide adequate reserves against insufficient future earnings on investments to allow regular interest on Funds entitled thereto under the provisions of this Act; (2) to provide adequate reserves against special and general contingency requirements of other funds of the System; and, (3) to provide such amount, if available, as is required for the administrative expenses of the System in the ensuing year. The requirements of this account shall constitute a first charge against excess interest earnings standing to the credit of the Interest Fund at the end of any year. If in the judgment of the Board, the amount to the credit of the general reserves account is in excess of that needed to provide adequate reserves against insufficient earnings on investments, and special and general contingent requirements, then so much of any excess as remains as is required to pay administrative expenses for the ensuing year may be transferred to the Expense Fund.

(b) After the requirements of the general reserves account of this Fund have been satisfied, the Board may transfer any balance of excess earnings remaining in the Interest Fund at the end of a calendar year to a special account in the Endowment Fund to be denominated the "distributive benefits account." If in the judgment of the Board the

For Annotations and Historical Notes, see V.A.T.S.

amount to the credit of the distributive benefit account at the end of the year is sufficient to warrant such action, the Board may by resolution:

(1) authorize the distribution and payment of all or part of said amount as a distributive benefit to the persons who were annuitants of the System on the last day of said calendar year in the ratio that the monthly benefit of each such annuitant bears to the total of all annuity payments made by the System for the final month of such year.

(2) authorize the distribution and application of all or part of said amount as supplemental interest earned by, and to be paid and credited to the respective individual accounts of members in the Employees Saving Fund, and to the respective accounts of participating subdivisions in the Subdivision Current Service Accumulation Fund, in the same manner that current interest was allowed to such accounts and in proportion to the current interest allowed such accounts for such calendar year.

(c) The perpetual endowment account shall be the account in which there shall be deposited and kept such funds, gifts and awards as the grantors thereof may designate as a perpetual endowment for the System.

8. Expense Fund:

The Expense Fund shall be the Fund from which the expenses of administration and maintenance of the System shall be paid.

(a) The Director shall prepare annually an itemized budget showing the amount required to defray the expenses for the ensuing fiscal year and shall submit the report to the Board for its review, amendment and adoption.

(b) The amount estimated to be required to meet the expenses of the System shall be paid from the general reserves account of the Endowment Fund to the extent available. The Board, as evidenced by a resolution of the Board recorded in its minutes, may transfer to the Expense Fund the amount required to cover the expenses as estimated for the year.

(c) If the amount estimated to be required to meet said expenses of the System is in excess of the amount in the general reserves account of the Endowment Fund which is available for administrative expenses, the Board, by a resolution recorded in its minutes, shall assess the estimated additional amount against and collect the same from the participating subdivisions and from members as Expense Fund contributions.

Creditable service

Sec. 6.

1. Under such rules and regulations as the Board shall adopt, each person who is an employee of a participating subdivision on the effective date of participation of such subdivision and who becomes a member on such effective date shall be entitled to receive credit for "prior service" as defined in this Act. Any person who has been an employee of such a participating subdivision prior to the effective date of participation of such subdivision, but who is not in the service of such subdivision on the effective date of such subdivision's participation, shall be entitled to receive credit for "prior service" as defined in this Act, if he again becomes an employee of such participating subdivision within five (5) years after the effective date of such subdivision's participation and becomes a member as of the date of such re-employment and continues as an employee of such subdivision for a period of five (5) consecutive years.

2. Each member entitled to receive credit for "prior service" shall file a detailed statement of all prior service for which he claims credit with the Treasurer or other disbursing officer of the subdivision to which such service was rendered.

3. Subject to the above provisions and to such other rules and regulations as the Board may adopt, each participating subdivision shall

verify, as soon as practicable after the filing of such statements of service, the service therein claimed, and shall certify to the Board the length of "prior service" for which credit is allowed to each employee-member and the "average prior service compensation" of each such employee-member.

4. After receipt of such certification from the participating subdivision, the Board shall issue prior service certificates certifying to each member the length of "prior service" with which he is credited, his "average prior service compensation" and his "allocated prior service credit" as herein defined. So long as membership continues, a prior service certificate shall be final and conclusive for retirement purposes as to such service; provided, however, that any member or participating subdivision may, within one (1) year from the date of issuance or modification of such certificate, request the Board to modify or correct such prior service certificate.

When membership ceases, such prior service certificate shall become void. Should a person whose membership has terminated again become a member, he shall enter the System as a member not entitled to credit for prior service.

5. Creditable service at retirement on which the retirement allowance of a member shall be based shall consist of the current service rendered by him since he last became a member, and also, if he has a prior service certificate which is in full force and effect, the length of the service credited on his prior service certificate.

6. "Maximum Prior Service Credit" shall mean an amount equivalent to the accumulation at interest of a series of monthly payments for the number of months of prior service certified to in a member's Prior Service Certificate, each such monthly payment being equal to twice the subdivision's initial deposit rate multiplied by the member's "average prior service earnings." Such accumulation shall be at regular interest and on the basis that interest is allowed at the end of each twelve (12) months period and is allowed on the accumulation at the beginning of each such twelve (12) months period and is not to be allowed for parts of a year.

7. "Allocated Prior Service Credit" shall mean that percentage of the calculated "Maximum Prior Service Credit" of a member which is granted by the subdivision to the member, such percentage to be the same for all of the members of the subdivision and to be such that the total "Allocated Prior Service Credits" granted by the subdivision will not exceed in the aggregate an amount for which the prospective Prior Service Contributions of such subdivision will be adequate:

(a) to accumulate in such subdivision's account in the Prior Service Accumulation Fund by or before the end of the twenty-fifth (25) year of participation of such participating subdivision, a sum equal to the reserve required, according to calculations made by the actuary and approved by the Board, on the basis of mortality and other tables adopted by the Board at the end of such period, to meet all payments in full due after the end of such period under prior service annuities arising from allocated prior service credits granted by such participating subdivision then in effect or to become effective thereafter, and

(b) to provide the amount required according to this Act to be paid during such period under prior service annuities arising from allocated prior service credits granted by such participating subdivision.

8. "Accumulated Allocated Prior Service Credit" shall mean the allocated prior service credit allowed a member as of the effective date of becoming a member, accumulated at regular interest from such date until the effective date of such member's retirement, but interest shall not be allowed for parts of a year.

9. "Current Service Credit" as used herein means an amount equivalent to a per centum (determined as hereinafter provided) of the deposits

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made to the System by a member during a given calendar year. Such per centum of deposits shall be 100% until the end of the calendar year in which five (5) years of participation by the employer-subdivision is completed; and for each calendar year thereafter such per centum shall continue to be 100% unless increased as permitted by and in conformity to the provisions of subsection 11 of this Section VI to 120% or some greater multiple of 20% as may be elected by the subdivision.

10. "Accumulated Current Service Credit" shall mean the "current service credit" allowed a member for a given calendar year, accumulated at interest (as provided in this subsection) from the end of such year until the effective date of such member's retirement. Interest shall be allowed for each respective year of the accumulation period at the rate of interest allowed by the System on members' deposits for such year, but interest shall not be allowed for part of a year.

11. (a) After five full years of participation, a subdivision may increase effective January 1st following benefits theretofore granted, or credits upon which future retirements will be determined, subject to the conditions set out in paragraphs (b), (c), (d), (e), (f) and (g) of this subsection.

(b) Such increase may apply to one or more of the following:

(1) Current service credits to be allowed thereafter, which may be increased by 20% multiples;

(2) Current service credits theretofore allowed, which may be increased by 20% multiples;

(3) Current Service Annuities in effect;

(4) Allocated Prior Service credits theretofore granted and in effect;

(5) Prior Service Annuities in effect.

(c) No increase in prior service annuities, allocated prior service credits, current service annuities or current service credits theretofore allowed shall be permitted which would produce greater benefits for such completed service than would be provided for current service credits allowable for comparable current and future service.

(d) The amount of the additional required reserves on account of any increase in Current Service Annuities or Current Service Credits shall be transferred from such subdivision's account in the Subdivision Prior Service Accumulation Fund account to the Current Service Annuity Reserve Fund and Subdivision Current Service Accumulation Fund accounts of such subdivision in the respective required amounts, calculated by the actuary and approved by the Board.

(e) No such proposed increase shall be permitted if the result thereof (on the basis of calculations made by the actuary and approved by the Board) would impair the ability of the subdivision to fund within twenty-five (25) years from date of participation all obligations arising from Allocated Prior Service Credits granted by the subdivision.

(f) No such increase shall be permitted unless it is determined and certified by the actuary that at the particular anniversary date as of which the proposed increase is to be effective, the allocable prior service credits and prior service annuity obligations of the subdivision existing before any such increase, would be amortized on or before the 20th anniversary of the participation of the subdivision.

(g) No such increase shall be effective unless and until the proposal is approved by the Board as conforming to all of the requirements above.

Benefits

Sec. 7.

1. Service Requirement Eligibility:

(a) Any member, after one (1) year from the effective date of his membership, shall be eligible for service retirement who (1) shall have attained the age of sixty (60) years and shall have completed at least

twelve (12) years of creditable service, or (2) shall have completed thirty (30) years of creditable service.

(b) Application for service retirement shall be made to the Board setting forth the date the member desires his retirement to become effective provided: (1) such application shall be executed and filed at least thirty (30) and not more than ninety (90) days prior to the date on which such retirement is to become effective; (2) the effective date specified in the application shall be the last day of a calendar month, and shall not be a date preceding the termination of the member's employment with an employing subdivision.

(c) With the provision that no retirement shall be effective within one (1) year after the effective date of his membership, each member shall be retired from employment by all subdivisions on the last day of the calendar year in which the age of seventy (70) is attained, or upon the last day of the calendar year in which he completes twelve (12) years of creditable service, whichever shall last occur; provided, however, that in exceptional cases and for substantial cause such retirement may be deferred by mutual consent of the member and the employing subdivision from year to year for a period of not to exceed one (1) year at any time.

(d) Any member who has accepted service retirement shall be ineligible and disqualified to resume or continue service in any participating subdivision.

2. Standard Service Retirement Benefit.

(a) A member who retires upon the basis of service eligibility shall be entitled to receive a "standard service retirement benefit" which shall be an allowance payable in equal monthly installments during the lifetime of the member. The "standard service retirement benefit" of a member shall consist of (1) a current service benefit which is the actuarial equivalent of his current service annuity reserve, and (2) a prior service benefit to which his accumulated allocated prior service credits under his Prior Service Certificate, if any, entitles him under the provisions of this Act.

(b) The current service annuity reserve of the member shall be derived from:

(1) His accumulated deposits credited to his account in the Employees Saving Fund at the time of retirement; and

(2) An additional sum, from the Subdivision Current Service Accumulation Fund, equal to his accumulated current service credits at the time of his retirement.

(c) If he has a Prior Service Certificate in full force and effect, the prior service benefit shall be the actuarial equivalent of his Accumulated Allocated Prior Service Credit at the time of retirement; subject, however, to the power of the Board, upon recommendation of the actuary, to reduce payments for prior service annuities as provided in Section V of this Act.

3. Optional Service Retirement Benefits:

(a) In lieu of the "standard service retirement benefit" allowable under the preceding subsection, and provided that he shall make such election and nomination within thirty (30) days after the date fixed for retirement, any member retiring for service may elect to receive the actuarial equivalent of his current service benefit in a reduced current service annuity payable to the member during his lifetime, but with the provision that:

Option One. Upon his death, the reduced current service annuity shall be continued throughout the life of, and paid to, such person as the member shall nominate by written designation duly acknowledged and filed with the Board within the time above provided; or

Option Two. Upon his death, one-half of the reduced current service annuity shall be continued throughout the life of, and paid to, such per-

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son as the member shall nominate by written designation duly acknowledged and filed with the Board within the time above provided; or

Option Three. In the event of his death before sixty (60) monthly payments have been made of his reduced current service annuity, the payments shall be continued to his beneficiary (or to his estate) until the remainder of the sixty (60) monthly payments have been made; or

Option Four. Some other benefit or benefits may be paid either to the member or to such person or persons as he may nominate, provided the same shall be approved by the Board, and provided such other benefit or benefits, together with the reduced current service annuity of the member shall be certified by the actuary to be the equivalent in actuarial value of the current service annuity reserve to which the member is entitled at the date fixed for his retirement.

(b) Any member who makes an effective election to have his current service benefit paid in accordance with Option One, Option Two, Option Three or Option Four shall likewise receive his prior service benefit, if any, in an adjusted annuity payable upon the same conditions and to the same beneficiary as that selected for his current service benefit, but with the further provision that all prior service benefits shall be subject to reduction by the Board under the circumstances provided for in Section V of this Act.

(c) Any member retiring for service who dies within thirty (30) days after the effective date of his retirement and who has not made an election to receive his annuity under an optional plan as herein provided shall be considered to have elected Option Three above or, at the election of his beneficiary, such deceased member shall be considered as having been an active member at death and the beneficiary may thereby elect to receive the accumulated contributions of the deceased member.

4. Vesting. Deferred Service Retirement.

Any member who shall have accumulated at least twenty (20) years of creditable service may withdraw from service prior to the attainment of the age sixty (60) and shall become entitled to retirement with a Service Retirement Allowance upon his attainment of the age of sixty (60) years, or at his option at any date subsequent to his attainment of said age but not later than the date of his mandatory retirement as set out in paragraph (c) of subsection 1 of this Section VII provided that such member is then living and has not withdrawn his contributions and provided that such retirement may not be effective prior to one year after the effective date of his membership and will be effective only as of the last day of a calendar month and will be effective not less than thirty (30) days or more than ninety (90) days subsequent to the execution and filing with the Retirement Board of written application therefor.

Any member who has accumulated thirty (30) or more years of creditable service shall have the right, until the date of his mandatory retirement as set out in paragraph (c) of subsection 1 of this Section VII, to remain in service and to file a written selection with the Retirement Board, in such form as the Retirement Board may prescribe, of an optional allowance and designated nominee, as provided for in subsection 3 of this Section, and in the event such member thereafter dies while in service he shall be considered to have retired effective as of the last day of the calendar month next preceding the month in which death occurs or as of the end of one year after the effective date of his membership whichever date shall occur last; and any such member who has filed such selection of optional allowance and designated nominee, may at his option from time to time, prior to retirement or death, file an amended written selection of optional allowance and designated nominee. Any such member who has accumulated thirty (30) or more years of creditable service who dies in service without having a written selection of optional allowance and designated nominee on file with the Retirement Board or whose designated nominee under such written selection of Option One

or Option Two of the options provided by subsection 3 of this Section VII last filed with the Retirement Board is not living on the date of death of the member, shall be considered to have elected Option Three above or, at the election of his beneficiary, such deceased member shall be considered as having been an active member at death and the beneficiary may thereby elect to receive the accumulated contributions of the deceased member.

5. Disability Retirement Eligibility:

With the provision that no retirement shall be effective within one (1) year after the effective date of membership, upon the application of a member or of his employer or his legal representative acting in his behalf, any member with less than twelve (12) years of creditable service may be retired by the Board, not less than thirty (30) and not more than ninety (90) days next following the date of filing of such application, on a disability retirement allowance, provided that the Medical Board, after a medical examination of such member, shall certify that such member is mentally or physically incapacitated for the further performance of duty, that such incapacity is the direct result of injuries sustained subsequent to the effective date of membership by external and violent means as a direct and proximate result of the performance of his duties, that such incapacity is likely to be permanent and that such member should be retired.

With the provision that no retirement shall be effective within one (1) year after the effective date of membership, upon the application of a member or of his employer or his legal representative acting in his behalf, any member with twelve (12) years or more of creditable service, who is not eligible for service retirement, may be retired by the Board, not less than thirty (30) and not more than ninety (90) days next following the date of filing of such application on a disability retirement allowance, provided that the Medical Board, after a medical examination of such member, shall certify that such member is mentally or physically incapacitated for the further performance of duty, that such incapacity is likely to be permanent and that such member should be retired.

6. Standard Disability Retirement Benefits:

Upon retirement for disability a member shall receive a disability retirement benefit consisting of a current service annuity, which shall be the actuarial equivalent of his current service annuity reserve, and a prior service annuity to which his Accumulated Allocated Prior Service Credit under his Prior Service Certificate, if any, entitles him under the provisions of this Act.

(a) His current service annuity reserve shall be derived from:

(1) His accumulated deposits credited to his account in the Employees Saving Fund at the time of retirement; and

(2) An additional sum from the Subdivision Current Service Accumulation Fund equal to his accumulated current service credits at the time of his retirement.

(b) If he has a Prior Service Certificate in full force and effect, the prior service annuity shall be the actuarial equivalent of his Accumulated Allocated Prior Service Credit at time of retirement. Upon the recommendation of the actuary, the Board shall have the power to reduce payments for prior service annuities as provided in Section V of this Act.

7. Requirements and Conditions Applicable to Disability Benefits:

Once each year during the first five (5) years following retirement of a member on a disability retirement benefit, and once in every three-year period thereafter, the Board may, and upon his application shall, require any disability annuitant who has not yet attained the age of sixty (60) years to undergo a medical examination, such examination to be made at the place of residence of said annuitant or any other place mutually agreed upon, by a physician or physicians designated by the Board. Should any disability annuitant who has not yet attained the age of sixty,

For Annotations and Historical Notes, see V.A.T.S.

(60) years refuse to submit to at least one (1) medical examination in any such periods by a physician or physicians designated by the Board, his allowance shall be discontinued until his withdrawal of such refusal, and should his refusal continue for one (1) year, all his rights in and to his allowance shall be revoked by the Board.

(a) Should the Medical Board report and certify to the Board that such disability annuitant is no longer physically or mentally incapacitated for the performance of duty, or that such disability annuitant is engaged in or is able to engage in a gainful occupation, and should the Board by a majority vote concur in such report, then his allowance shall be discontinued.

(b) Should a disability annuitant under the age of sixty (60) years be restored to active service in a participating subdivision, his retirement allowance shall cease, he shall again become a member of the System, and any reserves on his current service annuity at that time in the Current Service Annuity Reserve Fund shall be transferred to the Employees Saving Fund and to the Subdivision Current Service Accumulation Fund, respectively, in proportion to the original sum transferred to the Current Service Annuity Reserve Fund at retirement and the reserves under his prior service annuity, if any, in the Prior Service Annuity Reserve Fund at that time shall be transferred to the Subdivision Prior Service Accumulation Fund. Upon restoration to membership, any Prior Service Certificate on the basis of which his service was computed at the time of his retirement shall be restored to full force and effect, and in addition, upon his subsequent retirement, he shall be credited with all his membership service. Should a disability annuitant die or be removed from the disability list for any cause other than restoration to active service, an amount equal to the amount by which such annuitant's accumulated deposits at the time of disability retirement exceed the current service annuity payments received by such annuitant under his disability allowance, if any such excess exists, shall be paid from the Current Service Annuity Reserve Fund to such annuitant if living; otherwise, such amount shall be paid to his estate unless he has directed such amount to be paid otherwise.

8. Return of Deposits Upon Other Terminations:

Should a member cease to be an employee of a participating subdivision except by death or retirement under the provisions of this Act, he shall, upon application, be paid in full the amount of the accumulated deposits standing to the credit of his individual account in the Employees Saving Fund. In the event of death of a member before retirement, and prior to the accumulation of thirty (30) or more years of creditable service, the amount of his accumulated deposits standing to the credit of his individual account in the Employees Saving Fund shall be paid to his estate unless he has directed the account to be paid otherwise. Seven (7) years after cessation of service, if no previous demand has been made, any accumulated deposits of a contributor shall be returned to him or to his estate. If the contributor or the administrator of his estate cannot then be found, his accumulated deposits shall be escheated to the Retirement System, and shall be credited to the perpetual endowment account of the Endowment Fund.

Administration

Sec. 8.

1. This System shall be construed to be a Trust and shall be administered by a Board of Trustees consisting of nine (9) persons, who shall be appointed by the Governor with the advice and consent of the Senate, and shall hold office for a term of six (6) years; provided, however, that of the members of the first Board of Trustees, three (3) shall be appointed whose terms shall expire on December 31, 1969, three (3) shall be ap-

pointed whose terms expire December 31, 1971, and three (3) shall be appointed whose terms expire December 31, 1973. Members of the initial Board of Trustees shall be appointed from officers or employees of the subdivisions eligible to participate in the System; thereafter persons appointed to the Board of Trustees shall be members of the System who are employees (as defined in Subsection 6 of Section II) of a participating subdivision of the System, and any trustee (other than the initial Board of Trustees) who shall cease to be an employee of a participating subdivision shall thereupon vacate his office and shall be disqualified from continuing as a trustee of the System. The Board shall annually elect a chairman and vice-chairman from its membership; and it may designate the Director or one of its own members to serve as Secretary of the Board. All trustees shall serve without compensation, but shall be reimbursed for any reasonable traveling expenses incurred in attending meetings of the Board, authorized committee and association meetings, or in performance of other business for the System as authorized by the Board, and for the amount of any earnings withheld by any employing subdivision because of attendance of any Board meeting. Each trustee shall be entitled to one (1) vote on any and all actions before the Board for consideration at any Board meeting, and at least five (5) concurring votes shall be necessary for every decision or action by the Board at any of its meetings. Each trustee shall qualify by taking and subscribing the oath of office required of state officers.

2. The Board shall have, in addition to all other powers and duties arising out of this Act not otherwise specifically reserved or delegated to others, the following specific powers and duties and is hereby authorized and directed to:

(a) Hold regular meetings in March, June, September and December of each year, and such special meetings at such other times as may be called by the Director upon written notice to the trustees. Five (5) days notice of each special meeting shall be given to each trustee, unless such notice is waived. All meetings of the Board shall be open to the public and shall be held in the offices of the Board or in any other place specifically designated in the notice of any meeting.

(b) Consider and pass on all applications for annuities and benefits, authorize the granting of all annuities and benefits and suspend any payment or payments, all in accordance with the provisions of this Act.

(c) Certify all normal contribution rates, all prior service contribution rates and the current rate of interest as approved in writing by the actuary and notify all participating subdivisions thereof.

(d) Obtain such information from any member or from any participating subdivision as shall be necessary for the proper operation of the System.

(e) Establish an office in the Capital City or in one of the participating subdivisions. All books and records of the System shall be kept in such office.

(f) Appoint a Director for the purpose of managing this System, investing the Funds and carrying out the administrative duties of the System. The Board shall also appoint an actuary for the purpose of carrying out all the necessary actuarial requirements of the System; appoint an attorney; appoint a Medical Board; and employ such additional actuarial, clerical, legal, medical and other assistants as shall be required for the efficient administration of the System; and determine and fix the compensation to be paid.

(g) Have the accounts of the System audited at least annually by a Certified Public Accountant.

(h) Submit an annual statement to the governing body of each subdivision and to any member, upon request, as soon after the end of each calendar year as possible. Such statement shall include at least the following: a balance sheet showing the financial and actuarial condi-

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tion of the System as of the end of the calendar year; a statement of receipts and disbursements during each year; a statement showing changes in the asset, liability, reserve and surplus accounts during the year; and such additional statistics as are deemed necessary for a proper interpretation of the condition of the System.

(i) The Board annually on December 31 shall allow regular interest on the mean amount in the Current Service Annuity Reserve Fund for the year then ending and shall allow regular interest on the mean amount in the Subdivision Prior Service Accumulation Fund for the year then ending and shall allow regular interest on the mean amount in the Prior Service Annuity Reserve Fund for the year then ending and shall allow current interest as defined in Section II of this Act on the amount in the Subdivision Current Service Accumulation Fund at the beginning of such year and on the amount in the Endowment Fund at the beginning of such year and on an amount in the Employees Saving Fund equal to the sum of the accumulated deposits standing to the credit at the beginning of such year of all members included in the membership of the System on December 31 of such year, before any transfers for retirement effective December 31 of such year are made. The amounts so allowed shall be due and payable to said funds and shall be credited thereto by the Board on December 31 of each year from the moneys of the System held in the Interest Fund, provided that current interest shall not be at a rate greater than three percent (3%) per annum and that any excess earnings over such amount required shall be paid to one or another of the several accounts of the Endowment Fund as provided in Section V of this Act.

(j) Accept any gift, grant or bequest of any money or securities for the purposes designated by the grantor, if such purposes are specified as providing an endowment or retirement benefits to some or all of the participating employees or annuitants of this System, or if no such purposes are designated, for deposit to the credit of the Endowment Fund.

(k) Determine the limitations on the amounts of cash to be invested in order to maintain such cash balances as may be deemed advisable to meet payments of benefits and expenses, and invest the remaining available cash in securities in accordance with Subsection (7) of this Section.

(l) Keep in convenient form such data as shall be necessary for all required calculations and valuations as required by the actuary and keep a permanent record of all the proceedings of the Board.

(m) The Board shall have power to incur indebtedness and to borrow money upon the faith and credit of the System for the purpose of paying and providing for the payment of the expenses incident to the operation of the System, and to renew, extend or refund such indebtedness heretofore incurred or hereafter incurred, and for such purposes to issue and sell the negotiable promissory notes or negotiable bonds of the System, maturing within twenty (20) years from date of issuance, and bearing interest at a rate not to exceed six percent (6%) per annum; and such notes or bonds shall be a charge against and shall be payable from the Expense Fund of the System, hereinabove provided for, but shall expressly provide that the same shall never be held or considered to be an obligation of the State of Texas; but the total indebtedness against the Expense Fund of the System shall never exceed at any one time the sum of One Hundred Thousand Dollars (\$100,000).

(n) Establish such rules and regulations not inconsistent with the provisions of the Act and generally carry on such other reasonable activities as are deemed necessary or desirable for the efficient administration of the System.

3. The Director shall be in charge of the technical administration of the System and shall have such additional powers and duties as are properly delegated by the Board.

4. The Board shall designate an actuary who shall be the technical adviser of the Board on matters regarding the operation of the Funds

created by the provisions of this Act and shall perform such other duties as are required in connection therewith.

As soon as practicable after the establishment of the System, and at least once in each five (5) year period thereafter, the actuary shall make such general investigation of the mortality, and service experience of the members and annuitants of the System as he shall recommend and on the basis of such investigation, he shall recommend for adoption by the Board such tables and rates as are required.

On the basis of such tables and rates as the Board shall adopt, the actuary shall:

(a) Calculate the normal contribution rate for participating subdivisions;

(b) Calculate the prior service contribution rate for participating subdivisions;

(c) Calculate the current interest rate;

(d) Certify the amounts of each annuity and benefits granted by the Board; and

(e) Make an annual valuation of the assets and liabilities of the funds of the System created by this Act.

5. The Board shall designate an attorney who shall be the legal adviser to the Board and shall represent the System in all litigation.

6. The Board shall designate a Medical Board to be composed of three (3) physicians not eligible to participate in the System. The physicians so appointed by the Board shall be legally qualified to practice medicine in Texas and shall be physicians of good standing in the medical profession. If required, other physicians may be employed to report on special cases. The Medical Board shall pass upon all medical examinations required under the provisions of this Act, and shall investigate all essential statements and certificates by or on behalf of a member in connection with an application for disability retirement, and shall report in writing to the Board its conclusions and recommendation upon all the matters referred to it.

7. The assets of the System in excess of the amount of cash required for current operations as determined by the Board, shall be invested and reinvested in the following types of securities:

(a) Interest-bearing bonds or other evidences of indebtedness: of the State of Texas, or of any county, school district, city or other municipal corporation within the State of Texas; of the United States or of any authority or agency of the United States, or any such securities which are guaranteed as to the payment of principal and interest by the United States or by any authority or agency of the United States.

(b) Corporate bonds or debentures of any company whose stocks are eligible hereunder as investments for the System, or which are rated A or better by at least two nationally-recognized rating services to be designated by the Board.

In addition to the above listed securities, the Board may invest not exceeding twenty percent (20%) of the total of the assets of the System in preferred stocks and common stocks of companies incorporated within the United States, which have paid dividends for ten (10) consecutive years or longer immediately prior to the date of purchase of such securities and which, except for bank and insurance company stocks, are listed upon an exchange registered with the Federal Securities and Exchange Commission or its successors; and provided further that not more than one percent (1%) of the assets of the System shall be invested in stocks issued by any one corporation, nor shall more than five percent (5%) of the voting stock of any one corporation be owned by the System. In making each and all such investments the Board shall exercise the judgment and care under the circumstances which men of prudence, discretion and intelligence exercise in the management of their own affairs, taking into consideration not only the probable income de-

For Annotations and Historical Notes, see V.A.T.S.

rivable from such securities but as well the probable safety of the capital investment.

The Board shall have full power to sell, assign, exchange, or trade and transfer any of the securities in which the funds of the System at any time may be invested, and to use or reinvest the proceeds as, in the Board's judgment, the needs of the System require.

8. All money received by the System shall immediately be deposited with a depository for the account of the System. All disbursements shall be made only upon vouchers signed by the person or persons designated for such purpose by resolution of the Board, and the depository is hereby authorized to pay the vouchers or checks so signed. The depository shall accept all warrants so signed and shall be released from liability for all payments made thereon. Checks or warrants shall be drawn only upon proper authorization by the Board, properly recorded in the official minute books of the meetings of the Board. All securities of the System when received, shall be deposited in trust with a depository designated by the Board and the depository shall provide adequate safe deposit facilities for their preservation.

9. The assets of the System shall be invested as one Fund, and no particular person or subdivision shall have any right in any specific security or in any item of cash other than an undivided interest in the whole, as set forth in the provisions of this Act.

Depositories

Sec. 9.

In handling the funds of the System created by this Act, the Board shall have and is hereby given all the power, authority and duties granted the State Depository Board and shall designate depositories to qualify and serve such System in accordance with the provisions of Chapter I, Title 47, Revised Civil Statutes of Texas of 1925, together with all amendments thereto.

Merger of existing county systems

Sec. 10.

1. The voluntary merger into the System established by this Act (in this Section called the "state system") of pension systems heretofore established under Subsection (b) of Section 62 of Article XVI of the Constitution of Texas (in this Section called the "local system") is hereby authorized upon the terms and conditions stated in this section, and upon such additional terms and conditions as may be prescribed by the Board of Trustees of the state system, and after approval of the merger proposal by the governing body of the subdivision.

2. The terms of the merger agreement shall be generally consistent with the provisions of this Act pertaining to participation of subdivisions which do not now have any pension system for their employees, but the provisions of this section shall govern merger of such existing systems in event of variance from other provisions of this Act. The provisions of this Act shall apply to the local system subdivision and its employees after merger except as may be otherwise provided in this Section X.

3. In addition to those persons who conform to the definition of "employee" as set out in Subsection 6 of Section II, each person who at the effective date of merger, by virtue of the position or office then held is considered by the local system to be an employee of the subdivision, shall be classified by the state system as an employee of said subdivision while such person continues to occupy said position or office.

4. All persons who are then members of the local system at the effective date of merger shall become members of this state system. The number of months of creditable service allowed by the local system to the member for service to the date of merger shall be allowed as creditable service by the state system.

5. All persons who conform to the definition of "employee" as set out in Subsection 6 of Section II, but who were not eligible for membership in the local system as established, and are not members of the local system at the date of merger, shall become members of the state system under the merger agreement, unless such person executes a waiver of membership in the time and manner prescribed below: provided, however, that no employee who is fifty-eight (58) years of age or more at date of merger shall be eligible for membership unless his service to such subdivision prior to the date of merger is equal to or is in excess of the period by which his then attained age exceeds the age of fifty-eight (58) years.

Any person who becomes a member of the state system as of the date of merger under this Subsection 5 shall not be allowed any credit for service prior thereto except upon the following conditions:

If, for all months during which such person performed service as an employee (as defined in subsection 6, Section II, above) of the subdivision between the time the local system was established and the date of merger, such person shall pay to the state system (within 90 days after date of merger) a sum equal to the deposits which a member of the local system drawing the same compensation during the same period was required to make to the local system, and if the subdivision pursuant to the merger agreement contributes to the state system within the 90-day period an equal amount, then in such event:

(a) the sum so deposited by such member with the state system shall be deposited by it to the credit of such member's individual account in the Employees Saving Fund and shall be treated in the same manner as provided in subsection 9(a) below as to transfer upon merger of individual deposits of members of the local system;

(b) the sum so deposited by the subdivision shall be received and deposited in the subdivision's account in the Prior Service Accumulation Fund in the manner provided in subsection 9(c), below; and

(c) such member shall thereupon receive credit for all service to the subdivision antedating the effective date of merger.

Any person not a member of the local system, but who would become a member of the state system under the terms of this subsection may elect not to become a member if within thirty (30) days after the effective date of the merger agreement, he shall execute and file with the Director of the state system a written waiver of membership in such form as the Board may prescribe. Any such person who files such a waiver of membership may apply for membership in the state system as of the first day of any month thereafter, if the person would then be eligible for membership in the system as a beginning employee of the subdivision, and such person may thereupon become a member of the system but without credit for any service antedating date of membership.

6. Persons who are employees of the subdivision at the effective date of merger but who are not members of the local system by reason of prior voluntary election not to participate, or because of prior withdrawal from the local system, may apply for membership in the state system as of the effective date of merger or as of the first day of any month thereafter, if the person would then be eligible for membership in the system as a beginning employee of the subdivision, and such person may thereupon become a member of the system but without credit for any service antedating date of membership.

7. In determining the status and rights of persons who are members of the local system, but who are not employees of the subdivision at the time of the merger, the provisions of this Act regarding termination of the membership because of absence from service and membership status upon re-employment shall apply as if the local system at all pertinent times had been merged with the state system.

For Annotations and Historical Notes, see V.A.T.S.

8. All assets of the pension system being merged into this System shall be accepted by the System on the following basis:

(a) The value of every United States government bond will be determined on an amortized basis to yield three and one-fourth per centum ($3\frac{1}{4}\%$) per annum or on a market value basis, whichever is greater, and all other bonds shall be accepted at their market value, as of the date of merger;

(b) Cash shall be valued at actual value and time deposits shall be valued at face plus accrued interest.

9. Upon merger, the total assets of the local system shall be transferred to the state system, valued as provided in Subsection 8 above, and such assets shall be credited as follows:

(a) An amount equal to the sum of the accumulated deposits of the individual members of the local system will be credited to the Employees Saving Fund of the state system. The state system will establish individual accounts for all such members and will credit to such individual accounts the respective accumulated deposits of the individual members as of the effective date of merger. No current service credits shall accrue in this System to the members of the local system on account of the accumulated deposits so transferred and credited upon merger.

(b) An amount equal to the required annuity reserve, based on such annuity tables as shall be adopted by the Board with regular interest, for current service annuities in effect in the local system as of the date of merger shall be credited to the Current Service Annuity Reserve Fund of this System and such current service annuities shall thereafter be obligations of and paid from the Current Service Annuity Reserve Fund of this System.

(c) The remaining assets of the local system will be credited to the subdivision's account in the Subdivision Prior Service Accumulation Fund of the state system for the partial funding of the obligations assigned to such account in accordance with this Act.

(d) Each member transferred under the merger, and each person who becomes a member at the date of merger and qualifies for creditable service antedating merger as provided by Subsection 5 above, will be given an "allocated special prior service credit" determined as provided in paragraphs (e) and (f) following.

(e) "Maximum Special Prior Service Credit," as used in this Section shall mean an amount equivalent to the accumulation at interest of a series of monthly payments for the number of months of all creditable service allowed to the member pursuant to the merger agreement for service to the date of merger, each such monthly payment being equal to twice the subdivision's initial deposit rate multiplied by the member's "average local system earnings," with such accumulation then being reduced by an amount equal to the individual member's accumulated deposits transferred on merger or paid in by the member in accordance with Subsection 5 of this Section. Such accumulation shall be at regular interest and on the basis that interest is allowed at the end of each twelve (12) months period and is allowed on the accumulation at the beginning of each such twelve (12) months period and is not allowed for parts of a year.

"Average local system earnings" as used in this subsection means the average monthly earnings received by an employee for service rendered to the local system subdivision during the thirty-six (36) months immediately preceding the effective date of merger of such subdivision's local system into the System, or if there be less than thirty-six (36) months of such service, the average shall be computed for the number of months of such service within such thirty-six (36) months period, or if there be no such service during said thirty-six (36) months, the average shall be computed for the number of months of service rendered to the

local system subdivision during the twenty-four (24) months immediately preceding said thirty-six (36) months; provided however, that in calculating the "average local system earnings" of any employee, actual earnings in any month shall be excluded to the extent that they exceed the lower of the following rates of earnings: (i) the annual earnings prescribed by the governing body at the time of merger as the maximum current service earnings for current service deposits and contributions; or (ii) annual earnings in excess of Twelve Thousand Dollars (\$12,000.00) per annum.

(f) "Allocated Special Prior Service Credit" as used in this section shall mean that percentage of the calculated "Maximum Special Prior Service Credit" of a member which is granted by the subdivision to the member, such percentage, except as hereinafter provided in this paragraph, to be the same for all of the members of the subdivision and to be such that the total "Allocated Special Prior Service Credits" granted by the subdivision will not exceed in the aggregate an amount for which the assets credited to the Prior Service Accumulation Fund on merger and the prospective Prior Service Contributions of such subdivision will be adequate:

(i) to accumulate in such subdivision's account in the Prior Service Accumulation Fund by or before the end of the twenty-fifth (25th) year of participation of such participating subdivision or within the period of time which would have been required to fund the unfunded liability of the local system if greater, a sum equal to the reserve required, according to calculations made by the actuary and approved by the Board, on the basis of mortality and other tables adopted by the Board at the end of such period to meet all payments in full due after the end of such period under prior service annuities chargeable to such participating subdivision then in effect or to become effective thereafter, and

(ii) to provide the amount required according to this Act to be paid during such period under prior service annuities chargeable to such participating subdivision.

It is specifically provided that the allocated special prior service credit granted to any member at merger shall be not less than an amount which together with the amount of such member's accumulated deposits at the time of merger will provide a benefit at retirement equal to that which under the provisions of the local system in effect at time of merger, he would have been entitled to receive at retirement based upon service prior to date of merger.

10. Prior to approval by the Board of the merger agreement, the governing body of the subdivision shall:

(a) Designate the initial deposit rate to be effective upon participation in the state system, in the manner provided in Subsection 1(a) of Section IV, above;

(b) Determine the maximum earnings upon which current service deposits shall be made, as provided in subsection 1(c) of Section IV, above.

If the local system has been in effect more than five years (and subject to the limitations below set out), the governing body of the subdivision may also provide (substantially in the manner delineated in subsection 11 of Section VI, above):

(c) for proportional increases in prior service annuities theretofore granted by the local system;

(d) for proportional increases in current service annuities theretofore granted by the local system;

(e) for allowance of current service credits after merger in excess of 100% of deposits as provided in subsection 9 of Section VI, above.

No proposal for merger shall be approved until actuarial studies shall have been made by the local system at its expense but in accordance

For Annotations and Historical Notes, see V.A.T.S.

with specifications approved by the Board, and provided that such studies establish to the satisfaction of the Board that the obligations undertaken by or on behalf of the subdivision will be discharged at the time and in the manner provided by this Act and by the merger agreement, and that the obligations incurred by the subdivision in the Prior Service Accumulation Fund will be fully funded within twenty-five (25) years from date of merger, or within such longer period as would have been required to amortize the unfunded liability of the local system as then existing.

11. No retirement of persons becoming active members of the state system by reason of merger, shall become effective until 120 days after the effective date of merger.

12. From and after date of merger, the rights and obligations of the employing subdivision and of persons who as its employees or pursuant to the merger agreement become members of the state system shall be governed by the provisions of Sections I through IX of this Act, except as modified by the terms of the merger agreement and by the provisions of this Section.

Merger of other local systems

Sec. 11.

The voluntary merger into the state system created by this Act of pension systems heretofore or hereafter established for employees of subdivisions as hereinabove defined (exclusive of such systems as are included within the provisions of Section X, above) is authorized to be effected upon terms and conditions to be prescribed by the Board of Trustees of this state system, and generally in accordance with the provisions of Section X, above, so far as applicable.

Miscellaneous

Sec. 12.

1. Each member shall, by virtue of the payment of the deposits required to be paid to this System, receive a vested interest in such deposits.

2. Venue of any action by or on behalf of the System or the Board against any participating subdivision or against any officer or Board of Officers of any participating subdivision to compel accounting by such subdivision or by such officer or officers of such participating subdivision for any sums due by the participating subdivision to the System, or due to the System as contributions of members, or to require withholding of and accounting for sums due from members, shall lie in Travis County, Texas, as well as in the county in which such subdivision is situated.

3. All annuities and other benefits payable under the provisions of this Act and all accumulated credits of employees in this System shall be unassignable and shall not be subject to execution, garnishment or attachment.

4. Any person who shall knowingly make any false statement in any report or application to the System, in any attempt to defraud the System, or who shall knowingly make a false certificate of any official report to the System, shall be guilty of a misdemeanor and shall be punished therefor by fine of not less than One Hundred Dollars (\$100) and not more than One Thousand Dollars (\$1,000), or by confinement in jail for a term of not less than thirty (30) days nor more than one (1) year, or by both such fine and imprisonment.

5. The Board shall require and secure at the expense of the System such fidelity bond as it may deem proper for the faithful performance of the duties of the Director, and may likewise require bonds for other employees of the System.

Severability clause

Sec. 13.

If any section, paragraph, sentence or clause of this Act is held to be invalid or unconstitutional for any reason, the remaining articles, sections, paragraphs, sentences and clauses shall continue in full force and effect and shall be construed thereafter as being the entire provisions of this Act.

Acts 1967, 60th Leg., p. 240, ch. 127, emerg. eff. May 5, 1967.

Title of Act:

An Act establishing the Texas County and District Retirement System, pursuant to subsection (c) of Section 62 of Article XVI of the Constitution of Texas, to provide certain retirement, disability and death benefits for officers and employees of counties or other political subdivisions of the State, and of political subdivisions of counties; authorizing any such subdivision (with stated exclusions) and its employees, as herein defined, to participate in such System upon determination made by the governing body of the subdivision; provid-

ing for the management and operation of the System, and for defraying the costs thereof; prescribing the benefits allowable under the System and eligibility therefor, and providing for the financing of the costs thereof; providing for voluntary merger into the statewide System hereby established of any locally-administered Fund or system heretofore or which may hereafter be established under subsection (b) of Section 62 of Article XVI of the Constitution of Texas; declaring the act to be severable; and declaring an emergency. Acts 1967, 60th Leg., p. 240, ch. 127.

2. CITY PENSIONS

Art. 6243a. Firemen's, policemen's and fire alarm operators' pension system; cities and towns of 432,000 or more having fully or partially paid departments

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Investment counselor; qualifications

Sec. 1A. (a) The Board of Trustees may employ an investment counselor to advise the Board in the investment and re-investment of money in the Firemen, Policemen, and Fire Alarm Operators' Pension Fund. The following will be eligible for employment as an investment counselor:

- 1. Any organization whose regular business functions include rendering investment advisory service to pension and retirement funds and which is registered as a "dealer" under the provisions of Chapter 269, Acts of the 55th Legislature, as amended;
2. Any bank maintaining a Trust Department and offering investment services to pension and retirement funds.

(b) The investment counselor shall receive such compensation as may be determined by the Board. The compensation of the investment counselor may be paid in whole or in part by the City, and if not paid by the City, the cost of the counseling service shall be paid from the Firemen, Policemen, and Fire Alarm Operators' Pension Fund."

Sec. 1A added by Acts 1967, 60th Leg., p. 2026, ch. 749, § 1, emerg. eff. June 18, 1967.

Membership

Sec. 2. Each fully paid Fireman, Policeman and Fire Alarm Operator, in the employ of such city or town, who desires himself or his beneficiaries to participate in said Fund, shall file a written statement with the City Clerk, or Secretary, of his desire to participate in said Fund, and authorize said city or town to deduct not less than one (1%) per cent, nor more than the percentage determined under Section 3 of this Act, of his wages each month to form a part of the Fund known as The Firemen, Policemen and Fire Alarm Operators' Fund."

Sec. 2 amended by Acts 1967, 60th Leg., p. 2026, ch. 749, § 2, emerg. eff. June 18, 1967.

Deductions; amount; donations

Sec. 3. There shall be deducted for such Fund, from the wages of each Fireman, Policeman and Fire Alarm Operator in the employment of the said city or town, when he has filed application therefor, not less than one (1%) per cent nor more than three (3%) per cent of the wages earned by such employee, except that if approved by a majority vote of the participating members of the Fund at an election held for the purpose within 90 days of the date this Act takes effect there shall be deducted during the year beginning on October 1, 1967, no more than four (4%) per cent, during the year beginning on October 1, 1968, no more than five (5%) per cent, and beginning on October 1, 1969, no more than six (6%) per cent of the wages earned by such employee. Every contributor to said Fund shall be required to pay into the Fund on the base pay of a private and no more. Any donations made to said Fund and rewards received by any members of either of the Departments and all funds received from any source for such Fund, shall be deposited in like manner to such Fund."

Sec. 3 amended by Acts 1967, 60th Leg., p. 2027, ch. 749, § 3, emerg. eff. June 18, 1967.

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Art. 6243e. Firemen's Relief Pension Fund

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Cities of less than 165,000 population; composition and duties of board of trustees

Sec. 3B. (a) This section applies to all cities having a population of less than one hundred sixty-five thousand (165,000) according to the last preceding Federal Census in which there is a "full paid" fire department participating in a Firemen's Relief and Retirement Fund.

(b) All of Section 3 of this Act applies to the Boards in these cities, except for those provisions which conflict, in which case this section controls.

(c) The Board of Firemen's Relief and Retirement Fund Trustees shall consist of the following:

(1) the mayor or his duly appointed and authorized representative;

(2) the chief financial officer, or if there is no chief financial officer, then the city treasurer, city secretary, city clerk, or such other person or officer as by law, charter provision, or ordinance performs the duties of chief financial officer;

(3) three (3) members of the regularly organized active fire department of the city, to be elected by a majority vote of the members of the department; and

(4) two (2) legally qualified taxpaying electors of the city, who have resided in that city for the last three (3) years and are neither employees nor officers of that city, to be chosen by the unanimous vote of the members of the Board provided for in Subdivisions (1), (2), and (3) of this subsection.

(d) The members of the fire department presently serving on the Board of Trustees shall continue in that capacity. Annually, on the first Monday in the month of January after the effective date of this section, the participating members of the Fund shall elect by secret ballot and certify one member of the Board for a three-year term.

(e) The two (2) appointed members shall be chosen on the third Monday in the month of January following the effective date of this section. One of the members shall be appointed for a term of one year and the other shall be appointed for a term of two (2) years. Annually, thereafter, on the third Monday in January, a qualified member will be chosen to serve as an appointed member for a two-year term.

(f) The Board of Trustees shall elect annually from among their number a Chairman, Vice-Chairman and a Secretary.

(g) Each member of the Board of Trustees shall, within ten (10) days after taking office, take an oath of office that he will diligently and honestly administer the affairs of the Firemen's Relief and Retirement Fund and that he will not knowingly violate or willingly permit to be violated any provision of this Act.

(h) If an appointed member of the Board dies, resigns or is removed, the members provided for in Subdivisions (1), (2) and (3) of Subsection (c) shall choose another qualified person to fill the vacancy. The person chosen shall serve for the unexpired term of the person he is replacing.

(i) The Secretary of the Board of Trustees shall, within seven (7) days after each meeting of the Board, forward true copies of the minutes of such meeting to each fire station and to each division of the fire department.

Sec. 3B added by Acts 1967, 60th Leg., p. 348, ch. 167, § 1, eff. Aug. 28, 1967.

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Cities of less than 165,000 and cities of more than 185,000 population; transfer of firemen

Sec. 7E. (a) This section applies only to cities having a population of less than one hundred sixty-five thousand (165,000) and to cities having a population of more than one hundred eighty-five thousand (185,000) according to the last preceding Federal Census, and having an organized 'fully paid' fire department covered by a Firemen's Relief and Retirement Fund.

(b) A fireman who transfers from the fire department of one city to that of a city covered by this section and desires to participate in the fund of that city shall:

(1) be less than thirty-five (35) years old;

(2) pass a physical examination taken at his expense and performed by a physician selected by the Board;

(3) pay into the fund of that city an amount equal to the total contribution he would have made had he been employed by that city instead of the city from which he transferred, plus four percent (4%) interest.

(c) The city to which the fireman has transferred shall pay an amount equal to the amount it would have paid had the fireman been employed by that city instead of the city from which he transferred, plus four percent (4%) interest.

(d) No fireman may participate in the fund of the city to which he has transferred until he has complied with the provisions of this section."

Sec. 7E added by Acts 1967, 60th Leg., p. 349, ch. 167, § 3, eff. Aug. 28, 1967.

Cities of less than 165,000 and cities of more than 185,000 population; increase in monthly allowance

Sec. 7F. This section applies only to cities having a population of less than one hundred sixty-five thousand (165,000) and to cities having a population of more than one hundred eighty-five thousand (185,000) according to the last preceding Federal Census. In cities of less than one hundred sixty-five thousand (165,000) the monthly pension allowance as provided for under Sections 6, 7, and 7A of this Act, and in cities of more than one hundred eighty-five thousand (185,000) the monthly pension allowance as provided for under Sections 6B, 7B, and 7C of this Act, may be increased provided that:

(1) the increase is first approved by an actuary qualified by training and experience in the field of retirement programming and who is

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selected by a four-fifths vote of the Board of Trustees of the Firemen's Relief and Retirement Fund;

(2) a majority of the participating members of the pension fund vote for the increased monthly pension allowance by a secret ballot;

(3) the increase applies only to active full-time firemen in the department at the time of the increase and those who enter the department thereafter.

Sec. 7F added by Acts 1967, 60th Leg., p. 349, ch. 167, § 4, eff. Aug. 28, 1967.

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Pension contribution refunds; cities of 185,000 or less

Sec. 10A—1. In all cities having fully paid firemen where Firemen's Relief and Retirement Funds now exist or shall be created under the provisions of this Act and having a population of less than 185,000 according to the last preceding Federal Census, the pension contributions paid by a fireman shall not be refunded to him if the fireman is separated from the service of the fire department for any reason other than those qualifying said fireman for a pension, nor shall his beneficiary or estate receive any amount paid by him into the pension fund or any interest his contributions have accrued.

Provided further, however, a fireman who comes within the preceding paragraph may have his pension contributions refunded in a lump sum if the following provisions have been complied with:

1. A majority of the participating members have voted by secret ballot that pension contributions be refunded if a fireman leaves the service of the Fire Department prior to the time that he is entitled to retirement benefits.

2. The refund provisions if approved by a majority of the members shall apply only to those who leave the service of the Fire Department after the effective date of the election.

Sec. 10A-1 added by Acts 1967, 60th Leg., p. 82, ch. 42, § 3, emerg. eff. April 7, 1967.

Cities of less than 165,000 population; monthly deductions from salaries; contributions and appropriations; membership; service credits

Sec. 10A—2. (a) In all cities having fully paid firemen where Firemen's Relief and Retirement Funds now exist or shall be created under the provisions of this Act and having a population of less than one hundred sixty-five thousand (165,000) according to the last preceding Federal census, the city or the governing body of the city shall deduct an amount equal to no less than three percent (3%) nor more than nine percent (9%) from the monthly salary or compensation of each participating member fireman; provided, however, that the total of the percentage contributed by such city to the Fund, plus the percentage, if any, contributed by such city under the Federal Social Security Act, shall not exceed:

(1) nine percent (9%) of the monthly salary, or,

(2) the total percentage contributed to the retirement of other full-time employees of such city under the Texas Municipal Retirement System, or any other retirement system, whichever is greater.

(b) The amount of the monthly deductions which shall be contributed to the Firemen's Relief and Retirement Fund shall be determined by majority vote of the Fund members.

(c) Any city coming within the provisions set out in this Article shall also contribute and appropriate monthly to the Fund an amount equal to the total sum paid into the Fund by salary deductions of the members subject to the limitations set out in Section 10A (a). Under no circumstances shall the city contribute an amount greater than the total sum

paid into the Fund by salary deductions of members unless authorized under Section 10A (e).

(d) Money deducted from salaries or compensation as provided by this section and the payments and contributions provided by this section shall become and form a part of the Firemen's Relief and Retirement Fund of the city or town in which the contributing fireman serves.

(e) In addition to the amount which the city is required to contribute, the governing body of a city may authorize the city to make an additional annual contribution to its Firemen's Relief and Retirement Fund in whatever amount the governing body of the city may fix.

(f) Each person who shall hereafter become a fireman in any city which has a Firemen's Relief and Retirement Fund to which he is eligible for membership, shall become a member of such Fund as a condition of his appointment, and shall by acceptance of such position agree to make and shall make contributions required under this Act of members of such Fund, and shall participate in the benefits of membership in such Fund as provided in this Act, provided, however, that no person shall be eligible to membership in any such Fund who is more than thirty-five (35) years of age at the time he first enters service as a fireman; and provided, further, that any such person who enters service as a fireman may be denied or excused from membership in the Fund if the Board of Trustees of the Fund determines that such person is not of sound health. The applicant shall pay the cost of any physical examination required in such instance by the Board of Trustees.

(g) Each person who is an active member of a Firemen's Relief and Retirement Fund previously organized and existing under the laws of this State at the effective date of this amendment shall continue as a member of such Fund and he shall retain and be allowed credit for all service to which he was entitled in the Fund of which he was a member immediately prior to the effective date of this amendment.

Sec. 10A-2 added by Acts 1967, 60th Leg., p. 350, ch. 167, § 5, eff. Aug. 28, 1967.

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Cities of less than 165,000 and cities of more than 185,000 population; integration of fund with Social Security benefits

Sec. 13A. This section applies only to cities having a population of less than one hundred sixty-five thousand (165,000) and to cities having a population of more than one hundred eighty-five thousand (185,000) according to the last preceding Federal Census. No Firemen's Relief and Retirement Fund for fully paid firemen shall ever be integrated with benefits payable under the Federal Social Security Act, and benefits which might be available to a fireman under the Federal Social Security Act may never be taken into account in a city where firemen are eligible to enroll for or receive retirement benefits under the Social Security Act when determining the amount of benefits which a fireman may receive from a Firemen's Relief and Retirement Fund for fully paid firemen.

Sec. 13A added by Acts 1967, 60th Leg., p. 349, ch. 167, § 2, eff. Aug. 28, 1967.

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Investment of surplus; cities of 185,000 or less

Sec. 23A. (a) This Section applies to the Firemen's Relief and Retirement Fund in any city having a population of less than 185,000 according to the last preceding Federal Census.

(b) Whenever, in the opinion of the Board of Trustees, there is on hand in the Firemen's Relief and Retirement Fund a surplus over and above a reasonably safe amount to take care of current demands upon such fund, such surplus, or so much thereof as in the judgment of the

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Board is deemed proper, may be invested in bonds or other interest-bearing obligations and securities of the United States, the State of Texas, or any county, city or other political subdivision of the State of Texas; in shares or share accounts of savings and loan associations, where such shares or share accounts are insured under and by virtue of the Federal Savings and Loan Insurance Corporation; in first lien real estate mortgage securities insured by the Federal Housing Administration under the National Housing Act of the United States, as amended from time to time; and in such corporation bonds, preferred stocks and common stocks as the Board may deem to be proper investments for the fund.

(c) In making each and all of such investments the Board shall exercise the judgment and care under the circumstances then prevailing which men of ordinary prudence, discretion, and intelligence exercise in the management of their own affairs not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income therefrom as well as the probable safety of their capital.

(d) No more than fifty percent (50%) of the fund shall be invested at any given time in corporate stocks, nor shall more than five percent (5%) of the fund be invested in corporate bonds and stocks issued by any one corporation, nor shall more than five percent (5%) of the voting stock of any one corporation be owned.

(e) Stocks eligible for purchase shall be restricted to stocks of companies incorporated within the United States which have paid dividends for ten (10) consecutive years or longer immediately prior to the date of purchase and which, except for bank stocks and insurance stocks, are listed upon an exchange registered with the Securities and Exchange Commission or its successors.

Sec. 23A amended by Acts 1963, 58th Leg., p. 79, ch. 50, § 2, eff. Aug. 23, 1963; Acts 1967, 60th Leg., p. 82, ch. 42, § 1, emerg. eff. April 7, 1967.

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Investment counseling service

Sec. 23B. The Board of Trustees of a full paid fire department may engage and employ professional investment counselors to advise and assist the board in the investment of the assets of the fund. The investment counseling service must be provided by a nationally known organization whose business functions include rendering continuous investment advisory service to public pension and retirement funds. The city may pay the entire cost of this counseling service; if not paid by the city the cost may be paid from the assets of the fund.

Sec. 23B amended by Acts 1963, 58th Leg., p. 79, ch. 50, § 3, eff. Aug. 23, 1963; Acts 1967, 60th Leg., p. 82, ch. 42, § 2, emerg. eff. April 7, 1967.

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Art. 6243f. Firemen and Policemen's Pension Fund in cities of 550,000 to 650,000

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Cessation of membership in department; eligibility for retirement benefits; conditions

Sec. 9. When any member of said Departments has qualified for a retirement pension as provided in Section 8(a) hereof, but has subsequently ceased to be a member or a duly enrolled member of said Departments, by whatever means or for whatever reason, he shall nevertheless be entitled to such retirement benefits of the Fund as had accrued to him before the time he ceased to be a member or duly enrolled member of said Departments, provided, however, that: (a) application for such retirement pension must be filed with the Board by such former member (or his bene-

fiary or beneficiaries in the event of his prior death) within one (1) year from the date he ceases to be a member or duly enrolled member of said Departments; (b) such retirement pension shall begin as of the first full calendar month after the month in which such application is filed; and (c) the amount of such pension shall be that established as of the date he ceased to be a member or a duly enrolled member of said Departments, or as of the date he files such application, whichever is the lesser; provided further, that this section shall never be construed to entitle a former member to a pension hereunder who has lost his pension rights because of failure to retire at age sixty-five (65), (or upon attaining thirty years' service past age sixty-five (65)), under the provisions of Section 8(b) hereof.

Sec. 9 added by Acts 1967, 60th Leg., p. 2060, ch. 763, § 1, eff. Aug. 28, 1967.

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Group II fund, members, benefits, etc.

Sec. 25. All members of the Fund, or probationers subsequently becoming members of the Fund, as of September 22, 1963, shall be known as and constitute Group I Fund members to which all existing provisions of this Statute shall apply, except as set forth herein to be applicable only to Group II members and the Group II Fund. On and after September 22, 1963, there shall be established in any city coming under the provisions of this Statute a separate Group II Fund for all duly appointed and enrolled members of the Fire and Police Departments whose probationary period began after such date (and who successfully complete such probationary period) and such members of said Departments will be Group II members of said Group II Fund under the provisions hereinafter set out:

(1) All existing provisions of this Statute, codified as Article 6243f, Vernon's Texas Civil Statutes, shall fully apply to such Group II Fund, and to said Group II members, except as herein specifically changed as to such Fund and members, or as changed by necessary implication.

(2) Payroll deductions from Group II members shall, after the effective date of this Act, in each case be an amount equal to seven and one half per cent (7½%) of a base figure of Four Hundred Dollars (\$400) per month per Group II member and city shall exactly match the sum of all such deductions as made.

(3) No provisions of this Statute respecting parking meter money applies to Group II Fund or its members. Donations must be made specifically to Group II Fund or otherwise shall be placed in Group I Fund.

(4) Retirement benefits for Group II members shall, after the effective date of this Act, be as follows, stated in percentages of the base figure of Four Hundred Dollars (\$400) per month and payable monthly:

(a) Twenty (20) years service and less than twenty-five (25) years service: Thirty-five per cent (35%).

(b) Twenty-five (25) years service and less than thirty (30) years service: Forty-three per cent (43%).

(c) Thirty (30) years service, or more: Fifty-two per cent (52%).

(d) Disability retirement (without regard to length of service): Forty-three per cent (43%).

(5) Benefits for beneficiaries of Group II members shall be, after the effective date of this Act, in the case of widows and children, as follows:

(a) Where retired member served more than twenty (20) and less than twenty-five (25) years: Thirty-five per cent (35%).

(b) Where retired member served more than twenty-five (25) years: Forty-three per cent (43%).

(c) Where member dies on active duty or is retired for disability, without regard to length of service: Forty-three per cent (43%). In the

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case of child or children alone such pension shall be twenty-one per cent (21%) except that in the event the member retired with less than twenty-five (25) years service it shall be seventeen per cent (17%). Dependent parents shall receive and divide twenty-nine per cent (29%) and a dependent parent shall receive twenty-one per cent (21%).

(6) All monies paid into the Group II Fund through payroll deductions, contributions, donations, and any other source, shall be deposited into a Fund to be designated as the "Firemen and Policemen's Pension Fund—Group II," and to be administered by the Board in the same manner and under the same provisions of this Statute as the Group I Fund, except as specifically changed by this Act. The Treasurer shall establish and strictly maintain an entirely separate system of accounts for the Group II Fund and the monies of the two Funds shall be strictly segregated at all times for all purposes, including investments.

(7) Disability pensions of Group II members may be changed in the manner set out under the provisions of Section 15(a) of this Act, except that the figure of Four Hundred Dollars (\$400) per month shall, after the effective date of this Act, be used as the base figure in making such computations and the maximum award shall be forty-three per cent (43%) of such figure.

Acts 1941, 47th Leg., p. 134, ch. 105, § 25 added by Acts 1963, 58th Leg., p. 869, ch. 334, § 4, eff. Aug. 23, 1963, amended by Acts 1967, 60th Leg., p. 371, ch. 180, § 1, emerg. eff. May 12, 1967.

Increase in existing pensions

Sec. 26. Because of the inflationary increase in the cost of living all pensions heretofore granted in the Fund created hereunder, and which are currently being paid or are legally due to be paid before the effective date of this Act, are hereby increased in amount five and one-fourth per cent (5¼%), beginning with the first whole calendar month after the effective date hereof, subject to the right of the Board to change any percentage of disability, as provided by Section 15 of this Act. The increase herein provided shall not apply to any pension granted on and after the effective date hereof.

Sec. 26 added by Acts 1967, 60th Leg., p. 372, ch. 180, § 2, emerg. eff. May 12, 1967.

Section 3 of the 1967 amendatory act was a savings clause.

Art. 6243g. Pension system in cities over 900,000

Creation of pension system

Section 1. There is hereby created a Municipal Pension System in all cities in this state having a population of nine hundred thousand (900,000) or more according to the last preceding or any future Federal Census.

Definitions

Sec. 2. The following words and phrases when used in this Act are defined as follows, to wit:

(a) "Pension System" means the retirement, disability and Pension System for employees of cities coming within the provisions of this Act.

(b) "Member" means each city employee included in the Pension System provided for herein and becoming a member thereof.

(c) "Pension Board" or "Board" means the Pension Board of the Pension System created under this Act for the purpose of administering the Pension System.

(d) "Service" means the services and work performed by an "employee" as that term is defined herein.

(e) "Pension" means benefits payable to members out of the Pension Fund upon their becoming disabled or reaching retirement age as provided herein and becoming eligible for such payments.

(f) "Separation from Service" means cessation of work for the city, whether caused by death, discharge, resignation or any reason other than retirement.

(g) "Separation Allowance" means the accumulation of payments made by the employee to the Pension Fund and returned to him upon his separation from service with the city before having become eligible for a pension.

(h) The term "employee" means and includes any person whose name appears on a regular full time payroll of any such city and who is paid a regular salary for his services. Provided, that any elected official who becomes a member of the Pension System as permitted by this amended Act shall be considered to be and to have been an employee during the period of any service as an elected official.

(i) "Monthly Salary" means base pay plus longevity, excluding all other earnings, and computed as one-twelfth ($\frac{1}{12}$) of an employee's annual rate of such compensation regardless of how actually paid.

(j) "Prior Service" means all services and work performed as an employee prior to September 1, 1943.

(k) "Previous Service" means all services and work as an employee, other than "prior service" as herein defined, which preceded a member's current period of employment.

(l) "Credited Service" means all services and work performed by a person as an employee, including prior service. However, if performed after September 1, 1943, such services and work must have been accompanied by corresponding contributions to the Pension Fund by the employee or legally authorized repayments thereof must have been made. Provided further, service preceding an interruption in service of ten years or longer is not "credited service".

Persons eligible under this act

Sec. 3. The following persons are eligible under this Act:

(a) Any person who is now a member of any such System under the terms of the original Act, as amended.

(b) Any person who hereafter becomes an employee of such city shall automatically and immediately at the beginning of his first full pay period become a member of the Pension System as a condition of his employment except as hereinafter enumerated.

(c) Elected officials in good physical condition shall have the option of becoming members of the Pension System. They shall be subject to physical examinations and shall exercise the option by written notice to the Pension Board within ninety (90) days after the effective date of this amendatory Act or within ninety (90) days of the date of taking office, whichever is later. Any former member of the Pension System who shall hereafter be elected to an office of said city shall have the right to reinstatement and shall receive credit for prior service and previous service as an employee on the same conditions as reemployed members. Any elected official coming under the terms hereof who, thereafter, fails of election to said office or another elective office of the city, shall be considered as separated from the service, but if he is again elected or employed by such city within ten (10) years from the expiration of his term of office, he shall be subject to the other provisions of this Act concerning interruptions in service.

Persons not eligible under this act

Sec. 4. Employees of such city who may not become members of the Pension System shall include:

- (a) All quasi-legislative, quasi-judicial and advisory boards and commissions;
- (b) All part-time employees, other than any elected officials whose service is made part-time by law or charter;
- (c) All seasonal employees;
- (d) Employees covered by any other Pension System of such city to which the city contributes or persons drawing a pension from any such system.

Pension board

Sec. 5. (a) There is hereby created a Pension Board of the Pension System, in which Board there is hereby vested the general administration management and responsibility for the proper and effective operation of the Pension System. The Board shall be organized immediately after its members have qualified and taken the oath of office and shall serve without compensation.

(b) The Pension Board shall be composed of seven (7) members as follows:

(1) The Mayor of the City, or the Director of the Civil Service Commission as his representative.

(2) The Treasurer of the City or person performing the duties of Treasurer.

(3) Three (3) employees of the city having membership in the Pension System and elected by the members of such System. No city department shall have more than one (1) representative. The persons now serving as employee members of the Board shall continue in office until the expiration of their terms, in cities having established systems under the original Act, as amended. The term of office of succeeding members so elected shall likewise be two (2) years and each such member shall continue to serve until his successor is duly elected and qualified. Vacancies occurring by death, resignation or removal of such representative shall be filled by appointments made by any two (2) of the Board members elected by the members of the Pension System. Such appointees shall serve for the remainder of the unexpired term of the member they replace. The first election of employee members in cities hereafter coming under this Act shall be held in such city at such time and place as shall be fixed by the governing body of the city, and to be not more than seventy-five (75) days from the date such city comes under the terms of this Act.

(4) Two (2) legally qualified taxpayers of such city, who have been residents of the county in which such city is located for the preceding five (5) years, to be chosen by the governing body of the city, being neither employees nor officers of such city. The two (2) members so chosen by the governing body of the city shall serve for two (2) years and until their successors are duly elected and qualified. Vacancies occurring by death, resignation, or removal of such representative shall be filled by the governing body of the city. Public members now on the Boards of cities having established Systems shall continue in office until the expiration of their terms.

(c) Each member of the Pension Board within ten (10) days after his appointment and election shall take an oath of office that so far as it devolves upon him he will diligently and honestly administer the affairs of the Pension System and that he will not knowingly violate, or willingly permit to be violated, any of the provisions of this law.

(d) The Board shall elect from its membership annually a Chairman, Vice-Chairman and Secretary. Pursuant to the powers granted under the charter of such city, the Chief Administrative Officer of the city shall

appoint one (1) or more employees whose positions and salaries shall be fixed by the governing body of the city and who, acting under direction of the Chief Administrative Officer of the city and City Treasurer, shall keep all of the records of and perform all of the clerical services for the Pension System. The salaries of such employees and all administrative expenses of the Pension System shall be paid by the city.

(e) Each member of the Board shall be entitled to one (1) vote in the Board. Four (4) concurring votes shall be necessary for a decision by the members at any meeting of the Board, and four (4) members shall constitute a quorum.

(f) A meeting of said Pension Board may be called at any time by the Chairman, Secretary, or by any four (4) members of such Pension Board.

(g) Notice shall be given to all members of such Pension Board unless waived in writing as to any proposed meeting by depositing of a written notice in the United States mail at least forty-eight (48) hours before such meeting, properly addressed to each such member. If a meeting is had, however, at which all of the members of the Board attend, no notice shall be necessary.

(h) No moneys shall be paid out of the Pension Fund except by warrant, check or draft signed by the Treasurer and countersigned by the Secretary, upon an order by said Pension Board duly entered in the minutes. Facsimile signatures may be authorized by the Board.

(i) The Pension Board shall determine the prior service to be credited to each member of the Pension System. The Board shall rely upon the personnel records of such city in determining such prior service credit or upon affidavits if the personnel records are incomplete.

(j) The Pension Board shall determine each member's credited service on the basis of the personnel and financial records of the city and the records of the Pension Board. The Board may permit any member to pay into the Pension Fund and thereby obtain credit for any service with the city for which credit would otherwise be allowable under this amended Act save only for the fact that no contributions were made by such member with respect to such service, or the fact that contributions, although made with respect thereto, were thereafter refunded to such member as a separation allowance and not subsequently repaid. Such payments shall be at the following rates:

(1) For service during period September 1, 1943, to the effective date of this amended Act, at the rate of Twelve Dollars (\$12) a month.

(2) For service subsequent to the effective date of this amended Act at the rate of three percent (3%) of his salary with the minimum monthly payment being Twelve Dollars (\$12) a month.

(3) Plus interest at the rate of six percent (6%) a year.

The city shall pay into the Pension Fund one and one-half (1½) times the amounts of any such payments for any service as to which no city contributions had previously been made.

Treasurer of pension fund

Sec. 6. The City Treasurer of any such city, or the person discharging the duties of the City Treasurer, is hereby designated as the Treasurer of said Pension Fund for said city and his official bond to said city shall operate to cover his position of Treasurer of said Pension Fund and his sureties shall be liable in connection with the Treasurer's actions pertaining to such Fund as fully as they are liable under the terms of said bond for the other actions and conduct of said Treasurer. All moneys of every kind and character collected or to be collected for said Fund shall be paid over to said Treasurer and shall be administered and paid out only in accordance with the provisions of this Act.

Contributions by members

Sec. 7. Beginning with the first full pay period from the date any city comes under the provisions hereof and continuing for each pay period thereafter each member of the Pension System shall pay into the Pension Fund three percent (3%) of his salary for such period, with the minimum payment being equal to Twelve Dollars (\$12) per month. These payments shall be deducted by the city from the salary of each and every member and paid to the Treasurer of said Pension Fund.

Contributions by city

Sec. 8. In addition to the payments provided for in the next preceding Section, such city shall pay monthly into such Pension Fund, from its general fund or other available source, an amount equal to one and one-half (1½) times the total sum paid into such Fund by members as set out in the next preceding Section.

Increase in contributions

Sec. 9. In the discretion of the governing body of such city, the payments or contributions to be paid into the Pension Fund by the members thereof may, at the request of the Pension Board, be increased by ordinance of any such city to an amount not to exceed four percent (4%) of each member's salary with minimum payments not to exceed Sixteen Dollars (\$16) a month payable by each member. In such event the city shall pay one and one-half (1½) times the total monthly amount payable by members, all of which payments shall be made in the same manner as provided in Sections 7 and 8 respectively of this Act, it being the intention hereof that such city shall contribute to such Pension Fund an amount equal to one and one-half (1½) times the amounts paid by each member thereto, but no more.

Surplus: Investment

Sec. 10. Whenever, in the opinion of the said Pension Board, there is on hand in said Pension Fund a surplus over and above a reasonably safe amount to take care of current demands upon such Funds, such surplus, or so much thereof as in the judgment of the said Pension Board is deemed proper, may be invested in bonds or other interest-bearing obligations and securities of the United States, the State of Texas, or any county, city or other political subdivision of the State of Texas or in first lien real estate mortgage securities insured by the Federal Housing Administration under the National Housing Act of the United States, as amended from time to time, and in such corporation bonds, preferred stocks and common stocks as the Pension Board may deem to be proper investments for said Funds. In making each and all of such investments said Pension Board shall exercise the judgment and care under the circumstances then prevailing which men of ordinary prudence, discretion, and intelligence exercise in the management of their own affairs not in regard to speculation but in regard to the permanent disposition of their funds, considering the safety of their capital; provided, however, that not more than fifty percent (50%) of said Funds shall be invested at any given time in corporate stocks, nor shall investments in securities issued by any one corporation be more than five percent (5%) of this Fund, nor shall more than five percent (5%) of the voting stock of any one (1) corporation be owned; and provided further, that stocks eligible for purchase shall be restricted to stocks of companies incorporated within the United States which have paid dividends for ten (10) consecutive years or longer immediately prior to the date of purchase and which, except for bank stocks and insurance stocks, are listed upon

an exchange registered with the Securities and Exchange Commission or its successors, except that two percent (2%) of the Fund may be invested in common stocks that do not have a ten (10) year dividend record. The Board shall have authority to buy and sell any of its authorized investments.

Retirement on pension

Sec. 11. (a) Any member of such Pension System who has attained fifty-five (55) years of age and completed twenty (20) or more years of service and any member of such Pension System who has attained sixty (60) years of age and completed ten (10) or more years of service shall be eligible for a Pension.

(b) The amount of pension a month shall be one and one-half percent (1½%) of the member's average monthly salary, determined to have been the highest received by the member during any thirty-six (36) consecutive months period of past employment, for each year of credited service; provided, that no member's pension shall be less than Six Dollars (\$6) a month for each year of credited service.

(c) A member shall continue to accrue benefits in the Pension System as long as he remains an employee, regardless of his age. Any present employee who was prohibited by previous amendments from accruing any additional benefits upon reaching seventy (70) years of age and prevented from making further contributions into the Pension Fund shall be permitted to continue the accrual of credited service for the period from age seventy (70) until retirement by repaying in one lump sum Twelve Dollars (\$12) a month for each month of service with the city from the date that he reached seventy (70) years of age to the effective date of this amendment and making regular employee contributions thereafter. Any present employee who failed to become a member because he had passed sixty (60) years of age at the time his employment commenced shall now be permitted to become a member by repaying, in one lump sum, Twelve Dollars (\$12) a month for each month of service with the city to the effective date of this amendment and making regular employee contributions thereafter. Any elected official who becomes a member of the Pension System as permitted by this amended Act may receive credit for any service as an elected official that preceded the effective date of this amended Act by paying, in one lump sum, Twelve Dollars (\$12) a month for each month of such preceding service and making regular employee contributions for any service with the city after the effective date of this amended Act. The city shall also contribute one and one-half (1½) times the amounts so paid into the Fund by such employees and officials.

Disability pensions

Sec. 12. (a) Any member who has completed ten (10) or more years of service and who becomes totally disabled for further duty shall, regardless of age, be retired for "ordinary disability" and shall receive a monthly pension computed in accordance with Section 11(b).

(b) If any member who becomes totally disabled for further duty by reason of a personal injury sustained or a hazard undergone as a result of, and while in the performance of, his duties at some definite place and at some definite time on or after the date of his becoming a member, without serious and wilful misconduct on his part, shall be retired for "accidental disability" and shall receive a monthly pension equal to fifteen percent (15%) of his monthly salary on the date such injury was sustained or such hazard was undergone plus three-fourths of one percent (0.75%) of the above salary for each year of credited service; provided, that the total pension as so computed will not exceed thirty percent (30%) of such monthly salary, or a monthly pension computed in accordance with Section 11(b), whichever is greater.

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(c) By "totally disabled" is meant the sustaining of such disability as completely incapacitates a member from performing the usual and customary duties which he has been performing for such city or other full time duties that could be performed by such member. Before any disability pension is allowed, the Pension Board shall require such medical examination and such other evidence as it may see fit to establish such total disability, as above provided.

(d) Any member receiving a pension on account of "ordinary" or "accidental disability" shall, each January 1, submit a sworn affidavit stating his earnings, if any, obtained from any gainful occupation. If the earnings together with the pension being received by any member exceed the monthly salary of such member at the time of his separation from service, the Pension Board shall have authority to reduce the amount of pension. Failure to submit an affidavit of earnings or a materially false affidavit shall be cause for suspension of the pension upon proper action by the Pension Board.

If a member is eligible for retirement under Section 11 hereof, he shall not be retired under this Section.

When any member has been retired for ordinary or accidental disability, he shall be subject at all times to re-examination by the Pension Board and shall submit himself to such further examination as the Pension Board may require. If any member shall refuse to submit himself to any such examination, the Pension Board may, within its discretion, order said payments stopped. If a member who has been retired under the provisions of this Section should thereafter recover so that in the opinion of the Pension Board he is able to perform the usual and customary duties formerly handled by him for said city, and such member is reinstated or tendered reinstatement to the position he had at the time of his retirement, then the Pension Board shall order such pension payments stopped.

Monthly allowance to widows and children

Sec. 13. If any member of the Pension System, as herein defined, shall die from any cause whatsoever after having completed ten (10) years of service with the city, or if, while in the service of the city, any member shall die from any cause growing out of or in consequence of the performance of his duty, or shall die after he has been retired on pension because of length of service or disability and shall leave a surviving widow or widower, or a child or children under the age of eighteen (18) years, or both such widow or widower and child or children, said Board shall order paid monthly allowances as follows:

(a) To the widow or widower, so long as she or he remains a single person and provided she or he shall have married such member prior to her or his retirement, a sum equal to one-half ($\frac{1}{2}$) of the retirement benefits that the deceased member would have been entitled to had she or he been totally disabled at the time of her or his retirement or death.

(b) To the guardian of each child the sum of Twelve Dollars (\$12) a month until such child reaches the age of eighteen (18) years.

(c) In the event the widow or widower dies after being entitled to her or his allowance as provided, or in the event there be no widow or widower to receive such allowance, the amount to be paid to the guardian of any child or children under the age of eighteen (18) years shall be increased to the sum of Twenty-four Dollars (\$24) a month for each such child; provided, however, that the total allowance to be paid all beneficiaries or dependents, as herein provided, shall not exceed the monthly pension that would have been paid the pensioner had he continued to live and retire on pension at the date of his death. Allowances or benefits payable to any minor child shall cease when such child becomes eighteen (18) years of age or marries, provided that when there are only children

to collect a pension as beneficiaries, if at the time the last child reaches eighteen (18) years of age, the amount the employee contributed has not been paid out in pensions, the balance shall be refunded to the children. By the term "guardian," as used herein shall be meant the surviving widow or widower with whom the child or children reside, or any guardian appointed by law, or the person standing in "loco parentis" to such dependent minor child responsible for his or her care and upbringing.

Refund of contributions

Sec. 14. If any member's employment by the city is terminated for other than total and permanent disability arising as a result of or as a consequence of the performance of his duties prior to his having completed ten (10) years of service with the city, he shall not be paid any pension whatsoever, but he shall receive the amount paid by him into the Pension Fund by way of salary deduction without interest as provided in Section 16 of this Act. In the event of his death, if there are no widow or children to receive the allowance provided for in Section 13 above, his beneficiary, and if none, his estate shall receive the said amount.

Computing period of service

Sec. 15. In the computation of the years of service required for the receipt of a pension by a retiring member, the following rules shall apply:

(a) Interruptions of service of three (3) months or less shall be treated as continuous service, but the member shall be required to pay into the Pension Fund any contributions withdrawn at the time of separation plus the amount of the employee contributions allocable to each such period of interruption.

(b) If there have been interruptions of service of more than three (3) months and less than ten (10) years, no credit shall be allowed for the period of an interruption but credit shall be allowed for previous service and prior service if (1) the employee shall have repaid to the Pension Fund within three (3) months after resumption of service all moneys theretofore withdrawn by him upon separation from service, plus interest thereon at the rate of six percent (6%) per annum, or (2) if the employee shall at any time have made payments to the Pension Fund which, under then existing provisions of law, entitled him to credit for previous service.

(c) If any employee has been out of service for a period longer than ten (10) years, no credit for any service preceding the out-of-service period shall be allowed.

Termination of employment; death; reemployment

Sec. 16. When any member of such Pension System shall leave the employment of such city, either voluntarily or involuntarily, before becoming eligible for a retirement or disability pension, he shall thereupon cease to be a member of such Pension System, and shall have refunded to him all of the payments made by him into said Pension Fund by way of salary deductions without interest, subject to the following provisos:

(a) If such member has completed twenty (20) or more years of service at the time of termination of employment but has not yet attained the age of fifty-five (55) years he may, by written notice to the Pension Board, make an irrevocable election to leave his contributions in the Pension Fund, in which event he shall, upon reaching the age of fifty-five (55) years, be entitled to a pension on the basis of the schedule of benefits for retiring members that was in effect at the time of his separation from service.

(b) If such member has completed fifteen (15) or more years of service at the time of termination of employment but has not yet attained the age of sixty (60) years he may, by written notice to the Pension

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Board, make an irrevocable election to leave his contributions in the Pension Fund, in which event he shall, upon reaching the age of sixty (60) years, be entitled to a pension on the basis of the schedule of benefits for retiring members that was in effect at the time of his separation from service.

(c) If, while still employed by the city, whether eligible for a pension or not, a member dies, then, unless the provisions of Section 13 hereof are applicable, all of his rights in the Pension Fund shall be satisfied by the refund to his designated beneficiary, if any, or if none, to his estate, of all the payments theretofore made by him into the Pension Fund by way of employee's contributions, without interest.

(d) The provisions of Section 13 concerning payments to widows, widowers and children shall apply in the case of any former member who has made the election permitted by (a) or (b) above, and who dies before reaching the age at which he would be entitled to a pension. If there be no surviving widow, widower or children, then all of such member's rights in the Pension Fund shall be satisfied by the refund to his designated beneficiary if any, or if none, to his estate, of all the payments theretofore made by him into the Pension Fund by way of employee's contributions, without interest.

(e) It is not the intention of this Amendatory Act to change the status of any former member of the Pension System whose services with the city were terminated under a previous Act. Refunds of contributions above provided for shall be paid such departing member, his beneficiary or estate in a lump sum, but if, in the opinion of the Pension Board, the funds on hand are too low to justify such lump sum payment, said payment shall be refunded on a monthly basis in such amounts as may be determined by the Pension Board.

(f) When a member has left the service of such city, as aforesaid, and has therefore ceased to be a member of such Pension System, if such person shall thereafter be reemployed by the city, he shall thereupon be reinstated as a member of such Pension System, provided he is in good physical and mental condition as evidenced by a written certificate by a duly licensed and practicing physician residing in said city, satisfactory to the Pension Board. Previous service of such member with such city shall not be counted toward his retirement pension unless such member returns to the service of the city within ten (10) years from his separation therefrom and also shall, within three (3) months after his reemployment by the city, repay in one lump sum to such Pension Fund all moneys withdrawn by him upon his separation from the service plus interest thereon at the rate of six percent (6%) a year from the date of such withdrawal. The three (3) months limitation above mentioned is subject, nevertheless, to the Board's authority as expressed in Section 5(j).

Reduction of benefits; dissolution of system

Sec. 17. (a) In the event said Pension Fund becomes seriously depleted in the opinion of the Pension Board, said Pension Board may proportionately and temporarily reduce the benefits of all pensioners and beneficiaries, but such reductions shall thereafter be paid to such pensioners and beneficiaries, as and when said Fund is, in the opinion of the Pension Board, sufficiently reestablished to do so. Should the reserve and surplus in the Pension Fund become exhausted and, at such time, the outgo of the Pension Fund exceeds the income thereto, then, in such event, the governing body of the city shall have the right, by ordinance duly passed, to dissolve the Pension System and require liquidation thereof without any liability to the city whatsoever.

(b) Any member or survivor receiving a retirement pension may, at his option, receive any smaller retirement pension after properly requesting same in writing to the Pension Board.

(c) In the event any member dies within three (3) years from his retirement date and leaves no widow or minor children, his estate shall be entitled to payment in a lump sum, the excess, if any, of his accumulated contributions to the date of his retirement over the aggregate monthly benefit payments received by the member.

Legal services

Sec. 18. The City Attorney of such city shall handle all legal matters for the Pension System which are referred to him by the Pension Board or city without additional compensation therefor. The Pension Board may, however, if it deems necessary, employ outside legal advice to the exclusion of, or to assist, the City Attorney, and pay reasonable compensation therefor out of said Pension Fund.

Actuary

Sec. 19. Such Pension Board may, at its discretion, from time to time, employ an actuary which cost shall be paid for by the city. The governing body of the city may require that an actuarial study, survey and report be made of such Pension System not more than once every five (5) years.

Exemption from execution, attachment or other writ

Sec. 20. No portion of any such Pension Fund, either before or after its order of disbursement by said Pension Board, and no amounts due or to become due any beneficiary or pensioner, under this Act, shall ever be held, seized, taken, subjected to, detained, or levied upon by virtue of any execution, attachment, garnishment, injunction, or other writ, and no order or decree, or any process or proceeding whatsoever, shall issue out of or by any court of this state for the payment or satisfaction in whole or in part out of said Pension Fund, of any debt, damage, claim, demand, or judgment against any such members, pensioners, dependents, or any person whomsoever, nor shall such Pension or any part thereof, or any claim thereto, be directly or indirectly assigned or transferred and any attempt to transfer or assign the same or any part thereof, or any claim thereto, shall be void. Said Fund shall be sacredly held, kept, and disbursed for the purposes provided by this Act, and for no other purpose whatsoever, except that the pensioner, survivor, or dependent, at his discretion, may have deducted from his pension the monthly premium cost of the city's group hospitalization and life insurance plan.

Members in military service

Sec. 21. Members of the Pension System engaged in active military service shall not be required to make the monthly payments into the Pension Fund provided for in this Act, nor shall they lose any previous years of service with the city caused by such military service. Furthermore, the city shall not be required to make any monthly payments into the Pension Fund on such member while he is engaged in the military service. Any member who engages in active military service shall, if he returns to employment by the city within three (3) months after termination of such service, receive credit for his time in such service and shall immediately at the beginning of his first full pay period begin repaying to the Pension Fund the equivalent of all monthly contributions for the total number of months elapsed since he went into such service, such repayment to be completed within twenty-four (24) months of reemployment, and the city shall pay into the Fund one and one-half (1½) times such amount. Credit for military service shall be limited to twenty-four (24) months, unless such period is extended by the Pension Board.

Employees on retirement when act enacted

Sec. 22. Subject to the provisions of Section 17, any former employee of any city now on retirement by such city shall hereafter be paid at the same rate he is now receiving and it is not the intention of this Act to change the status of any member now on Pension by such city.

Cities with pension provisions in their charter

Sec. 23. The terms of this Act shall not apply to any city operating a municipal employees pension program under the terms and provisions of its charter.

Creation of pension system for employees transferred en masse to newly created governmental subdivision

Sec. 23a. Notwithstanding any other provision of this Article 6243g should a governmental subdivision which has been or may be formed in the future to assume and perform the function of a department, agency, or other establishment which was formerly operated by the city or jointly by the city with another governmental subdivision and all employees who performed services for such a department, agency or other establishment were transferred en masse to the newly created governmental subdivision formed to assume and perform the function of the department, agency or other establishment for which such employees performed services prior to their transfer, then such newly created governmental subdivision through its governing body may elect to create a pension system for such transferred employees within ninety days of the enactment of this amendatory act or within ninety days of the creation of such newly created governmental subdivision, whichever occurs later, and the Pension Board of the Pension System established by the city shall, within thirty days after being notified by the governing body of the newly created governmental subdivision of its intention to create a pension system for such transferred employees, transfer to such governing body in cash and/or in obligations of the United States Government of equal fair market value at date of transfer all contributions made by the transferred employees to the Pension System of the city prior to their transfer, who were not eligible and had not elected benefits under the Pension System at the time of transfer, together with all contributions made by the city and/or any other governmental subdivision to the Pension System of the city on behalf of such transferred employees, all without interest. Such payment by the Pension Board of the Pension System of the city shall be in full satisfaction of all claims such transferred employees may have on the Pension System of the city. If the governing body of the newly created governmental subdivision elects not to create, or fails to elect to create, a pension system for the transferred employees within ninety days of the enactment of this amendatory act or within ninety days of the creation of such newly created governmental subdivision, whichever occurs later, then the Pension Board of the Pension System of the city shall refund to each of the transferred employees who was not eligible and had not elected benefits under the Pension System of the city at the time of transfer his own contributions, without interest, in satisfaction of any claim such transferred employee may have on the Pension System of the city. The rights of any transferred employee who was eligible at the time of transfer and had timely elected a benefit under the Pension System of the city shall not be affected by this Section and such employee shall be entitled to all benefits which had accrued to him or her under the Pension System of the city at the time of transfer without regard to this amendatory act.

Sec. 23a added by Acts 1967, 60th Leg., p. 843, ch. 354, § 1, emerg. eff. June 8, 1967.

Effective date of increase in contributions

Sec. 24. The increase in employee and city contributions resulting from the adoption of this amended Act, as provided in Section 7 and Section 8 hereof, shall become effective at the beginning of the next regular pay period of such city occurring after the expiration of ten (10) days from the effective date of this Act.

Amended by Acts 1965, 59th Leg., p. 246, ch. 107, § 1, eff. May 3, 1965; Acts 1967, 60th Leg., p. 321, ch. 154, § 1, emerg. eff. May 12, 1967.

Acts 1967, 60th Leg., p. 321, ch. 154, § 1 amended this article in its entirety to consist of 24 sections; section 2 of the act provided: "Partial invalidity. If any provision, Section, part, subsection, sentence, clause, phrase, or paragraph of this Act be declared invalid or unconstitutional, the same shall not affect any other portion or provision hereof, and all other provisions shall remain valid and unaffected by such invalid portion, if any."

Acts 1967, 60th Leg., p. 843, ch. 354, § 1 amended Acts 1943, 48th Leg., p. 619, ch. 358, as last amended by Acts 1965, 59th

Leg., p. 246, ch. 107, by the addition of section 23a thereto, without reference to the amendment of this article by Acts 1967, 60th Leg., p. 321, ch. 154; section 2 of Acts 1967, 60th Leg., p. 843, ch. 354 provided: "It is hereby declared to be the legislative intent to enact each separate provision of this Act dependent upon each of the other provisions, and if any clause, sentence, or part of this Act shall be declared unconstitutional then no other clause, sentence or part thereof shall be given any effect; and to this end the provisions of this Act are declared not to be severable."

Art. 6243g—1. Police Officers' Pension Systems in cities of 900,000 or more

Creation of fund

Section 1. For the purposes of this Act, there is hereby created in this State a special fund to be known and designated as the Police Officers' Pension Fund in each city in this State having a population of nine hundred thousand (900,000) inhabitants or more according to the last preceding or any future Federal Census, unless any such city now has in operation a police, firemen and fire alarm operators pension system organized under another law.

Definitions

Sec. 2. The following words and phrases when used in this Act are defined as follows, to wit:

(a) "Pension System" means the retirement, allowance, disability and pension system for employees of any police department coming within the provisions of this Act.

(b) "Member" means any and all employees in the police department provided for and becoming members thereof.

(c) "Pension Board" or "Board" means the Pension Board of the Pension System created under the Act for the purpose of administering the Pension System.

(d) "Service" means the services and work performed by a person employed in the police department.

(e) "Pension" means payments for life to the police department member out of the Pension Fund provided herein and becoming eligible for such payments.

(f) "Separation from Service" means cessation of work for the city in the police department, whether caused by death, discharge or resignation, or transfer to any other department of the city.

(g) The use of the masculine gender includes the feminine gender.

Membership

Sec. 3. (a) Any person who holds a classified position in the police department of such city shall automatically become a member of the Police Officers' Pension System upon the effective date of this Act.

(b) Any person who hereafter becomes an employee, and is appointed to a classified position in the police department shall automatically become

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a member of the Police Pension System as a condition of his employment.

(c) Employees of such police department who may not become members of the Pension System shall include part-time, seasonal or other temporary employees.

Pension Board

Sec. 4. (a) There is hereby created a Pension Board of the Pension System, in which Board there is hereby vested the general administration, management, and responsibility for the proper and effective operation of the Pension System. The Board shall be organized immediately after its members have qualified and taken the oath of office and shall serve without compensation.

(b) The Pension Board shall be composed of seven (7) members as follows:

(1) The administrative head of the city, or his authorized representative.

(2) Three (3) employees of the police department having membership in the Pension System and elected by the members of such police department and system.

(3) Two (2) legally qualified taxpaying voters of such city, residents thereof for the preceding three (3) years, to be chosen by the elected members of the Pension Board, being neither employees nor officers of such city.

(4) The city treasurer of the city, or the person discharging the duties of the city treasurer.

The terms of office of the elected members of the Pension Board shall be three (3) years, provided, however, that at the first election after the effective date of this Act, one such elected member shall be elected to a term of one year; one such elected member shall be elected to a term of two (2) years; and one such elected member shall be elected to a term of three (3) years. Thereafter, at an annual election called by the Chief of Police, and held during the month of December, one member shall be elected to a three-year term.

The term of office of appointed members of the Board shall be two (2) years, such appointments shall be made by the elected members of the Board and shall commence on the first day of January after the effective day of this Act.

The term of office of the Board members statutorily provided for, shall be and continue so long as such member holds the position defined in this Act for automatic members of such Board.

(c) Each member of the Pension Board within thirty (30) days after his appointment or election shall take an oath of office that he will diligently and honestly administer the affairs of the Pension System and that he will not knowingly violate, or willingly permit to be violated, any of the provisions of this Act.

(d) The Board shall elect from its membership, annually, a chairman, vice-chairman and secretary. Pursuant to the powers granted under the charter of such city, the mayor or administrative head of the city shall appoint one or more employees whose positions and salaries shall be fixed by the governing body of the city and who, acting under the direction of the mayor or administrative head of the city and treasurer or director of the treasury shall keep all of the records of and perform all of the clerical services for the Pension System. The salaries of such employees shall be paid by the city.

(e) Each member of the Board shall be entitled to one vote in the Board, four (4) concurring votes shall be necessary for a decision by the members at any meeting of the Board and four (4) members shall constitute a quorum.

(f) A meeting of the Pension Board may be called at any time by the chairman, secretary, or any four (4) members of the Board.

(g) Notice shall be given to all members of the Pension Board, unless waived in writing, as to any proposed meeting, by the depositing of a written notice in the United States mail at least forty-eight (48) hours before such meeting, properly addressed to each member. If a meeting is had, however, at which all of the members of the Board attend, no notice shall be necessary.

(h) No moneys shall be paid out of the Pension Fund except by warrant, check, or draft signed by the treasurer and countersigned by the chairman or secretary, upon an order by the Pension Board duly entered in the minutes.

(i) The Pension Board shall determine the prior service to be credited to each present employee of the police department who becomes a member of the Pension System. The Board shall rely upon the personnel records of the city in determining such prior-service credits. After obtaining the necessary information the Board shall furnish each member of the Pension System with a certificate showing all prior-service credits authorized and credited to such member. Such member may, within one year from the date of issuance or modification of such certificate, request the Board to modify or change his prior-service certificate, otherwise such certificate shall be final and conclusive for retirement purposes as to such service.

Treasurer

Sec. 5. The city treasurer or director of the treasury is hereby designated as the treasurer of the Pension Fund for the Police Officers' Pension System, and his official bond to the city shall operate to cover his position as treasurer of such Pension Fund and his sureties shall be liable in connection with the treasurer's actions pertaining to such Fund as fully as they are liable under the term of the bond for the other actions and conduct of the treasurer. All moneys of every kind and character collected or to be collected for the Fund shall be paid over to the treasurer and shall be administered and paid out only in accordance with the provisions of this Act.

Contributions by members

Sec. 6. Commencing with the first day of the month following the expiration of thirty (30) days after the passage of this Act or after the date of publication of the final census report which shows that the city has attained a population of nine hundred thousand (900,000) or more inhabitants, each member of the Pension Fund shall pay into such Fund each month, the sum of five percent (5%) of the base salary provided for the classified position in the police department held by the member. Such payments shall be deducted by the city from the salary of each member monthly and paid to the treasurer of the Pension Fund. Should an emergency arise and the Pension Board deem it necessary for the welfare of the Pension System, the Board may raise the monthly payments of each member of the Pension System to an amount not to exceed seven and one-half percent (7½%) of the base salary provided for the classified position in the police department held by the member.

Monthly payment by city

Sec. 7. In addition to the payments in the next preceding Section, the city shall pay monthly into the Pension Fund, from the general or other appropriate fund of the city, an amount equal to seven and one-half percent (7½%) of the payroll of the police department. However, should the Police Pension Board deem it necessary for the welfare of the Pension System to increase the contributions of each member of the Police Pension

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System within the statutory limits of Section 6 of this Act, then the contribution made to the Police Pension System by the city shall, with the approval of the City Council, be increased by one and one-half (1½) times the percentage increase in contribution of the members. As an example: If contributing members are assessed at a six percent (6%) contribution rate, then the city shall, by appropriate Council action, raise its contribution to nine percent (9%) of the payroll of the police department. However, in no event shall the city be required to pay into such Pension Fund any amount in excess of eleven and one-quarter percent (11¼%) of the payroll of the police department as the city's contribution to the Pension Fund, nor shall the city be required to raise its rate of contribution before the next budget year following the effective date of this Act.

Reduction of benefits

Sec. 8. In the event the Pension Fund becomes seriously depleted, in the opinion of the Pension Board, the Pension Board may proportionately and temporarily reduce the benefits of all pensioners and beneficiaries, but such reductions shall thereafter be paid to such pensioners and beneficiaries as and when the Fund is, in the opinion of the Pension Board, sufficiently reestablished to do so.

Investment of surplus

Sec. 9. Whenever in the opinion of the said Pension Board, there is on hand in said Pension Fund a surplus over and above a reasonably safe amount to take care of current demands upon such funds, such surplus, or so much thereof as in the judgment of the said Pension Board is deemed proper, may be invested in bonds or other interest-bearing obligations and securities of the United States, the State of Texas, or any county, city or other political subdivision of the State of Texas, or in first lien real estate mortgage securities insured by the Federal Housing Administration under the National Housing Act of the United States, as amended from time to time and in such corporation bonds, preferred stocks and common stocks as the Pension Board may deem to be proper investments for said funds. The funds may also be invested in a sum not to exceed ten percent (10%) with a Federal credit union restricted to employees of the city. In making each and all investments, such Pension Board shall exercise the judgment and care under the circumstances then prevailing which men of ordinary prudence, discretion, and intelligence exercise in the management of their own affairs not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income therefrom as well as the probable safety of their capital; provided, however, that not more than fifty percent (50%) of said funds shall be invested at any given time in corporate stocks, nor shall more than five percent (5%) of said funds be invested in securities issued by any one (1) corporation, nor more than five percent (5%) of the voting stock of any one (1) corporation be owned; and provided further, that stocks eligible for purchase shall be restricted to stocks of companies incorporated within the United States which have paid dividends for ten (10) consecutive years or longer immediately prior to the date of purchase, and which, except for bank stocks and insurance stocks, are listed upon an exchange registered with the Security and Exchange Commission or its successors.

Investment Review Committee

Sec. 9a. The Mayor shall appoint an Investment Review Committee, consisting of three (3) qualified persons to be selected from the Trust Departments of the banks of the cities to which this law applies. Such persons shall be experienced in securities and investment matters. The Investment Review Committee shall be appointed for a two-year term. Such Committee shall (a) review the investments of the Fund to deter-

mine their suitability and desirability for the Fund; (b) review the investment procedures and policies pursued by the Board in the administration of the Fund; and (c) submit an annual report of its findings and recommendations to the Pension Board of the Police Officers' Pension System and the Mayor of the city within ninety (90) days after the end of each calendar year.

Transfer of existing pension fund

Sec. 10. Immediately upon passage of this Act, the city pension officer or anyone discharging the duties of the pension officer shall transfer the pro rata share of any existing pension fund to the Police Officers' Pension Fund.

Retirement: amount of pension

Sec. 11. (a) From and after passage of this Act, any member of such Pension System who has been in the service of the city police department for the period of twenty (20) years shall be entitled to a retirement pension of an amount equal to thirty percent (30%) of the base salary provided for the classified position in the police department held by the member, provided that if the member has not held the same classified position for five (5) years prior to the date of retirement, the retirement pension shall be based on the average monthly base salary of the member for five (5) years preceding retirement.

(b) From and after the passage of this Act any member of such Pension System who has been in the service of the city police department for a period of years in excess of twenty (20) years, and who elects to retire from the service of the police department, shall in addition to the thirty percent (30%) of his base salary be paid an additional sum equal to two percent (2%) of his base salary per month for each year of service in the police department in excess of twenty (20) years. For example, a member with twenty-five (25) years' service would be entitled to forty percent (40%); a member with thirty (30) years, fifty percent (50%); etc.

(c) It shall be compulsory for any member to retire from the service of the police department upon attaining the age of sixty-five (65) years. Failure of any member of the Pension System to comply with this provision shall deprive the member and his dependents of any of the benefits provided for herein. If at the time of retirement because of maximum age requirements, the member has completed less than twenty (20) years of service, his monthly retirement pension shall be prorated on the basis of one and one-half percent (1½%) of the base salary of the position of the member per month for each year of service completed.

(d) Upon a member's completion of twenty (20) years of service in the police department, the Pension Board shall issue to the member a certificate showing that he is entitled to the retirement pension. Thereafter when such member retires, whether such retirement be voluntary or involuntary, such monthly payment shall begin forthwith and continue for the remainder of the member's life. However, when such member has completed twenty (20) years' service in the police department and if the physicians of the Pension Board agree that the member is physically fit to continue his active duties in the police department, they may so certify, and the member may continue in the service of the city police department until the member attains the age of sixty-five (65) years, at which time his retirement pension shall be computed as hereinbefore stated.

(e) No member shall be required to make any payments into the Pension Fund after the member has received the aforesaid certificate and the member has retired from the service of the police department.

Disability benefits

Sec. 12. Any member of the police department who becomes incapacitated for the performance of his duty by reason of any bodily injury

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received in, or illness caused by, the performance of his duty shall, upon presentation to the Pension Board of proof of permanent disability, be retired and shall receive a retirement allowance equal to the percentage of his disability. Such allowance shall be computed on the same basis as a service retirement with regard to length of service; for example, if the member is fifty percent (50%) disabled he shall receive one-half ($\frac{1}{2}$) the retirement allowance granted a member as a service retirement for the period of service he has completed, provided that in case of a disability retirement before the member has completed twenty (20) years of service, he shall receive an allowance based on the minimum allowed for twenty (20) years' service. Such allowance as is granted by the Pension Board shall be paid the member for the remainder of his life or so long as he remains incapacitated. When any member has been retired for permanent, total or partial disability, he shall be subject at all times to reexamination by the Pension Board and shall submit himself to such further examination as the Pension Board may require. If any member refuses to submit himself to any such examination, the Pension Board may, within its discretion, order the payments stopped. If a member who has been retired under the provisions of this Section should thereafter recover, so that in the opinion of the Pension Board he is able to perform the usual and customary duties formerly handled by him for the city in the police department, and such member is reinstated or tendered reinstatement to the position he held at the time of his retirement, then the Pension Board shall order such payment stopped. No person shall be retired either for total or partial disability unless he files with the Pension Board an application for allowance, at which time the Pension Board shall have him examined by no fewer than three (3) physicians, to be chosen by the Pension Board and who are to make their report to the Pension Board.

Rights of survivors

Sec. 18. (a) If any member of the police department who has been retired on allowance because of length of service or disability thereafter dies from any cause whatsoever, or dies from any cause whatsoever after he has become entitled to an allowance or pension certificate, or if while in service any member dies from any cause growing out of or in consequence of the performance of his duty, and leaves surviving a widow to whom the member was married prior to his death or retirement, a child or children under the age of eighteen (18) years or a dependent parent, the Board shall order paid a monthly allowance as follows: (a) to the widow, so long as she remains a widow, a sum equal to the allowance which was granted to the member at the time of retirement or which would have been granted to the member upon service or disability pension based on his length of service in the police department; (b) to the guardian of each child, the sum of Twenty-five Dollars (\$25) a month until the child reaches the age of eighteen (18) years or marries; (c) to the dependent parent, only in case no widow is entitled to allowance, the sum the widow would have received, to be paid to but one (1) parent and such parent to be determined by the Pension Board.

(b) If any member of the Pension System has not completed ten (10) years or more years of service in the police department and is killed or dies from any cause growing out of or in consequence of any act which is clearly not in the actual performance of his official duty, his surviving widow and/or dependent child or children shall be refunded any contributions which the member made to the Pension System, provided that only contributions made by the member himself shall be refunded.

(c) If any member who has completed ten (10) years or more of service in the police department is killed or dies from any cause growing out of or in consequence of any act which is clearly not in the actual per-

formance of his official duty, his surviving widow and/or dependent child or children shall receive the same benefits as under Section 13(a) of this Act.

Computation of length of service

Sec. 14. In computing the length of service required for retirement pension, continuous service shall be required; provided, however, that in case of interruption of less than two (2) years, credit shall be given for previous service. If out of service more than two (2) years, no service prior to the interruption shall be counted, other than provided in Section 22.

Termination of employment: reemployment

Sec. 15. When any member of the Pension System leaves the employment of the police department other than as provided for in Section 12 or Section 22, either voluntarily or involuntarily, before becoming eligible for a retirement or disability pension, he shall cease to be a member of the Pension System. No member leaving the employment of the police department and the membership in the Pension System shall be refunded any money paid by the member into the System as contributions or any of the moneys paid into the System by any source except as stated in Section 13(b) and in Section 22. If such person is thereafter reemployed by the city police department, he shall thereupon be reinstated as a member of such Pension System provided he is in good physical and mental condition as evidenced by a written certificate executed under oath by a duly licensed and practicing physician or physicians in the city, satisfactory to the Pension Board. Prior service of such member with the city police department shall not be counted toward his retirement pension unless such member returns to the service within two (2) years from his separation therefrom and makes within six (6) months after his reemployment by the city in the police department written application to the Pension Board for reinstatement in the Pension System.

Transfer from another department

Sec. 16. No prior credit shall be allowed for service to any person who transfers from some other department in the city to the police department. For example, if one is transferred from some other department of the city to the city police department, such person's service will be computed from the day he enters the city police department.

Donations

Sec. 17. The Police Officers' Pension System may accept gifts and donations, and such gifts and donations shall be added to the Pension Fund for the use of such system.

Conviction of felony

Sec. 18. Whenever any person who has been granted an allowance hereunder is convicted of a felony, then the Board shall order the allowance so granted or allowed such person discontinued, and in lieu thereof shall order to be paid to his wife or dependent child, children, or dependent parent the amount herein provided to be paid such dependent or dependents in case of the death of the person so originally granted or entitled to allowance.

Legal advice

Sec. 19. The city attorney of the city shall handle all legal matters for the Pension System which are referred to him by the Pension Board or city without additional compensation therefor. The Pension Board,

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may, however, if it deems necessary, employ outside advice to the exclusion of, or to assist, the city attorney, and pay reasonable compensation therefor out of the Pension Fund.

Exemption of benefits from execution, etc., assignment

Sec. 20. No portion of the Pension Fund, either before or after its order of disbursement by the Pension Board, and no amounts due or to become due any beneficiary or pensioner under this Act, shall be held, seized, taken, subjected to, detained, or levied, upon by virtue of any execution, attachment, garnishment, injunction, or other writ, and no order or decree, and no process or proceedings whatsoever, shall issue out of or by any court of this State for the payment or satisfaction, in whole or in part, out of the Pension Fund, of any debt, damage, claim, demand, or judgment against any members, pensioners, dependents, or any person whomsoever, nor shall such pension funds or any part thereof or any claim thereto, be directly or indirectly assigned or transferred. Any attempt to transfer or assign the same or any part thereof or any claim thereto shall be void. The Pension Fund shall be sacredly held, kept, and disbursed for the purposes provided in this Act, and for no other purpose whatsoever, except that the pensioner, survivor, or dependent, at his discretion, may have deducted from his pension the monthly premium cost of any group insurance program in which the pensioner may be entitled to participate.

Actuary

Sec. 21. Such Pension Board may employ an actuary and pay his compensation therefor out of the Pension Fund no more than once every ten (10) years.

Members in military service

"Sec. 22. Members of the Pension System engaged in active military service shall not be required to make the monthly payments into the Pension Fund provided for in this Act, nor shall they lose any previous years' service with the city caused by such military service. Such military service shall count as continuous service in the police department provided that when the member is discharged from the military service, he shall return to the city police department under provisions of the city charter, and his military service shall not exceed the national emergency for that period of military service. The city, however, shall be required to make its regular monthly payments into the Pension Fund on each member while he is engaged in the military service. In the event of death of a member of the Pension System, either directly or indirectly caused from such military service, his widow or dependent parent or other dependents shall be entitled to receive a refund as stated in Section 13(b).

Actions for funds misapplied, etc.

Sec. 23. The Pension Board shall have the power and authority to recover by civil action from any offending party, or from his bondsman, if any, any moneys paid out or obtained from the Pension Fund through fraud, misrepresentation, theft, embezzlement, or misapplication, and may institute, conduct and maintain such action in the name of the Board for the use and benefit of such funds.

Former employees on retirement when act enacted

Sec. 24. The former employees of any such police department now on retirement shall hereafter be paid a monthly pension out of the Pension Fund provided for herein in the same amount and under the same conditions as are provided herein for present and future employees of the

police department becoming members of the Pension System, provided however, that from and after the passage of this Act, any member of such pension system who retired prior to January 1, 1968, and who has served more than the minimum required twenty (20) years, shall receive in addition to the minimum thirty percent (30%) of his base salary per month, an additional sum monthly equal to one percent (1%) of his monthly salary for each year in excess of 20, and provided that those members who retire after January 1, 1968, and who have served more than the minimum required twenty (20) years, shall receive in addition to the minimum thirty percent (30%) of his base salary per month, an additional sum monthly equal to two percent (2%) of his monthly salary for each year served in excess of the minimum twenty (20) years.

Re-enacted and amended by Acts 1963, 58th Leg., p. 1262, ch. 485, amended Acts 1965, 59th Leg., p. 640, ch. 315, § 1, eff. Aug. 30, 1965; Acts 1967, 60th Leg., p. 528, ch. 232, § 1, emerg. eff. May 19, 1967.

Sections 2 and 3 of the amendatory act of 1967 provided:

"Sec. 2. If any provision of this Act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given

effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

"Sec. 3. All laws or parts of laws in conflict with any of the provisions of this Act are hereby repealed to the extent of such conflict."

TITLE 110—PRINCIPAL AND SURETY

Arts. 6244, 6245. Repealed. Acts 1967, 60th Leg., vol. 2, p. 2619, ch. 785, § 4. Eff. Sept. 1, 1967

Acts 1967, 60th Leg., vol. 2, p. 2343, ch. 785, adopting the Business & Commerce Code, repealed articles 6244 and 6245 effective September 1, 1967.

For text of Business and Commerce Code, with Tables and Index, see page 1485.

See, now, V.A.T.C.Bus. & C. § 34.02.

Arts. 6247-6250. Repealed. Acts 1967, 60th Leg., vol. 2, p. 2619, ch. 785, § 4. Eff. Sept. 1, 1967

Acts 1967, 60th Leg., vol. 2, p. 2343, ch. 785, adopting the Business & Commerce Code, repealed articles 6247-6250 effective September 1, 1967.

For text of Business and Commerce Code, with Tables and Index, see page 1485.

See, now, V.A.T.C.Bus. & C. §§ 34.03-34.05.

Art. 6252. Repealed. Acts 1967, 60th Leg., vol. 2, p. 2619, ch. 785, § 4. Eff. Sept. 1, 1967

Acts 1967, 60th Leg., vol. 2, p. 2343, ch. 785, adopting the Business & Commerce Code, repealed article 6252 effective September 1, 1967.

For text of Business and Commerce Code, with Tables and Index, see page 1485.

See, now, V.A.T.C.Bus. & C. § 34.01.

TITLE 110A—PUBLIC OFFICERS

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| <p>Art.
6252—3a. Payroll deductions for membership dues in employees' association by cities of 10,000 or more inhabitants [New].</p> <p>6252—4a. Military service of employees; restoration to employment [New].</p> <p>6252—5a. Investment of funds by agencies and boards [New].</p> | <p>Art.
6252—16. Discrimination against persons because of race, religion, color or national origin [New].</p> <p>6252—17. Prohibition on governmental bodies from holding meetings which are closed to the public [New].</p> <p>6252—18. Interpreters for deaf or severely hard-of-hearing persons taking state examinations [New].</p> |
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Art. 6252—3a. Payroll deductions for membership dues in employees' association by cities of 10,000 or more inhabitants

(a) The governing body of any city of more than 10,000 inhabitants, according to the last preceding federal census, may authorize a program whereby any municipal employee employed in such city may authorize and consent in writing that deduction be made from his monthly salary or wage payment. Such written consent shall so designate and direct the city treasurer or comptroller to transfer such withheld funds to the appointed bona fide employee's association in payment of his membership dues.

(b) The payroll deduction shall not exceed the amount stipulated in the written request, which shall be set out in a form and manner prescribed and provided by the city treasurer or comptroller. The request shall remain in effect until the municipal treasurer or comptroller receives in writing a notice of revocation filed by such municipal employee which shall be set out in a form and manner prescribed and provided by the city treasurer or comptroller.

(c) Participation in the program herein authorized shall be voluntary on the part of each municipal employee who is on active full-time duty in cities where such a program is in effect.

(d) The governing body of any such city which has authorized the program of payroll deductions provided for in this Section may impose and collect a reasonable administrative fee for the benefit of the city to be collected from each municipal employee participating in such program in addition to the membership dues so withheld, to reimburse the city for the administrative cost of collecting, accounting for, and disbursing such membership dues.

Acts 1967, 60th Leg., p. 337, ch. 161, § 1, emerg. eff. May 12, 1967.

Title of Act:

An Act authorizing cities of more than 10,000 inhabitants, according to the last preceding federal census, to adopt a program whereby upon consent of any municipal employee a stipulated amount will be withheld from his monthly salary or

wages to be forwarded to this bona fide employee's association in payment of membership dues; providing for the collection by the city of an administrative fee from each participating employee; and declaring an emergency. Acts 1967, 60th Leg., p. 337, ch. 161.

Art. 6252—4. Repealed. Acts 1967, 60th Leg., p. 1074, ch. 469, § 6. Eff. Aug. 28, 1967

See, now, article 6252—4a.

Art. 6252—4a. Military service of employees; restoration to employment

Restoration to employment upon discharge

Section 1. Any employee of the State of Texas or any political subdivision, state institution, county or municipality thereof, other than a temporary employee, an elected official, or one serving under an appoint-

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ment which requires confirmation by the Senate, who leaves his position for the purpose of entering the Armed Forces of the United States, or enters State service as a member of the Texas National Guard or Texas State Guard or as a member of any of the reserve components of the Armed Forces of the United States shall, if discharged, separated or released from such active military service under honorable conditions, be restored to employment in the same department, office, commission or board of the State of Texas or any political subdivision, state institution, county or municipality thereof, to the same position held at the time of induction, enlistment or order to active Federal or State military duty or service, or to a position of like seniority, status, and pay if still physically and mentally qualified to perform the duties of such position.

Service-connected disability; restoration to other employment

Sec. 2. If such person is not qualified to perform the duties of such position by reason of disability sustained during such military service but qualified to perform the duties of another position in the same department, office, commission or board of the State of Texas or any political subdivision, state institution, county or municipality thereof, the veteran shall be restored to employment in such other position, the duties of which the veteran is qualified to perform as will provide like seniority, status, and pay, or the nearest possible approximation thereof.

Military service as furlough or leave of absence

Sec. 3. Any person who is restored to a position in accordance herewith shall be considered as having been on furlough or leave of absence during such absence in Federal or State military service, and shall be entitled to participation in retirement or other benefits to which employees of the State of Texas or any political subdivision, state institution, county or municipality thereof, are, or may be, entitled and shall not be discharged from such position without cause within one year after such restoration.

Application for restoration

Sec. 4. Veterans eligible for restoration to employment hereunder shall make written application for such restoration within ninety days after discharge or release from active Federal or State military service, to the head of the department, office, commission or board of the State of Texas or any political subdivision, state institution, county or municipality thereof, in or by which such veteran was employed prior to entering such military service and shall attach thereto evidence of discharge, separation, or release from such military service under honorable conditions.

Requiring compliance with law; hearing

Sec. 5. In case any person acting in a public capacity fails or refuses to comply with the provisions hereof, the district court of the district in which such person is a public official, shall have power, upon the filing of a motion, petition or other appropriate pleading by the person entitled to the benefits of such provisions to specifically require such public official to comply with such provisions. The court shall order a speedy hearing in any such case, and shall advance it on the calendar. Upon application to the district attorney for the pertinent district by any person claiming to be entitled to the benefits of such provisions, such district attorney, if reasonably satisfied that the person so applying is entitled to such benefits, shall appear and act as attorney for such person in the amicable adjustment of the claim or in the filing of any motion, petition, or other appropriate pleading and the prosecution thereof to specifically require the compliance with such provisions; provided, that no fees or court costs shall be taxed against the person so applying for such benefits.

Repealer

Sec. 6. Chapter 107, Acts of the 52nd Legislature, 1951,¹ is repealed. Acts 1967, 60th Leg., p. 1074, ch. 469, eff. Aug. 28, 1967.

¹ Article 6252—4.

Title of Act:

An Act providing for and regulating the restoration to employment of certain employees of the State, political subdivision, state institution, county or municipality thereof, who serve in the Armed Forces of

the United States, Texas National Guard or Texas State Guard; repealing Chapter 107, Acts of the 52nd Legislature, 1951; and declaring an emergency. Acts 1967, 60th Leg., p. 1074, ch. 469.

Art. 6252—5a. Investment of funds by agencies and boards

Section 1. All boards and agencies of the State of Texas having the power to direct the investment of their funds are authorized to invest and reinvest any of their funds in direct obligations of or obligations the principal and interest of which are guaranteed by the United States of America; in direct obligations of or participation certificates guaranteed by the Federal Intermediate Credit Bank, Federal Land Banks, Federal National Mortgage Association, Federal Home Loan Banks, and Banks for Cooperatives; in certificates of deposit of any bank or trust company the deposits of which are fully secured by a pledge of securities of any of the kind hereinabove specified; in any other securities made eligible for such investment by other laws and constitutional provisions; or in any combination of the foregoing. Income and profits shall be applied as directed by such board or agency.

Sec. 2. When the securities mentioned specifically above or when such securities as are eligible under other laws or constitutional provisions are purchased from or through a member in good standing of the National Association of Securities Dealers, or from or through a national or state bank, the comptroller of public accounts and the state treasurer are authorized to pay for them upon receipt of an invoice from the seller of the securities showing that the securities have been purchased by the board or agency and that the amount to be paid therefor is just, due and unpaid. Actual delivery of the securities to the state treasurer or to a bank as hereinafter permitted may be thereafter accomplished in accordance with normal and recognized practices within the securities and banking industries.

Sec. 3. Any securities so purchased having maturity dates of 60 months after date of purchase, or less, may, at the direction of the state treasurer, be deposited with a bank or federal reserve bank or branch thereof designated by the state treasurer within or without the State of Texas, in trust, and such deposits shall be evidenced by trust receipts of the banks in which the securities are thus deposited.

Acts 1967, 60th Leg., p. 915, ch. 401, emerg. eff. June 8, 1967.

Title of Act:

An Act relating to investments of funds by agencies and boards of the State of Texas; the application of income and profits from such investments and paying for

and taking delivery of the securities in which such investments are made; and declaring an emergency. Acts 1967, 60th Leg., p. 915, ch. 401.

Art. 6252—16. Discrimination against persons because of race, religion, color or national origin

Prohibition on discriminatory action by state or local government officers or employees

Section 1. (a) No officer or employee of the state or of a political subdivision of the state, when acting or purporting to act in his official capacity, may:

(1) refuse to employ a person because of the person's race, religion, color, or national origin;

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(2) discharge a person from employment because of the person's race, religion, color, or national origin;

(3) refuse to issue a license, permit, or certificate to a person because of the person's race, religion, color, or national origin;

(4) revoke or suspend the license, permit or certificate of a person because of the person's race, religion, color, or national origin;

(5) refuse to permit a person to use facilities open to the public and owned, operated, or managed by or on behalf of the state or a political subdivision of the state, because of the person's race, religion, color or national origin;

(6) refuse to permit a person to participate in a program owned, operated, or managed by or on behalf of the state or a political subdivision of the state, because of the person's race, religion, color, or national origin;

(7) refuse to grant a benefit to, or impose an unreasonable burden upon, a person because of the person's race, religion, color, or national origin;

(8) refuse to let a bid to a person because of the person's race, religion, color, or national origin.

(b) The provisions of (a) of this Section do not apply to a public school official who is acting under a plan reasonably designed to end discriminatory school practices.

Equitable remedy

Sec. 2. Whenever a person has engaged, or there are reasonable grounds to believe that a person is about to engage in an act or practice prohibited by Section 1 of this Act, a civil action for preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order, may be instituted by the person aggrieved. In an action commenced under this Section, the court, in its discretion, may allow the prevailing party, other than the state, a reasonable attorney's fee as part of the costs, and the state is liable for costs the same as a private person.

Penalty

Sec. 3. A person who knowingly violates a provision of this Act is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than One Thousand Dollars (\$1,000) or by imprisonment in the county jail for not more than one year or by both.

Notice of alleged unlawful employment practice

Sec. 4. The District Attorneys and/or County Attorneys of this state are hereby designated as the appropriate state or local official to receive the notice of an alleged unlawful employment practice occurring in this state from the Equal Employment Opportunity Commission as provided for in Public Law 88-352, Title VII, Section 706(c); 78 Stat. 241 (42 U.S.C. 2000e-5).

Acts 1967, 60th Leg., p. 138, ch. 72, eff. Aug. 28, 1967.

Title of Act:

An Act relating to actions by state or local government officers or employees that discriminate against persons because of the persons' race, religion, color, or national origin; and declaring an emergency. Acts 1967, 60th Leg., p. 138, ch. 72.

Art. 6252—17. Prohibition on governmental bodies from holding meetings which are closed to the public

Meetings and sessions open to public; governmental body defined

Section 1. (a) Except as otherwise provided in this Act, every regular, special, or called meeting or session of every governmental body shall be open to the public.

(b) A "governmental body," within the meaning of this Act, is any board, commission, department, or agency within the executive department of the state, which is under the direction of three or more elected or appointed members; and every Commissioners Court and city council in the state, and every deliberative body having rule-making or quasi-judicial power and classified as a department, agency, or political subdivision of a county or city; and the board of trustees of every school district, and every county board of school trustees and county board of education; and the governing board of every special district heretofore or hereafter created by law.

Application of act

Sec. 2. (a) The provisions of this Act do not apply to:

(1) deliberations during a meeting to consider the appointment, employment or dismissal of a public officer or employee or to hear complaints or charges brought against such officer or employee, unless such officer or employee requests a public hearing;

(2) deliberations pertaining to the acquisition of additional real property;

(3) deliberations on matters affecting security; or

(4) any investigating committee of the Legislature.

(b) A governmental body may exclude any witness or witnesses from a hearing during examination of another witness in the matter being investigated.

(c) Nothing in this Act shall be construed to prevent a governing body from consulting with its attorney.

(d) Nothing in this Act shall be construed to affect the deliberations of grand juries.

(e) The provisions of this Act shall not apply to periodic conferences held among staff members of the governmental body. Such staff meetings will be only for the purpose of internal administration and no matters of public business or agency policies that affect public business will be acted upon.

Mandamus or injunction to prevent closed meetings

Sec. 3. Any interested person may commence an action either by mandamus or injunction for the purpose of stopping or preventing violations or threatened violations of this Act by members of a governing body.

Violations and penalties

Sec. 4. Any member of a governing body who wilfully calls or aids in calling or organizing a special or called meeting or session which is closed to the public, or who wilfully closes or aids in closing a regular meeting or session to the public, or who participates in a regular, special, or called meeting or session which is closed to the public without causing or attempting to cause his dissent to be entered in the record or minutes of the governing body, shall be guilty of a misdemeanor and shall be fined not less than \$25 nor more than \$200 on the first offense, and shall be fined not less than \$100 nor more than \$500 on each subsequent offense.

Partial invalidity

Sec. 5. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given

For Annotations and Historical Notes, see V.A.T.S.

effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

Acts 1967, 60th Leg., p. 597, ch. 271, emerg. eff. May 23, 1967.

Acts 1967, 60th Leg., p. 597, ch. 271, § 6 repealed all conflicting laws and parts of laws.

Title of Act:

An Act to prohibit governmental bodies from holding meetings which are closed to the public; defining the term "governmental body"; making certain exceptions;

providing for relief by mandamus or injunction to prevent closed meetings; making unlawful certain acts pertaining to closed meetings and prescribing a penalty therefor; providing for severability; repealing all laws in conflict; and declaring an emergency. Acts 1967, 60th Leg., p. 597, ch. 271.

Art. 6252—18. Interpreters for deaf or severely hard-of-hearing persons taking state examinations

Section 1. Any deaf or severely hard-of-hearing person taking a state examination which is a prerequisite for state employment or state licensing is entitled to be furnished with an interpreter upon request.

Sec. 2. Interpreters appointed under this Act shall be paid \$15 for the first hour of interpreting in a calendar day and at the rate of \$5 for each subsequent hour up to a maximum of eight hours in a calendar day.

Acts 1967, 60th Leg., p. 682, ch. 286, eff. Aug. 28, 1967.

Title of Act:

An Act relating to interpreters for deaf and severely hard-of-hearing persons tak-

ing state examination; and declaring an emergency. Acts 1967, 60th Leg., p. 682, ch. 286.

TEXAS PROBATE CODE

CHAPTER IV—EXECUTION AND REVOCATION OF WILLS

§ 57. Who May Execute a Will

Every person who has attained the age of eighteen years, or who is or has been lawfully married, or who is a member of the armed forces of the United States or of the auxiliaries thereof or of the maritime service at the time the will is made, being of sound mind, shall have the right and power to make a last will and testament, under the rules and limitations prescribed by law.

Amended by Acts 1967, 60th Leg., p. 801, ch. 334, § 1, eff. Aug. 28, 1967.

CHAPTER VII—EXECUTORS, ADMINISTRATORS, AND GUARDIANS

§ 181. Orders Granting Letters Testamentary or of Administration

When letters testamentary or of administration are granted, the court shall make an order to that effect, which shall specify:

- (a) The name of the testator or intestate; and
- (b) The name of the person to whom the grant of letters is made; and
- (c) If bond is required, the amount thereof; and
- (d) If the court deems an appraisal necessary, the name of not less than one nor more than three disinterested persons appointed to appraise the estate and to return such appraisal to the court; and

(e) That the clerk shall issue letters in accordance with said order when the person to whom said letters are granted shall have qualified according to law.

Amended by Acts 1967, 60th Leg., p. 1815, ch. 697, § 1, eff. Aug. 28, 1967.

Acts 1967, 60th Leg., p. 1815, ch. 697, sections 2-5 amended sections 248-250 and 256; sections 6-8 thereof, a repealing provision, saving and severability clauses, are set out as notes under sections 250 and 254.

CHAPTER VIII—PROCEEDINGS DURING ADMINISTRATION AND GUARDIANSHIP

PART 4. PRESENTMENT AND PAYMENT OF CLAIMS

Sec.

320A. Funeral Expenses [New].

PART 1. INVENTORY, APPRAISEMENT, AND LIST OF CLAIMS

§ 248. Appointment of Appraisers

At any time after the grant of letters testamentary or of administration or of guardianship, upon the application of any interested person or if the court shall deem necessary, the court shall appoint not less than one nor more than three disinterested persons, citizens of the county in which letters were granted, to appraise the property of the estate. In such event and when part of the estate is situated in a county other than the county in which letters were granted, if the court shall deem necessary it may appoint not less than one nor more than three disinterested

For Annotations and Historical Notes, see V.A.T.S.

persons, citizens of the county where such part of the estate is situated, to appraise the property of the estate situated therein.

Amended by Acts 1967, 60th Leg., p. 1815, ch. 697, § 2, eff. Aug. 28, 1967.

Acts 1967, 60th Leg., p. 1815, ch. 697, § 1 amended section 181; sections 3-5 amended sections 249, 250 and 256; sections 6-8 thereof, a repealing provision, saving and severability clauses, are set out as notes under sections 250 and 254.

§ 249. Failure of Appraisers to Serve

If any appraiser so appointed shall fail or refuse to act, the court shall by a like order or orders remove such appraiser and appoint another appraiser or appraisers, as the case shall require.

Amended by Acts 1967, 60th Leg., p. 1816, ch. 697, § 3, eff. Aug. 28, 1967.

Acts 1967, 60th Leg., p. 1815, ch. 697, §§ 1, 2 amended sections 181 and 248; sections 4 and 5 of the act amended sections 250 and 256; sections 6-8 thereof, a repealing provision, saving and severability clauses are set out as notes under sections 250 and 254.

§ 250. Inventory and Appraisalment

Within ninety days after his qualification, unless a longer time shall be granted by the court, the representative shall file with the clerk of court a verified, full and detailed inventory, in one written instrument, of all the property of such estate which has come to his possession or knowledge, which inventory shall include:

(a) all real property of the estate situated in the State of Texas;

(b) all personal property of the estate wherever situated. The representative shall set out in the inventory his appraisalment of the fair market value of each item thereof as of the date of death in the case of grant of letters testamentary or of administration or as of the date of grant of letters of guardianship, as the case may be; provided that if the court shall appoint an appraiser or appraisers of the estate, the representative shall determine the fair market value of each item of the inventory with the assistance of such appraiser or appraisers and shall set out in the inventory such appraisalment. The inventory shall specify what portion of the property, if any, is separate property and what portion, if any, is community property. If any property is owned in common with others, the interest owned by the estate shall be shown, together with the names and relationship, if known, of co-owners. Such inventory, when approved by the court and duly filed with the clerk of court, shall constitute for all purposes the inventory and appraisalment of the estate referred to in this Code. The court for good cause shown may require the filing of the inventory and appraisalment at a time prior to ninety days after the qualification of the representative.

Amended by Acts 1967, 60th Leg., p. 1816, ch. 697, § 4, eff. Aug. 28, 1967.

Acts 1967, 60th Leg., p. 1815, ch. 697, § 1-3 amended sections 181, 248 and 249 of the Probate Code; section 5 of the act amended section 256; sections 6-8 provided:

"Sec. 6. Section 254, Texas Probate Code, together with all laws or parts of laws in conflict with this Act, be and the same are hereby repealed. In the event that any of the provisions of this Act are in conflict with the provisions of any of the Sections of the Texas Probate Code or with any other law, the provisions hereof shall take precedence and shall prevail to the extent of such conflict.

"Sec. 7. The repeal of any law by this Act shall not affect or impair any act done, obligation or right accrued or existing under the authority of the act repealed; and such law shall be treated as still remaining in force for the purposes of sustaining any proper action, obligation or right.

"Sec. 8. If the provisions of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable."

§ 254. Repealed. Acts 1967, 60th Leg., p. 1816, ch. 697, § 6. Eff. Aug. 28, 1967

Acts 1967, 60th Leg., p. 1815, ch. 697, §§ 1-5 amended sections 181, 248-250 and 256 of the Probate Code; sections 6-8 thereof provided:

"Sec. 6. Section 254, Texas Probate Code, together with all laws or parts of laws in conflict with this Act, be and the same are hereby repealed. In the event that any of the provisions of this Act are in conflict with the provisions of any of the Sections of the Texas Probate Code or with any other law, the provisions hereof shall take precedence and shall prevail to the extent of such conflict.

"Sec. 7. The repeal of any law by this Act shall not affect or impair any act done, obligation or right accrued or existing under the authority of the act repealed; and such law shall be treated as still remaining in force for the purposes of sustaining any proper action, obligation or right.

"Sec. 8. If the provisions of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable."

§ 256. Discovery of Additional Property

If, after the filing of the inventory and appraisal, property or claims not included in the inventory shall come to the possession or knowledge of the representative, he shall forthwith file with the clerk of court a verified, full and detailed supplemental inventory and appraisal.

Amended by Acts 1967, 60th Leg., p. 1816, ch. 697, § 5, eff. Aug. 28, 1967.

Acts 1967, 60th Leg., p. 1815, ch. 697, §§ 1-4 amended sections 181, 248-250 of the Probate Code; sections 6-8 of the act, a

repealing, saving and severability clauses, are set out as notes under sections 250 and 254.

PART 4. PRESENTMENT AND PAYMENT OF CLAIMS

§ 320A. Funeral Expenses

When executors, independent executors and administrators pay claims for funeral expenses and for items incident thereto, such as tombstones, grave markers, crypts or burial plots, they shall charge the whole of such claims to the decedent's estate and shall charge no part thereof to the community share of a surviving spouse."

Added by Acts 1967, 60th Leg., p. 768, ch. 321, § 1, emerg. eff. May 27, 1967.

TITLE 113A—REAL ESTATE DEALERS**Art. 6573a. The Real Estate License Act****Short title of act**

Section 1. This Act shall be known and may be cited as "The Real Estate License Act."

Sec. 1 amended by Acts 1967, 60th Leg., p. 598, ch. 272, § 1, eff. Aug. 28, 1967.

The Texas Real Estate Commission

Sec. 2. The administration and enforcement of this Act shall be vested in the "Texas Real Estate Commission" (hereinafter referred to as the Commission), consisting of six members appointed by the Governor with the advice and consent of the Senate. Their terms of office shall be for six years, and members serving at the time this Act takes effect shall continue to serve the terms for which they were appointed. Members shall be reputable citizens of Texas, qualified voters, and actively engaged in the real estate business as brokers on a full time basis for at least five years next preceding the date of their appointments. Within fifteen days after their appointments they shall qualify by taking the Constitutional oath of office and shall furnish a bond payable to the Governor of Texas in the penal sum of Ten Thousand Dollars (\$10,000) conditioned upon the faithful performance of their duties as provided by law. They shall receive their actual expenses incurred in the performance of their duties, and a per diem of Twenty-five Dollars per day not exceeding forty days for any one year. At a regular meeting in October each year the Commission shall elect from its own membership the following officers: a Chairman, Vice-Chairman, and Secretary. A quorum of the Commission shall consist of not less than four members.

The Commission is authorized to employ an Administrator, an Assistant Administrator and such other employees and officers as shall be necessary to effectively administer and enforce this Act and regulate the real estate brokerage business in the State of Texas, assign their duties and fix the amount of their salaries in an amount not to exceed those provided by the General Appropriations Bill. The Commission shall enforce and administer the provisions of this Act, and is authorized to conduct hearings, examinations and investigations, summon and require witnesses to be examined under oath, administer oaths, and keep such records and minutes as shall be necessary. The Commission shall adopt such rules and regulations, not inconsistent with this Act, as shall be necessary or appropriate to effectively administer and enforce this Act, regulate the real estate brokerage business, and establish canons of professional ethics and conduct for its licensees. The office of the Commission shall be at Austin, Texas, which shall be its official residence and where all of its permanent records shall be kept. The Commission shall adopt an official seal and licenses of suitable design and content.

Whenever in this Act any power, right or duty (except the authority to make rules and regulations) is conferred upon the Commission, such power or right shall be exercised by the Administrator and such duty shall rest upon the Administrator unless the Commission shall otherwise order or direct by an order entered in the minutes of such Commission; and in such case, the power, right or duty shall rest in or on the Commission. Service of process upon the Administrator or the Assistant Administrator shall be service of process upon the Commission. Any reports, notices, applications, or instruments of any kind required to be filed with the Commission shall be considered filed with

the Commission if filed with the Administrator. Where a decision, order, or act of the Commission is referred to in this Act (other than an order of the Commission relative to the Administrator or his powers, rights, duties), it shall also mean and include any order, decision or act of the Administrator. Wherever the Commission is authorized herein to delegate authority or to designate agents, the Administrator shall have such rights and the power to so delegate authority and designate agents, unless the Commission shall enter its order in the minutes directing otherwise. The Administrator shall act as Manager, Secretary and Custodian of all records unless the Commission shall otherwise order, and shall devote his entire time to his office.

All members, officers, employees and agents of the Commission shall be subject to the code of ethics and standards of conduct imposed by Chapter 100, Acts of the 55th Legislature, Regular Session, 1957 (codified as Article 6252-9, Vernon's Texas Civil Statutes).
 Sec. 2 amended by Acts 1967, 60th Leg., p. 599, ch. 272, § 2, eff. Aug. 28, 1967.

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Responsibility for acts and conduct

Sec. 3.1. Every Real Estate Broker licensed pursuant to this Act shall be responsible to the Commission, members of the public and his clients for all acts and conduct performed under this Act by himself or by any Real Estate Salesman associated with or acting for such broker.
 Sec. 3.1 added by Acts 1967, 60th Leg., p. 600, ch. 272, § 3, eff. Aug. 28, 1967.

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Examinations

Sec. 10. Competency as referred to in Section 9 of this Act shall be established by an examination prepared by or under the supervision of the Commission and given at such times and places within Texas as the Commission shall prescribe. The examination shall be of scope sufficient in the judgment of the Commission to determine that a person is competent to act as a Real Estate Broker or Salesman in such manner so as to protect the interest of the public. An applicant who has failed to pass the examination twice shall be ineligible for a further application and examination until six (6) months after the second failure.

From and after the effective date of this Act, on the first application for renewal of a salesman's license after the salesman has been licensed for at least one year or on any application for a salesman's license after such first year of licensure, the applicant shall furnish to the Commission satisfactory proof that he has been actively engaged as a Real Estate Salesman for at least one year and has satisfactorily completed a course of study consisting of at least thirty classroom hours or equivalent correspondence hours of real estate courses. Such courses shall include but not be limited to the following: knowledge of the English language, including reading, writing and spelling; arithmetical calculations as used in real estate transactions; rudimentary principles of conveyancing; the general purposes and effect of deeds, deeds of trust, mortgages, land contracts of sales, leases, liens and listing contracts; elementary principles of land economics and appraisals; fundamentals of obligations between principal and agent; principles of real estate practice and canons of ethics pertaining thereto; the provisions of this Act and rules and regulations of the Commission. No requirement to show proof of a course of study in real estate courses shall be made of a person who is licensed as a Real Estate Salesman at the effective date of this Act.

From and after the effective date of this Act, each applicant for a license as a Real Estate Broker shall furnish the Commission satisfac-

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tory proof that he has successfully completed ninety hours of classroom instruction or equivalent correspondence hours in real estate courses above set forth and shall have been actively engaged in the real estate brokerage business as a Real Estate Salesman under this Act for at least one year.

No requirement to show proof of a course of study in real estate courses shall be made of a person who is licensed as a Real Estate Broker at the effective date of this Act.

Any applicant for a license as a real estate broker or real estate salesman may submit a certification of any university, college or junior college which is a member of the Association of Texas Colleges and Universities, or from any privately owned school approved by the Commission other than accredited institutions of higher learning, that applicant has completed the prescribed courses for such applicant; and such certificate shall be deemed to be full compliance with the requirements of this Act for the completion of a course of study.

The examination and course requirements under the provisions of this Act shall not apply to any individual who held a license for at least one year and whose license expires while said individual is on active duty with the armed forces of the United States; provided he makes proper application for renewal of said license within one year after the effective date of this Act.

Sec. 10 amended by Acts 1963, 58th Leg., p. 850, ch. 325, § 1, eff. Aug. 23, 1963; Acts 1967, 60th Leg., p. 600, ch. 272, § 4, eff. Aug. 28, 1967.

* * * * *

Fees

Sec. 22. The Commission shall charge and collect the following fees and shall duly pay all fees received into the State Treasury:

(a) A fee not to exceed Twenty Dollars (\$20.00) for the filing of any original application for real estate broker licensure.

(b) A fee not to exceed Ten Dollars (\$10.00) for the filing of any real estate broker license renewal application.

(c) A fee of Ten Dollars (\$10.00) for the filing of an original application for real estate salesman licensure.

(d) A fee of Five Dollars (\$5.00) for the filing of any real estate salesman license renewal application.

(e) A fee of Three Dollars (\$3.00) for a license for each additional office or place of business.

(f) A fee of Three Dollars (\$3.00) for a license for a change of place of business or change of employer.

(g) A fee of Three Dollars (\$3.00) to replace a license lost or destroyed.

(h) A fee of Two Hundred Dollars (\$200.00) for the filing of an original application for approval of a real estate brokerage course to be conducted by a privately owned school (other than an accredited institution of higher learning) pursuant to provisions of Section 10 of this Act.

(i) A fee of One Hundred Dollars (\$100.00) per annum for inspecting and renewing approval of a privately owned school (other than an accredited institution of higher learning) conducting real estate courses approved by the Commission.

Sec. 22 amended by Acts 1967, 60th Leg., p. 601, ch. 272, § 5, eff. Aug. 28, 1967.

* * * * *

Sections 6 and 7 of the 1967 amendatory act provided:

"Sec. 6. If any Section, subsection, paragraph, subparagraph, sentence, clause or

part of the above provisions shall, for any reason, be held invalid, such decisions shall not affect the remaining portions of the above provisions or of this Act, and it is

hereby declared to be the intention of the Legislature to have enacted each Section, subsection, paragraph, subparagraph, sentence, clause or part of the above provisions irrespective of the fact that any other Section, subsection, paragraph, subparagraph, sentence, clause or part of the above

provisions may be declared invalid, that is, it is the intention of the Legislature that each of the above provisions and portions thereof is severable.

"Sec. 7. All laws and parts of laws in conflict or inconsistent with this Act are hereby repealed."

TITLE 115—REGISTRATION

CHAPTER TWO—ACKNOWLEDGMENTS AND PROOF FOR RECORD

Art. 6605. Repealed. Acts 1967, 60th Leg., p. 735, ch. 309, § 6. Eff. Jan. 1, 1968

Section 1 of Acts 1967, 60th Leg., p. 735, ch. 309 revised and amended chapters 2 and 3 of Title 75, section 2 of the act amended articles 6632 and 6647; section 3 of the act amended articles 1064, 5518, 5519 and 5535; section 4 of the act added article 3.49—3 to V.A.T.S. Insurance Code; section 5 of the

act amended article 5460; and sections 6-8, which also repealed articles 1300, 1983, 1985, 4611, 4612, 4616, 6608 and 6648-6651, validated certain acknowledgments of married women and provided an effective date, are set out as notes under article 4610.

Art. 6608. Repealed. Acts 1967, 60th Leg., p. 735, ch. 309, § 6. Eff. Jan. 1, 1968

Section 1 of Acts 1967, 60th Leg., p. 735, ch. 309 revised and amended chapters 2 and 3 of Title 75; section 2 of the act amended articles 6632 and 6647; section 3 of the act amended articles 1064, 5518, 5519 and 5535; section 4 of the act added article 3.49—3 to V.A.T.S. Insurance Code;

section 5 of the act amended article 5460; and sections 6-8, which also repealed articles 1300, 1983, 1985, 4611, 4612, 4616, 6605 and 6648-6651, validated certain acknowledgments of married women and provided an effective date, are set out as notes under article 4610.

CHAPTER THREE—EFFECT OF RECORDING

Art. 6644a. Certificates of Redemption [New].

Art. 6632. [6829] [4643] [4335] Matrimonial property agreements and community property partitions and exchanges

Any matrimonial property agreement or any partition or exchange of community property shall be void as against a purchaser in good faith without notice thereof and for a valid consideration and as against creditors without notice unless the subscribed, written instrument evidencing it is acknowledged and filed for record (1) as to realty in the deed records of the county in which the property or interest in property is situated or (2) as to personalty in the office of the Secretary of State.

Amended by Acts 1967, 60th Leg., p. 739, ch. 309, § 2, eff. Jan. 1, 1968.

Section 1 of Acts 1967, 60th Leg., p. 735, ch. 309 revised and amended chapters 2 and 3 of Title 75; section 3 of the act amended articles 1064, 5518, 5519 and 5535; section 4 of the act added article 3.49—3 to V.A.T.S. Insurance Code; section 5 of the act amended article 5460; and sections

6-8, which repealed various articles, validated certain acknowledgments of married women and provided an effective date, are not out as notes under article 4610.

Section 2 of the amendatory act of 1967 also amended article 6647.

Art. 6644a. Certificates of Redemption

The county clerk of each county where the real property is located shall file, number, and index alphabetically, and record in the record where deeds and other conveyances of real property are recorded certificates of redemption or other documents issued by the United States or by any department or bureau thereof, in conformity with the laws of the United States, effecting or evidencing the redemption of real property from judicial sales or from non-judicial sales under foreclosure of liens, mortgages, or deeds of trust.

Added by Acts 1967, 60th Leg., p. 1228, ch. 557, § 1, emerg. eff. June 14, 1967.

CHAPTER FOUR—SEPARATE PROPERTY OF
MARRIED WOMEN

Art. 6647. [6844] [4654] [4344] Separate Property of Spouses

The recordation, (1) as to realty in the deed records of the county in which the property or interest in property is situated or (2) as to personalty in the office of the Secretary of State, of a schedule of a spouse's separate property, subscribed and acknowledged, shall be notice to all subsequent purchasers and creditors of the claim of ownership of the property described in the schedule.

Amended by Acts 1967, 60th Leg., p. 739, ch. 309, § 2, eff. Jan. 1, 1968.

Section 1 of acts 1967, 60th Leg., p. 735, ch. 309 revised and amended chapters 2 and 3 of Title 75; section 3 of the act amended articles 1064, 5518, 5519 and 5535; section 4 of the act added article 3.49—3 to V.A.T.S. Insurance Code; section 5 of the act amended article 5460; and sections 6-8,

which repealed various articles, validated certain acknowledgements of married women and provided an effective date, are set out as notes under article 4610.

Section 2 of the act of 1967 also amended article 6632.

Arts. 6648-6651. Repealed. Acts 1967, 60th Leg., p. 735, ch. 309, § 6.
Eff. Jan. 1, 1968

See, now, art. 4613 et seq.

Section 1 of acts 1967, 60th Leg., p. 735, ch. 309 revised and amended chapters 2 and 3 of Title 75; section 2 of the act amended articles 6632 and 6647; section 3 of the act amended articles 1064, 5518, 5519 and 5535; section 4 of the act added article

3.49—3 to V.A.T.S. Insurance Code; section 5 of the act amended article 5460; and sections 6-8, which also repealed articles 1300, 1983, 1985, 4611, 4612, 4616, 6605 and 6608, validated certain acknowledgements of married women and provided an effective date are set out as notes under article 4610.

TITLE 116—ROADS, BRIDGES, AND FERRIES

CHAPTER ONE—STATE HIGHWAYS

2. REGULATION OF VEHICLES

Art.

6701c—3. Protective headgear for motor-cycle operators and passengers [New].

1. STATE HIGHWAY DEPARTMENT

Art. 6673a. Sale or exchange and conveyance of abandoned routes; correction deeds; tax exemption

Sale or exchange; deeds

Section 1. (a) Whenever the State Highway Commission determines that any real property, or interest therein, heretofore or hereafter acquired by the State for highway purposes, is no longer needed for such purposes, and in the case of highway right-of-way it has further determined that such right-of-way is no longer needed for use of citizens as a road, the State Highway Commission may recommend to the Governor that such land or interest therein be sold, and the Governor may execute a proper deed conveying all the State's rights, title and interest in such land. It shall be the duty of the Commission to determine the fair and reasonable value of the State's interest in such land and to advise the Governor thereof. All money derived from such sales shall be deposited in the State Treasury to the credit of the State Highway Fund. Provided further, that where right-of-way property owned by the State was acquired by a city or county and the State Highway Commission determines that said right-of-way property should be sold, such property shall be sold with the following priorities:

(1) To abutting or adjoining landowners;

(2) To original grantors, heirs or assigns of the original tract from whence the right-of-way was conveyed; or

(3) To the general public.

(b) Notice of said sale shall be advertised at least twenty days before the day of sale by having notice thereof published in the English language once a week for three consecutive weeks preceding such sale in a newspaper in the county in which the real estate is located. Such sale shall be made on a sealed bid basis, and said land shall not be sold for less than the value recommended by the State Highway Commission as provided above.

(c) Upon recommendation of the State Highway Commission, the Governor may execute a proper deed exchanging any such real property, or interest therein, either as a whole or part consideration, for any other real property, or interest therein, needed by the State for highway purposes.

(d) Provided further, that upon recommendation of the State Highway Commission the Governor may execute a proper deed relinquishing and conveying the State's right, title and interest in such real property as follows:

(1) If title to the State was acquired by donation, convey to the grantor, his heirs or assigns; or if acquired by purchase by a county or city, convey to the county or city, or to the grantor, his heirs or assigns at the request of the county or city.

(2) If the rights and interests conveyed to the State consist only of the right to use such property, and title is not held by the State, convey the State's rights and interests to the owner of the fee in said property.

(3) If title or any interest in such property was acquired and held by a county or city in its own name for use by the State, quitclaim to the county or city any interest of the State which might accrue from the State's use of the property; or if there is no record title to such property, quitclaim the State's interests, which might accrue from its use of the property, to the county or city wherein such land is located, or to abutting property owners at the request of the county or city.

(4) Quitclaim the State's title, rights and interest as necessary to comply with reversionary clauses contained in instruments by which the State's title, rights or interests were acquired.

(5) If property has been acquired by or for the State for use as an approach-way to an urban freeway, but, within 12 months after acquisition, the Commission has determined that, due to relocation of the approach-way, the property is not needed for highway purposes, reconvey the property to the grantor from whom it was acquired by or for the State, or to his heirs, successors, or assigns. The sale price shall be the same as the purchase price paid by or for the State, plus six percent interest per annum from the date of that payment by or for the State. When the Commission determines that the property is not needed for highway purposes, it shall give written notice of that determination to the grantor. The notice shall be mailed to the grantor at his address as of the time of acquisition. Within two years after the notice is mailed, the grantor, his heirs, successors, or assigns may request in writing that the State reconvey the property to them. If at the expiration of the two-year period, no such request has been received by the Commission, the State may then dispose of the property at public sale.

Sec. 1 amended by Acts 1967, 60th Leg., p. 1076, ch. 471, § 1, eff. Aug. 28, 1967.

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1A. CONSTRUCTION AND MAINTENANCE

Art. 6674s. Workmen's Compensation Insurance for Highway Department employees

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Employees of subcontractors

Sec. 12. If the Department sublets the whole or any part of the work to be performed or done to any subcontractor, then in the event any employee of such subcontractor, whose name does not appear on the pay roll of the Department, sustains an injury in the course of his employment, he shall be deemed and taken for all purposes of this law not to be an employee as defined in this law. However, in the event that a person leases tractors, trucks, mowing or cutting machinery, or other equipment to the Department, and uses this equipment to perform work under a contract with the Department, then the Department shall

(1) treat the person leasing the equipment as an independent contractor and require him to provide life, health and accident, and disability insurance for himself and any persons employed by him to perform the contract during the time he or his employee are engaged in performing the contract and with such amounts of insurance and coverage as is approved by the State Board of Insurance as being substantially the same coverage provided for under workmen's compensation insurance;

(2) treat the person leasing the equipment as an employee of the state for purposes of workmen's compensation and require him to provide

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workmen's compensation insurance for any persons employed by him to perform the contract; in which case the workmen's compensation law applies to such person and his employees regardless of the number of employees; or

(3) treat the person leasing the equipment and any persons employed by him to perform the contract as employees of the state for purposes of workmen's compensation.

Sec. 12 amended by Acts 1967, 60th Leg., p. 1842, ch. 715, § 1, eff. Aug. 28, 1967.

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**1B. MODERNIZATION OF HIGHWAY FACILITIES;
 CONTROLLED ACCESS HIGHWAYS**

Saved from Repeal

Acts 1967, 60th Leg., p. 730, ch. 306, which amended articles 1436 and 1436a in sections 1 and 2 of the act, provides in section 3 thereof that the act does not amend, repeal or alter Chapter 300, Acts of the 55th Legislature, Regular Session, 1957 (Article 6674w through Article 6674w—5, Vernon's Texas Civil Statutes). See note under article 1436d.

Art. 6675a—4. Registration dates

(a) The registration year for passenger cars shall consist of calendar quarters, the first quarter to commence on April 1 of each year. Each application filed hereunder for registration during the first quarter of the registration year shall be accompanied by the full amount of the annual fee; each application so filed during the second quarter, the third quarter, or the fourth quarter shall be accompanied by three-fourths, one-half, or one-quarter, respectively, of the annual fee; and each application for reregistration filed subsequent to June 30 shall be accompanied by an affidavit that such vehicle has not been previously operated upon the highways or streets of this state during any quarter of the current registration year; provided however, that the fees for all other classes of vehicles shall be prorated on a monthly basis, such fees being reduced one-twelfth the annual fee for each month of the registration year that has expired.

(b) Notwithstanding the provisions of Subsection (a) of this section or any other section of this Act, the registration or license of any vehicle shall not be issued for or reduced to a fee less than \$5.00, regardless of the quarter or month of the registration year in which application is filed. Amended by Acts 1967, 60th Leg., p. 700, ch. 289, § 1, eff. Aug. 28, 1967.

Section 1 of the act of 1967 also amended article 6675a—5; section 2 of the act provided: "This act is effective beginning with the 1968 registration year."

Art. 6675a—5. Fees: motorcycles, passenger cars, buses

(a) The annual license fee for registration of a motorcycle is Five Dollars.

(b) The annual license fee for registration of a passenger car and a street or suburban bus shall be based upon the weight of a vehicle as follows:

Weight in Pounds	Fee
1-3,500	\$12.00
3,501-4,500	22.00
4,501-6,000	30.00
6,001 and over	55¢ cwt.

The weight of any passenger car or of any street or suburban bus, for purpose of registration, shall be the weight generally accepted as its correct shipping weight plus one hundred (100) pounds."

Amended by Acts 1967, 60th Leg., p. 700, ch. 289, § 1, eff. Aug. 28, 1967.

Section 1 of the act of 1967 also amended article 6675a—4; section 2 of the act provided: "This Act is effective beginning with the 1968 registration year."

State department of health, duty to recommend policies relating to medical aspects of driver licensing, traffic safety and accident investigation, see art. 4447f.

Art. 6675a—13½. Designs and specifications of reflectorized plates, symbols and tabs

(a) The State Highway Department shall prepare the designs and specifications for the single plate or plates of metal or other material, symbols, tabs, or other devices selected by the State Highway Commission to be used as the legal registration insignia with the requirement, however, that all license plates shall be made with a reflective material so as to be a reflectorized safety license plate. The reflectorized material shall be of such a nature as to provide effective and dependable brightness in the promotion of highway safety during the service period of the license plate issued.

(b) Thirty cents (30¢) shall be added to the cost of each license purchased, for 1968 licenses, and licenses for each year thereafter. Such funds collected shall be used by the State Highway Department for the purpose of purchasing equipment and material for the production and manufacturing of reflectorized license plates, as provided in Subsection (a) of this Act for the calendar year of 1969 and thereafter. The purchase of such reflective material shall be submitted to the State Board of Control for approval.

(c) The provisions of Subsection (a) of this Act requiring the reflectorizing of license plates shall be effective starting with the issuance of license plates for the calendar year 1969.

Amended by Acts 1967, 60th Leg., p. 1051, ch. 461, § 1, eff. Aug. 28, 1967.

Section 2 of the 1967 amendment provided: "The provisions of this Act are severable and if any part or provision hereof shall be held void the decision of

the court so holding shall not affect or impair any of the remaining parts or provisions of this Act."

Art. 6687b. Driver's, chauffeur's, and commercial operator's licenses; accident reports

ARTICLE II—ISSUANCE OF LICENSES, EXPIRATION, AND RENEWAL

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Who may not be licensed

Sec. 4. The Department shall not issue any license hereunder:

1. To any person, as an operator, who is under the age of eighteen (18) years. The Department may license an applicant as an operator, who is sixteen (16) years of age or older where: (a) the applicant has completed and passed a driver training course approved by the Department; or (b) before June 1, 1969, the local school superintendent certifies that such course is not taught at the school regularly attended by such applicant. A license shall not be issued to any applicant who has not passed the examination required in Section 10 of Article 6687b, Vernon's Texas Civil Statutes. The Department shall carry out the duties required of it by the provisions of this Act in any manner that will expedite the performance of such duties, and in a manner that will provide the greatest convenience for the public; provided that any person who has satisfactorily completed and passed the class-room phase of an approved driver

education course may apply to the Department for an instruction permit if he is at least fifteen (15) years of age, and the Department may, in its discretion, after the applicant has successfully passed all parts of the driver examination required in Section 10 of this Act, other than the driving test, issue to the applicant an instruction permit which shall entitle the applicant while having such permit in his immediate possession to drive a motor vehicle upon the public highways when accompanied by a licensed operator, commercial operator, or chauffeur, who is at least twenty-one (21) years of age and has had at least one (1) year of driving experience and who is occupying a seat beside the driver; and provided further the Department may issue a license to any person who has attained the age of fifteen (15) years where, in the opinion of the Department, (1) it appears that the failure or refusal to issue such license to any such person will work an unusual economic hardship on the family of the applicant for the license, or (2) it appears that a license should be granted to the applicant because of the sickness or illness of members of the family of the applicant, or (3) a failure to issue such license would be detrimental to the general welfare of the applicant or of his or her family and provided further that the applicant has taken and passed the examination required in Section 10 of Article 6687b, Vernon's Civil Statutes. In no event shall an operator's license of any class be issued to any person of less than fifteen (15) years of age. Any person who has been refused a driver's license under the terms of this paragraph may appeal to the county court in the county in which he is a resident, where the matter may be tried upon request of petitioner or respondent. And provided further that a special combination operator and commercial operator restricted license may be issued to any person between the ages fifteen (15) and eighteen (18) years to operate only a motorcycle, motor scooter or motorized bicycle, the horsepower of any of which does not exceed five (5) brake horsepower. This special restricted license shall be issued by the Driver's License Division of the Department on application to the Department in accordance with Section 7 of Article 6687b, Vernon's Civil Statutes; shall be subject to the requirements of Section 10 of Article 6687b, Vernon's Civil Statutes, and to other provisions of this Act in the same manner as operator's licenses; and shall be in the form as may be prescribed by the Department.

2. To any person, as a commercial operator, who is under eighteen (18) years of age, unless he has completed the approved driver training course referred to in Subdivision 1 of this Section; and in no case shall a commercial operator's license be issued to one under seventeen (17) years of age;

3. To any person, as a chauffeur, who is under eighteen (18) years of age, unless he has completed the approved driver training course referred to in Subdivision 1 of this Section; and in no case shall a chauffeur's license be issued to one under seventeen (17) years of age;

4. To any person, as an operator, a commercial operator, or a chauffeur, whose license has been suspended, during such suspension;

5. To any person, as an operator, commercial operator, or chauffeur, who is shown to be an habitual drunkard or addicted to the use of narcotic drugs or other drugs that render a person incapable of driving;

6. To any person, as an operator, commercial operator, or chauffeur, who has previously, by a court of competent jurisdiction, been adjudged insane or an idiot, imbecile, or feebleminded, and who has not, at the time of such application, been restored to competency by judicial decree or released from a hospital for the insane or feebleminded upon a certificate of the superintendent that such person is competent;

7. To any person, as an operator, commercial operator, or chauffeur, who is required by this Act to take an examination, unless such person shall have successfully passed such examination;

8. To any person when in the opinion of the Department such person is afflicted with or suffering from such physical or mental disability or disease as will serve to prevent such person from exercising reasonable and ordinary control over a motor vehicle while operating the same upon the highways, nor shall a license be issued to any person who is unable to understand highway warnings or direction signs in the English language; provided, however, no person shall be refused a license because of any physical defect unless it be shown by common experience that such defect incapacitates him from safely operating a motor vehicle;

9. To any person when the Department has good cause to believe that the operation of a motor vehicle on the highways by such person would be inimical to public safety or welfare;

10. To a person who applies for or receives public assistance as a needy blind person.

Sec. 4 amended by Acts 1967, 60th Leg., p. 778, ch. 328, § 1, eff. Aug. 28, 1967.

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Sec. 5. Special restrictions on drivers of school buses and public or common carrier motor vehicles

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(c) The provisions of Subsection (b) of this section do not apply to the driver of a public or private ambulance who is nineteen (19) years old or older and who holds a valid chauffeur's license.

Sec. 5, (c) added by Acts 1967, 60th Leg., p. 891, ch. 386, § 1, eff. Aug. 28, 1967.

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Motorcycle operator's license

Sec. 5B. (a) "Operator" and "operator's license" as used in other sections of this Act, include "motorcycle operator" and "motorcycle operator's license" respectively.

(b) Beginning January 1, 1968, no person unless expressly exempted by this Act, shall operate a motorcycle upon a highway in this State unless he has a valid license as a motorcycle operator. An operator's license issued before January 1, 1968, is valid for operating a motorcycle until the license expires.

(c) In addition to the examination prescribed by Section 10 of this Act, the Department shall require an applicant for a motorcycle operator's license to operate a motorcycle in an off-street phase and an on-street mobile phase of a road test to determine his ability to exercise ordinary and reasonable control of a motorcycle. An applicant required to submit to a road test must provide a passenger vehicle and licensed driver to convey the license examiner during the road test. The Department shall refuse to give any part of the road test to an applicant who does not provide a passenger vehicle for the examiner.

Sec. 5B added by Acts 1967, 60th Leg., p. 780, ch. 328, § 2, eff. Aug. 28, 1967.

Sec. 6. Application for license

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(b) Every said original application shall state the applicant's full name, place and date of birth, such information to be verified by presentation of a certified copy of the applicant's birth certificate or other documentary evidence deemed satisfactory by the Department. Such application shall also include the thumbprints, or if for any reason thumbprints cannot be taken, the index fingerprints of the applicant, and shall state the sex and residence address of the applicant, and briefly describe the applicant, and shall state whether the applicant

For Annotations and Historical Notes, see V.A.T.S.

has theretofore been licensed as an operator, commercial operator, or chauffeur, and, if so, when and by what state or country, and whether any such license has ever been suspended or revoked or whether an application has ever been refused, and, if so, the date of and reason for such suspension, revocation, or refusal, and such other information as the Department may require to determine the applicant's identity, competency and eligibility.

Sec. 6(b) amended by Acts 1967, 60th Leg., p. 780, ch. 328, § 3, eff. Aug. 28, 1967.

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Examination of applicants

Sec. 10. The Department shall examine every applicant for an operator's, commercial operator's, or chauffeur's license, except as otherwise provided in this Section. Such examination shall be held in the county where the applicant resides or makes application within not more than ten (10) days from the date application is made. It shall include a test of the applicant's vision, his ability to understand highway signs in the English language regulating, warning, and directing traffic, his knowledge of the traffic laws of this State, and shall include an actual demonstration of ability to exercise ordinary and reasonable control in the operation of a motor vehicle of the type which he will be licensed to operate and such further physical and written examination as the Department finds necessary to determine the applicant's fitness to operate a motor vehicle safely upon the highways, and provided further that the Director shall have the authority to cause to be re-examined the licensee in any case which in his judgment the licensee is incapable of operating a motor vehicle, said examination to be held in the county of the licensee's residence unless otherwise agreed to by both parties to be held elsewhere.

Sec. 10 amended by Acts 1967, 60th Leg., p. 781, ch. 328, § 4, eff. Aug. 28, 1967.

Licenses issued to operators, commercial operators and chauffeurs

Sec. 11. (a) The Department shall, upon payment of the required fee, issue to every applicant qualifying therefor an operator's, commercial operator's, or chauffeur's license as applied for, which license shall bear thereon a distinguishing number assigned to the licensee by the Department, a color photograph of the licensee, the full name, date of birth, residence address, and a brief description of the licensee, and either a facsimile of the signature of the licensee or a space upon which the licensee shall write his usual signature with pen and ink immediately upon receipt of the license. No license shall be valid until it has been so signed by the licensee.

(b) The Department may issue a temporary license without the photograph to out-of-state applicants, members in the Armed Forces, and in those situations where for any other reason the Department finds it necessary, provided, however, where such temporary license is issued it shall be valid only until the applicant shall have had time to appear and have his picture taken and a license with his photograph issued.

Sec. 11 amended by Acts 1967, 60th Leg., p. 781, ch. 328, § 5, eff. Aug. 28, 1967.

Provisional licenses

Sec. 11A. Whenever the Department of Public Safety issues an original operator's, commercial operator's, or chauffeur's license to a person under twenty-one (21) years of age, the license shall be designated and clearly marked as a provisional license.

Sec. 11A added by Acts 1967, 60th Leg., p. 781, ch. 328, § 6, eff. Aug. 28, 1967.

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License to be carried and exhibited on demand

Sec. 13. Every person shall have an operator's, commercial operator's, or chauffeur's license in his immediate possession at all times when operating a motor vehicle and shall display the same upon demand of a magistrate or any officer of a court of competent jurisdiction or any peace officer. Any person who violates this Section shall be guilty of a misdemeanor and upon conviction thereof be punished by a fine of not more than Two Hundred Dollars (\$200); for a second conviction, within one (1) year thereafter, such person shall be punished by a fine of not less than Twenty-five Dollars (\$25) nor more than Two Hundred Dollars (\$200); upon the third or subsequent conviction within one (1) year after the second conviction such person shall be punished by a fine of not less than Twenty-five Dollars (\$25) nor more than Five Hundred Dollars (\$500), or by imprisonment in the county jail for not less than seventy-two (72) hours nor more than six (6) months, or by both such fine and imprisonment. It shall be a defense to any charge under this Section that the person so charged produce in court an operator's, commercial operator's, or chauffeur's license theretofore issued to such person and valid at the time of his arrest. It shall be the duty of the judge of the court to report forthwith to the Department of Public Safety any convictions obtained in his court under this Section, together with a set of the fingerprints of the person so convicted, and it shall be the duty of the Department of Public Safety to keep a record thereof. Any peace officer may stop and detain any motor vehicle operator for the purpose of determining whether such person has a driver's license as required by this Section

Sec. 13 amended by Acts 1967, 60th Leg., p. 782, ch. 328, § 7, eff. Aug. 28, 1967.

Duplicate licenses

Sec. 14. In the event that an operator's, commercial operator's, or chauffeur's license issued under the provisions of this Act is lost, destroyed, or there is a change in pertinent information, the person to whom the same was issued may obtain a duplicate or correction thereof upon furnishing proof satisfactory to the Department that such permit or license was lost or destroyed or upon the supplying of the required information which has changed, together with proof acceptable to the Department supporting such change, and upon the payment of a fee of One Dollar (\$1).

Sec. 14 amended by Acts 1967, 60th Leg., p. 782, ch. 328, § 8, eff. Aug. 28, 1967.

ARTICLE III—FEES

Disposition of fees

Sec. (a) All fees and charges required by this Act and collected by an officer or agent of the Department shall be remitted without deduction on Monday of each week to the Department in Austin, Texas.

(b) One-third (1/3) of all monies received for operators, commercial operators and chauffeurs license fees shall be deposited in the State Treasury in the General Revenue Fund of the State; and the remainder of all fees so collected shall be deposited in the State Treasury in a fund to be known as the Operator's and Chauffeur's License Fund.

(c) Fees and charges deposited in the Operator's and Chauffeur's License Fund under the provisions of this Act may, upon appropriation by

For Annotations and Historical Notes, see V.A.T.S.

the Legislature, be used by the Texas Department of Public Safety for the payment of salaries, purchase of equipment and supplies, maintenance, and any and all other necessary expenses incident to the operation of the Department of Public Safety in carrying out the duties as are by law required of such Department and may also be appropriated by the Legislature to the Traffic Safety Fund. Any remaining balance in the Operator's and Chauffeur's License Fund on September 1st of each and every year shall remain in such Fund and shall be available for appropriation by the Legislature for the maintenance and support of the Texas Department of Public Safety as set forth hereinabove.

Sec. 15 amended by Acts 1961, 57th Leg., 1st C.S., p. 71, ch. 24, art. IV, § 2, eff. Sept. 1, 1961; Acts 1967, 60th Leg., p. 777, ch. 327, § 8, emerg. eff. May 30, 1967.

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Expiration of licenses; examination on renewal

Sec. 18. (a) All original operators', commercial operators', chauffeurs', and provisional licenses applied for on and after January 1, 1968, shall be dated to expire as follows:

1. Operator's license—on the next birthdate of the licensee occurring four (4) years after the date of application;

2. Commercial operators' and chauffeurs' licenses—on the next birthdate of the licensee occurring two (2) years after the date of application;

3. Provisional license—on the twenty-first (21st) birthdate of the licensee.

(b) All renewals of operators' licenses applied for in 1968 and 1969, and all renewals of commercial operators' and chauffeurs' licenses applied for in 1968 shall be dated to expire as follows:

1. Operator's license—on the next birthdate of the licensee occurring two (2) years after date of application for those bearing numbers ending with digits 1, 3, 5, 7 and 9; all others on the next birthdate of the licensee occurring four (4) years after date of application;

2. Commercial operators' and chauffeurs' licenses—on the next birthdate of the licensee occurring one (1) year after date of application for those bearing numbers ending in digits 1, 3, 5, 7 and 9; all others on the next birthdate of the licensee occurring two (2) years after date of application.

(c) All renewals of commercial operators' and chauffeurs' licenses applied for on and after January 1, 1969, and all renewals of operators' licenses applied for on and after January 1, 1970, shall be dated to expire as follows:

1. Operator's license—on the fourth anniversary of the birthdate of the licensee preceding the date of application for renewal of an expired license; in all other cases four (4) years from date appearing on current license;

2. Commercial operators' and chauffeurs' licenses—on the second anniversary of the birthdate of the licensee preceding the date of application for renewal of an expired license; in all other cases two (2) years from the date appearing on current license.

(d) The Department may in its discretion require an examination for the renewal of an operator's, commercial operator's or chauffeur's license.

(e) The Department may prescribe the procedure for arranging and conducting examinations for renewal of licenses.

(f) Subject to the provisions of Subsection (d) of this Section, any licensee failing to make application for renewal of license as above set forth may be required to take examination as required in this Act for applicant's original license.

(g) All applicants for renewal may be required by the Department to furnish the information required under Section 6(b) of this Act. Sec. 18 amended by Acts 1967, 60th Leg., p. 782, ch. 328, § 9, eff. Aug. 28, 1967.

Fees for license

Sec. 19. The fees as provided for in this Act shall be as follows:

1. Operator's license—originals and renewals issued for four (4) years, Six Dollars (\$6); two-year renewals issued under Subsection (c) of Section 18, Three Dollars (\$3);

2. Commercial operator's license—originals and renewals issued for two (2) years, Nine Dollars (\$9); one-year renewals issued under Subsection (c) of Section 18, Four Dollars and Fifty Cents (\$4.50);

3. Chauffeur's license—originals and renewals issued for two (2) years, Twelve Dollars (\$12); one-year renewals issued under Subsection (c) of Section 18, Six Dollars (\$6);

4. Provisional and instruction (learner's) license—computed on basis of annual prorated cost of type license obtained multiplied by number of full years of validity; provided that a minimum one-year fee shall be paid by those obtaining such licenses after their twentieth birthday.

Sec. 19 amended by Acts 1961, 57th Leg., 1st C.S., p. 71, ch. 24, art. IV, § 1, eff. Sept. 1, 1961; Acts 1967, 60th Leg., p. 783, ch. 328, § 10, eff. Aug. 28, 1967.

Notice of change of address or name

Sec. 20. Whenever any person after applying for or receiving an operator's, commercial operator's or chauffeur's license shall move from the address named in such application or in the license issued to him or when the name of the licensee is changed by marriage or otherwise, such person shall within ten (10) days thereafter notify the Department in writing of his old and new addresses or of such former and new names, of the number of any license then held by him, and such person shall apply for a duplicate license as set out in Section 14.

Sec. 20 amended by Acts 1967, 60th Leg., p. 784, ch. 328, § 11, eff. Aug. 28, 1967.

Sec. 21. Notice of change of address or name

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(b) The Department shall also file all accident reports and abstracts of court records of convictions received by it under the laws of this State and in connection therewith maintain convenient records or make suitable notations in order that an individual record of each licensee showing the convictions of such licensee and the traffic accidents in which he has been involved shall be readily ascertainable and available for the consideration of the Department upon any application for the renewal of a driver's license and at other suitable times. Before licensing or renewing any license, the Department shall examine the applicant's record for information concerning conviction of traffic violations and involvement in traffic accidents. The Department shall not issue or renew a license when, in its opinion, the applicant's record indicates that issuance or renewal of his license would be inimical to the public safety.

Sec. 21(b) amended by Acts 1967, 60th Leg., p. 784, ch. 328, § 12, eff. Aug. 28, 1967.

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ARTICLE IV—CANCELLATION, SUSPENSION, AND REVOCATION
 OF LICENSES

Sec. 22. Authority of Department to suspend or revoke a license

(a) When under Section 10 of this Act the Director believes the licensee to be incapable of safely operating a motor vehicle, the Director may notify said licensee of such fact and summons him to appear for hearing as provided hereinafter. Such hearing shall be had not less than ten (10) days after notification to the licensee or operator under any of the provisions of this Section, and upon charges in writing a copy of which shall be given to said operator or licensee not less than ten (10) days before said hearing. For the purpose of hearing such cases jurisdiction is vested in the mayor of the city, or judge of the police court, or a justice of the peace in the county or subdivision thereof where the operator or licensee resides. Such court may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relative books and papers. It shall be the duty of the court to set the matter for hearing upon ten (10) days' written notice to the Department. Upon such hearing, the issues to be determined are whether the license shall be suspended or whether the license shall be revoked, and, in the event of a suspension, the length of time of the suspension, which shall not exceed one (1) year. The officer who presides at such hearing shall report the finding to the Department which shall have authority to suspend the license for the length of time reported; provided, however, that in the event of such affirmative finding the licensee may appeal to the county court of the county wherein the hearing was held, said appeal to be tried de novo. Notice by registered mail to address shown on the license of licensee shall constitute service for the purpose of this section.

Sec. 22(a) amended by Acts 1965, 59th Leg., p. 1663, ch. 717, § 2, eff. Aug. 30, 1965; Acts 1967, 60th Leg., p. 784, ch. 328, § 13, eff. Aug. 28, 1967.

(b) The authority to suspend the license of any operator, commercial operator, or chauffeur as authorized in this Section is granted the Department upon determining after proper hearing as hereinbefore set out that the licensee:

1. Has committed an offense for which automatic suspension of license is made upon conviction;
2. Has been responsible as a driver for any accident resulting in death;

3. Is an habitual reckless or negligent driver of a motor vehicle;
4. Is an habitual violator of the traffic law.

The term "habitual violator" as used herein, shall mean any person with four (4) or more convictions arising out of different transactions in a consecutive period of twelve (12) months, or seven (7) or more convictions arising out of different transactions within a period of twenty-four (24) months, such convictions being for moving violations of the traffic laws of this state or its political subdivisions.

5. Is incapable to drive a motor vehicle;
6. Has permitted an unlawful or fraudulent use of such license;
7. Has committed an offense in another state, which if committed in this State would be grounds for suspension or revocation;
8. Has failed or refused to submit a report of any accident in which he was involved as provided in Section 39 of this Act;
9. Has been responsible as a driver for any accident resulting in serious personal injury or serious property damage;
10. Is the holder of a provisional license under Section 11A of this Act and has been convicted of two (2) or more moving violations committed within a period of twelve (12) months.

Sec. 22(b) amended by Acts 1967, 60th Leg., p. 785, ch. 328, § 13, eff. Aug. 28, 1967.

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(d) Upon the recommendation of a Juvenile Court with jurisdiction of any provisional licensee and for a term set by such Juvenile Court, but not to exceed one (1) year, the department shall suspend a provisional license when it is found by such court that a provisional licensee has committed any offense which would be a felony if such licensee was an adult or any misdemeanor (except those offenses covered in Article 802e, Vernon's Texas Penal Code) in which a motor vehicle was used to travel to or from the scene of the offense.

In the event the provisional licensee is an adult at the time he commits any of such offenses described in this Subsection, his license shall be suspended by the department for the time and in the manner described herein upon the recommendation of the court in which he is finally convicted.

It shall be the duty of the judge of any Juvenile Court or other court mentioned herein to report any such recommendation forthwith to the department. Such report shall be made in the manner and form prescribed by the department.

Sec. 22(d) added by Acts 1967, 60th Leg., p. 785, ch. 328, § 13, eff. Aug. 28, 1967.

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Sec. 24. Automatic suspension of license

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(b) The suspension above provided shall in the first instance be for a period of twelve (12) months. In event any license shall be suspended under the provision of this Section for a subsequent time, said subsequent suspension shall be for a period of eighteen (18) months.

Sec. 24(b) amended by Acts 1967, 60th Leg., p. 786, ch. 328, § 14, eff. Aug. 28, 1967.

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Rehabilitation schools

Sec. 24A. (a) The Department shall establish and develop a program of motor vehicle driver education and training for drivers whose licenses have been suspended or revoked or are subject to suspension or revocation.

(b) The Department shall instruct, educate, and inform all persons attending the driver training program in the proper, lawful, and safe operation of a motor vehicle. The Department shall include in the program study of and training in the rules of the road, and the limitations of persons, vehicles, roads, streets, and highways under varying conditions and situations.

(c) The Department may require a person to attend the education and training program as a condition to the reinstatement of a suspended license or the issuance of a new license to a person whose prior license has been revoked.

(d) In the interest of promoting safe driving, the Department may seek the advice and cooperation of the schools, courts, and other interested persons.

Sec. 24A added by Acts 1967, 60th Leg., p. 786, ch. 328, § 15, eff. Aug. 28, 1967.

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Revoking licenses of needy blind

Sec. 30A. (a) Once each month the Department of Public Welfare shall furnish the Department of Public Safety a list of those per-

sons who apply for or receive assistance to the needy blind. The list is privileged information and may be used only by the Department of Public Safety.

(b) The Department of Public Safety shall revoke the license of every person whose name appears on the list referred to in Subsection (a).

Sec. 30A added by Acts 1967, 60th Leg., p. 786, ch. 328, § 16, eff. Aug. 28, 1967.

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Driving while license suspended or revoked

Sec. 34. Any person whose operator's, commercial operator's, or chauffeur's license or driving privilege as a nonresident has been cancelled, suspended, or revoked as provided in this Act, and who drives any motor vehicle upon the highways of this State while such license or privilege is cancelled, suspended, or revoked is guilty of a misdemeanor and upon conviction shall be punished by fine of not less than Twenty-five Dollars (\$25) nor more than Five Hundred Dollars (\$500), and, in addition, there shall be imposed a sentence of imprisonment of not less than seventy-two (72) hours nor more than six (6) months.

Sec. 34 amended by Acts 1967, 60th Leg., p. 786, ch. 328, § 17, eff. Aug. 28, 1967.

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ARTICLE VI. PENALTIES

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Forging or counterfeiting drivers' licenses and other instruments

Sec. 44A. (a) Any person who shall print, engrave, copy, photograph, make, issue, sell, or circulate, or who shall possess or have in his possession with intent to use, sell, circulate, or who shall possess or have in his possession with intent to use, sell, circulate, or pass, any forged or counterfeit driver's license, driver's license form, stamp, permit, license, official signature, certificate, evidence of fee payment, or any other instrument which has not been printed, manufactured, or made by or under the direction of, or issued, sold, or circulated by or under the direction of the person, board, agency, or authority authorized to do so by the provisions of this Act, shall be guilty of a felony and upon conviction shall be punished by confinement in the State penitentiary for a term of not less than two (2) years nor more than five (5) years.

(b) Any person who has in his possession any stamp, dye, plate, negative, device, machine, or other instrument, or parts thereof, used or designed for use for forging or counterfeiting any instruments set out in Subsection (a) above, shall be guilty of a felony and upon conviction shall be punished by confinement in the State penitentiary for a term of not less than two (2) nor more than five (5) years.

(c) Any court, officer, or tribunal, having jurisdiction of any offense defined in this Section, or any District or County Attorney, may subpoena any person and compel his attendance as a witness to testify as to the violation of any provision of this Section. Any person so summoned and examined shall not be liable to prosecution for the violation of any provision of this Section about which he may testify when so summoned or subpoenaed.

Sec. 44A added by Acts 1967, 60th Leg., p. 787, ch. 328, § 18, eff. Aug. 28, 1967.

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Acts 1967, 60th Leg., p. 775, ch. 327, §§ 1-7, 9, 10 constitute the Texas Safety Act of 1967 and are codified as article 6701J-1. Section 8 of the act of 1967 amend section 15 of this article. Section 9 thereof was a severability provision.

Acts 1967, 60th Leg., p. 778, ch. 328, which amended and added various sections to this article, provided in section 19:

"Sec. 19. Constitutionality. If any provision, part, section, subsection, paragraph, sentence, clause, phrase or word of this Act or the application thereof to any person or circumstances is held unconstitutional and invalid, such decision shall not affect the validity of the remaining portions or applications of the Act which can be given effect without the invalid portion or ap-

plication, and to this end the provisions of this Act are declared to be severable, and the Legislature hereby declares that it would have passed this Act and each provision, part, section, subsection, paragraph, sentence, clause, phrase or word thereof, irrespective of the fact that any provision is declared unconstitutional."

Commercial driver-training schools and instructors, deposit of fees in Operator's and Chauffeur's License Fund, see art. 4413(29c), § 8.

Art. 6699. County traffic officers

The Commissioners Court of each county, acting in conjunction with the Sheriff, may employ not more than five (5) regular deputies, nor more than two (2) additional deputies for special emergency to aid said regular deputies, to be known as county traffic officers to enforce the highway laws of this State regulating the use of the public highways by motor vehicles. Said deputies shall be, whenever practicable, motorcycle riders, and shall be assigned to work under the direction of the Sheriff. They shall give bond and take oath of office as other deputies. They may be dismissed from service on request of the Sheriff whenever approved by the Commissioners Court, or by said Court on its own initiative, whenever their services are no longer needed or have not been satisfactory. The Commissioners Court shall fix their compensation prior to their selection, and may provide at the expense of the county, necessary equipment for said officers. The pay of said deputies shall not be included in the settlements of the Sheriff in accounting for the fees of office. For the purpose of this law, the Commissioners Courts of counties whose funds from the motor registration fees provided herein amount to Thirty Thousand Dollars (\$30,000) or over, may use not exceeding five (5) percent of said funds; and not to exceed seven and one-half (7½) percent of such funds in counties receiving a lesser amount from such registration. Said deputies shall at all times cooperate with the police department of each city or town within the county, in the enforcement of said traffic laws therein and in all other parts of the county, and shall have the same right and duty to arrest violators of all laws as other Deputy Sheriffs have. Amended by Acts 1967, 60th Leg., p. 1047, ch. 458, § 1, emerg. eff. June 12, 1967.

Art. 6701c—3. Protective headgear for motorcycle operators and passengers

Motorcycle defined

Section 1. "Motorcycle" means every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding a tractor or any three-wheeled vehicle equipped with a cab, seat and seat belt and designed to contain the operator of the vehicle within the cab.

Necessity of protective headgear

Sec. 2. After December 31, 1967, no person may operate a motorcycle on a public street or highway of this state unless he wears protective headgear which has been approved by the Department of Public Safety, nor may any person carry a passenger on a motorcycle on a public street or highway of this state unless the passenger wears protective headgear which has been approved by the Department of Public Safety, nor may any person ride as a passenger on a motorcycle on a public street or highway of this state unless he wears a protective headgear which has been approved by the Department of Public Safety.

Minimum safety standards for protective headgear

Sec. 3. The department shall prescribe minimum safety standards for protective headgear used by motorcyclists in this state in order to provide for the safety and welfare of motorcycle operators and passengers. The department may adopt all or any part of the standards of the United States of America Standards Institute for protective headgear for vehicular users.

Issuance of safety standards to manufacturers; applications for approval of protective headgear; hearing for manufacturers not complying with standards

Sec. 4. (a) The department shall make the safety standards it prescribes for protective headgear available to each manufacturer of protective headgear upon request of the manufacturer.

(b) Any manufacturer of protective headgear may apply to the department, on an application form prescribed by the department, for approval of the design specifications of protective headgear. The application shall be accompanied by a deposit of \$15 for each design or model to be approved.

(c) The department shall grant an application for approval of protective headgear if the specifications of the headgear conform to the standards prescribed under Section 3 of this Act. The department may recognize the American Association of Motor Vehicle Administrators Certificate of Equipment Approval as evidence that the minimum standards prescribed by the United States of America Standards Institute have been satisfied.

(d) When the department has reason to believe that an approved style or make of headgear being sold commercially does not comply with the standards prescribed under Section 3 of this Act, the department, to determine compliance with the standards, may conduct a hearing as prescribed under Subsections (d) and (e), Section 108B, Chapter 303, Acts of the 54th Legislature, Regular Session, 1955 (Article 6701d, Vernon's Texas Civil Statutes).

List of approved protective headgear

Sec. 5. The department shall compile a list naming each style and make of protective headgear approved by the department and make the list available upon request to the public and to persons who sell protective headgear.

Inspection of protective headgear by peace officers

Sec. 6. Any peace officer may stop and detain any motorcycle operator or passenger for the purpose of inspecting his protective headgear to determine if the headgear is of a style and make approved by the department.

Violations; penalties

Sec. 7. A person who violates Section 2 of this Act is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$10 nor more than \$50.

Acts 1967, 60th Leg., p. 788, ch. 329, eff. Aug. 28, 1967.

Title of Act:

An Act requiring motorcycle operators and passengers to wear protective headgear approved by the Department of Public Safety; prohibiting motorcycle operators from carrying motorcycle passengers not wearing protective headgear approved by the Department of Public Safety; providing for issuance of minimum safety stand-

ards for protective headgear by the department and providing for approval by the department of protective headgear meeting the prescribed standards; providing for administration and enforcement; providing for a hearing for those manufacturers who fail to comply with this Act; authorizing peace officers to stop and detain motorcycle operators and passengers to

determine if their headgear is of a type approved by the department; prescribing a penalty; and declaring an emergency. Acts 1967, 60th Leg., p. 788, ch. 329.

CHAPTER ONE A—TRAFFIC REGULATIONS

6701j-1. Texas Traffic Safety Act of 1967 [New].

Art. 6701d. Uniform Act Regulating Traffic on Highways

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ARTICLE II—OBEDIENCE TO AND EFFECT OF TRAFFIC LAWS

Provisions of Act Refer to Vehicles Upon the Highways; Exceptions

Sec. 21. The provisions of this Act relating to the operation of vehicles refer exclusively to the operation of vehicles upon highways except:

1. Where a different place is specifically referred to in a given section.

2. The provisions of Articles IV and V shall apply upon streets, highways, or privately owned access ways or parking areas provided by business establishments, without charge, for the convenience of their customers, clients, or patrons but not upon privately owned residential property or the property of any garage or parking lot for which a charge is made for storage or parking of motor vehicles.

Sec. 21 amended by Acts 1967, 60th Leg., p. 1175, ch. 526, § 1, eff. Aug. 28, 1967.

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ARTICLE IV—ACCIDENTS

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Investigation of Accidents

Sec. 43A. Upon notification of a law enforcement officer by the driver of a vehicle involved in an accident resulting in injury to or death of any person, or total property damage to an apparent extent of Fifty Dollars (\$50) or more, the officer may investigate the accident and file any justifiable charges relating thereto without regard to whether the accident occurred on a public street or highway or other public property or on private property commonly used by the public such as supermarket or shopping center parking lots, parking areas provided by business establishments for the convenience of their customers, clients, or patrons, parking lots owned and operated by the State or any other parking area owned and operated for the convenience of, and commonly used by, the public. It is specifically provided, however, that this Section shall not apply to accidents occurring on privately owned residential parking areas or on privately owned parking lots where a fee is charged for the privilege of parking or storing a motor vehicle.

Sec. 43A added by Acts 1967, 60th Leg., p. 1175, ch. 526, § 2, eff. Aug. 28, 1967.

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ARTICLE XI—SPECIAL STOPS AND RESTRICTED SPEEDS REQUIRED

Vehicles carrying explosive substances or flammable liquids; reducing speeds or stopping at railroad grade crossings

Section 89. (a) The driver of any vehicle carrying explosive substances or flammable liquids as its principal cargo before crossing at grade any track or tracks of a railroad, shall if travelling in excess of twenty (20) miles per hour, reduce the speed of such vehicle to twenty

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(20) miles per hour before approaching within two hundred (200) feet from the nearest rail of such railroad and shall listen and look in both directions along such track for any approaching train, and for signals indicating the approach of the train, except as hereinafter provided, and shall not proceed until precautions have been taken to ascertain that the course is clear.

(b) The driver of any vehicle carrying explosive substances or flammable liquids as its principal cargo before crossing at grade any track or tracks of a railroad on streets and highways within the limits of any corporate town or city shall stop the vehicle not more than fifty (50) feet nor less than fifteen (15) feet from the nearest rail of the railroad and while stopped shall listen and look in both directions along the track for an approaching train and for signals indicating the approach of a train, and shall not proceed until precautions have been taken to ascertain that the course is clear.

(c) The requirements contained in Section 89, Paragraphs (a) and (b) above shall not apply when any of the following circumstances or conditions exist:

(1) When a police officer or a crossing flagman, or a traffic control signal directs traffic to proceed.

(2) Where a railroad flashing signal is installed and displays no indication of an approaching train.

(3) An abandoned or exempted grade crossing which is clearly marked as such by or with the consent of the proper state authority, when such markings can be read from the driver's position.

(4) At a streetcar crossing within a business or residential district of a municipality.

(5) Railroad tracks used exclusively for industrial switching purposes within a business district.

(d) Nothing in this section shall be deemed to exempt the driver of any vehicle from compliance with the requirements contained in Sections 86 and 87 of this Act.

Sec. 89 amended by Acts 1967, 60th Leg., p. 542, ch. 238, § 1, emerg. eff. May 20, 1967.

Sec. 106.

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(d) It is hereby specifically provided that no motor vehicle shall draw more than three (3) motor vehicles attached thereto by the triple saddle mount method, that is by mounting the front wheels of the trailing vehicles on the bed of another leaving the rear wheels only of such trailing vehicles in contact with the roadway, nor shall such combinations of motor vehicles exceed the width, length, height, or gross weight limitations fixed by Texas statutes.

Sec. 106(d) amended by Acts 1967, 60th Leg., p. 1219, ch. 550, § 1, emerg. eff. June 14, 1967.

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ARTICLE XV—INSPECTION OF VEHICLES

Compulsory inspection

Sec. 140.

(a) It shall be the duty of the Texas Department of Public Safety to require every owner of a motor vehicle, trailer, semitrailer, pole trailer or mobile home, registered in this State, to have the brakes, lighting equipment, horns and warning devices, mirrors, windshield wipers, front seat belts in vehicles where seat belt anchorages were part of the manufacturer's original equipment on the vehicle, steering

(including power steering) and wheels and rims (not to involve removal of wheel from vehicle), inspected at State-appointed inspection stations or by State Inspectors as hereinafter provided. Provisions relating to the inspection of trailers and semitrailers shall not apply when the gross weight of such trailers and semitrailers and the load carried thereon is four thousand (4,000) pounds or less. Only the brakes, lighting equipment, horns and warning devices, mirrors, windshield wipers, front seat belts in vehicles where seat belt anchorages were part of the manufacturer's original equipment on the vehicle, steering (including power steering), and wheels and rims (not to involve removal of wheel from vehicle), may be inspected, and the owner shall not be required to have any other equipment or part of his motor vehicle inspected as a prerequisite for the issuance of an inspection certificate. Sec. 140(a) amended by Acts 1967, 60th Leg., p. 790, ch. 331, § 1, eff. Aug. 28, 1967.

(b) If such inspection discloses the necessity for adjustments, corrections, or repairs, only the brakes, lighting equipment, horns and warning devices, mirrors, windshield wipers, front seat belts in vehicles where seat belt anchorages were part of the manufacturer's original equipment on the vehicle, steering (including power steering), and wheels and rims (not to involve removal of wheel from vehicle), shall be adjusted, corrected, or repaired before a certificate is issued as hereinafter provided. The owner may have such adjustments, corrections, or repairs made by such qualified person or persons as he may choose, subject to reinspection as hereinafter provided.

Sec. 140(b) amended by Acts 1967, 60th Leg., p. 791, ch. 331, § 1, eff. Aug. 28, 1967.

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State appointed inspection stations

Sec. 141. (a) The Department may establish State-appointed inspection stations to carry out the provisions of this Section. Such stations may be located anywhere in the State, and should any be established or appointed, there shall be at least one (1) for each county. The Department is authorized to furnish instructions to, and to supervise official inspection stations for inspection of motor vehicles, trailers, semitrailers, pole trailers and mobile homes for the proper and safe performance of brakes, lighting equipment, horns and warning devices, mirrors, windshield wipers, front seat belts in vehicles where seat belt anchorages were part of the manufacturer's original equipment on the vehicle, steering (including power steering), and wheels and rims (not to involve removal of wheel from vehicle). Every person desiring to operate as an official inspection station shall file an application for a certificate of appointment with the Department.

The application shall be made upon a form prescribed and furnished by the Department, and shall set forth the name under which the applicant transacts or intends to transact business, the location of his place of business within the State, and such other information as the Department may require. If the applicant has or intends to have more than one place of business within the State, a separate application shall be made for each place of business.

If the applicant is an association, the application shall set forth the names and the addresses of the persons constituting the association, and if a corporation, the names and addresses of the principal officers thereof, and any other information prescribed by the Department for purposes of identification. The application shall be signed and verified by oath or affirmation by the owner, if a natural person; in the case of a corporation, by an executive officer thereof or some person specifically authorized by the corporation to sign the application, to which shall be attached written evidence of his authority.

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Only such locations which fulfill the Department's requirements and whose owners or proprietors comply with Department regulations shall qualify and be appointed and issued a certificate. Upon approval of an application, the Department shall issue to the owner a certificate of appointment as an official inspection station for the place of business within the State set forth in the application.

Certificates of appointment shall not be assignable, and shall be valid for the owners in whose names issued and for the transaction of business at the place designated therein, and shall at all times be conspicuously displayed at the place for which issued.

Upon being advised that an application will be approved, the applicant shall provide the bond hereinafter required and a fee of Ten Dollars (\$10) which shall constitute the certificate fee until August thirty-first of the odd-numbered year following the date of appointment. Thereafter, appointments shall be made for two-year periods and the certificate fee for each such period shall be Ten Dollars (\$10). All certificate fees shall be placed in a fund in the State Treasury to be known as the Motor Vehicle Inspection Fund and shall be used by the Department in the administration of this Act.

Sec. 141(a) amended by Acts 1967, 60th Leg., p. 791, ch. 331, § 2, eff. Aug. 28, 1967.

(b) Every owner of an official inspection station shall be required to furnish a bond payable to the State of Texas in the amount of One Thousand Dollars (\$1,000), to be approved by the Director of the Department, with two or more good and solvent sureties, or one corporate surety qualified by law to make such bond, to indemnify the State against the violation of any of the terms and conditions of this Act. Except where the surety is a corporate surety as herein provided, the bond shall first be submitted to the county judge of the county in which the inspection station is located, who shall make his recommendation to the Director whether the bond be approved or disapproved. Any inspector or any official or employee of any inspection station who shall issue an official certificate of inspection without having made an inspection of the vehicle for which it is issued or who shall knowingly or willfully issue an official inspection certificate for a motor vehicle or vehicle, the brakes, lighting equipment, horns and warning devices, mirrors, windshield wipers, front seat belts in vehicles where seat belt anchorages were part of the manufacturer's original equipment on the vehicle, steering (including power steering), and wheels and rims (not to involve removal of wheel from vehicle), of which are not at the time of such issuance in a good condition and in conformity with the laws of this State shall forfeit said bond to the State of Texas.

Sec. 141(b) amended by Acts 1967, 60th Leg., p. 792, ch. 331, § 2, eff. Aug. 28, 1967.

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(d) The fee for compulsory inspection to be made under this Section shall be One Dollar and seventy-five cents (\$1.75). Fifty cents (50¢) of each fee shall be paid to the Department and shall be placed in the Motor Vehicle Inspection Fund for the purpose of paying the expense of the administration of this law. The Department may require each official inspection station to make an advance payment of fifty cents (50¢) for each inspection certificate furnished to it, and the money so received shall be placed in the Motor Vehicle Inspection Fund, and no further payment to the Department shall be required upon issuance of the certificate. If such advance payment has been made, the Department shall refund to the inspection station the amount of fifty cents (50¢) for each unissued certificate which the inspection station returns to the Department in accordance with rules and regulations promulgated by the Department.

If an inspection disclosed the necessity for adjustments, corrections, or repairs to brakes, lighting equipment, horns and warning devices, mirrors, windshield wipers, front seat belts in vehicles where seat belt anchorages were part of the manufacturer's original equipment on the vehicle, steering (including power steering), and wheels and rims (not to involve removal of wheel from vehicle), such motor vehicles shall be reinspected free of charge after the adjustments, corrections, or repairs have been made. Any such motor vehicle under the terms of this Act, if involved in an accident subsequent to the required inspection, shall return to an inspection station after adequate repairs are made for a second and reinspection procedure.

Sec. 141(d) amended by Acts 1967, 60th Leg., p. 792, ch. 331, § 2, eff. Aug. 28, 1967.

(e) No certificate of inspection shall be issued by any inspector or inspection station until the brakes, lighting equipment, horns and warning devices, mirrors, windshield wipers, front seat belts in vehicles where seat belt anchorages were part of the manufacturer's original equipment on the vehicle, steering (including power steering), and wheels and rims (not to involve removal of wheel from vehicle), have been inspected and found to be in proper and safe condition and to comply with the laws of this State. No person shall make, issue, or knowingly use an imitation or counterfeit of an official inspection certificate. The Department shall authorize the acceptance in this state of a certificate of inspection and approval issued in another state having an inspection law similar to this Act. The Department may extend the time within which a certificate shall be obtained by a resident owner of a vehicle who was not in this state during the time an inspection was required.

Sec. 141(e) amended by Acts 1967, 60th Leg., p. 793, ch. 331, § 2, eff. Aug. 28, 1967.

Standards of safety; certificates of inspection

Sec. 142. (a) The Department may establish uniform standards of safety as prescribed in Article XIV of this Act wherever applicable with respect to brakes, lighting equipment, horns and warning devices, mirrors, windshield wipers, front seat belts in vehicles where seat belt anchorages were part of the manufacturer's original equipment on the vehicle, steering (including power steering), and wheels and rims (not to involve removal of wheel from vehicle). Such standards of safety shall be posted in every official inspection station. Every motor vehicle inspected shall be required to conform in all respects to the standards of safety established pursuant to this Section.

Sec. 142(a) amended by Acts 1967, 60th Leg., p. 793, ch. 331, § 3, eff. Aug. 28, 1967.

* * * * *
Acts 1967, 60th Leg., p. 542, ch. 238, § 1 2 of the act of 1967 repealed all conflicting laws and parts of laws.
amended section 89 of this article; section

Art. 6701e. Blind and incapacitated pedestrians

Unlawful use of canes

Section 1. It is unlawful for any person, unless totally or partially blind or otherwise incapacitated, while on any public street or highway, to carry in a raised or extended position a cane or walking stick which is metallic or white in color or white tipped with red.

Precautions by drivers of vehicles

Sec. 2. Whenever a pedestrian is crossing or attempting to cross a public street or highway, at or near an intersection or crosswalk, guided by a guide dog, or carrying in a raised or extended position a cane or walking stick which is metallic or white in color, or white tipped with red, the

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driver of every vehicle approaching the intersection or crosswalk shall take such precautions as may be necessary to avoid injuring or endangering such pedestrian, and if injury or danger can be avoided only by bringing his vehicle to a full stop, he shall bring his vehicle to a full stop.

Existing rights and privileges; contributory negligence

Sec. 3. Nothing contained in this Act shall be construed to deprive any totally or partially blind or otherwise incapacitated person, not carrying such a cane or walking stick or not being guided by a dog, of the rights and privileges conferred by law upon pedestrians crossing streets or highways, nor shall the failure of such totally or partially blind or otherwise incapacitated person to carry a cane or walking stick, or to be guided by a guide dog upon the streets, highways, or sidewalks of this state, be held to constitute nor be evidence of contributory negligence.

Punishment for violations

Sec. 4. Any person who violates any provision of this Act shall, upon conviction, be punished by a fine of not more than Two Hundred Dollars (\$200.00).

Amended by Acts 1967, 60th Leg., p. 1156, ch. 512, § 1, eff. Aug. 28, 1967.

Art. 6701j. Repealed. Acts 1967, 60th Leg., p. 777, ch. 327, § 10. Eff. May 30, 1967

Prior to repeal, article 6701j was amended by acts 1963, 58th Leg., p. 1138, ch. 442, § 10. See, now, art. 6701j—1.

Art. 6701j—1. Texas Traffic Safety Act of 1967

Short title

Section 1. This Act may be cited as the Texas Traffic Safety Act of 1967.

Legislative intent: authority of the Governor

Sec. 2. (a) The establishment, development, and maintenance of a program of traffic safety in Texas is a vital governmental purpose and function of the State and its legal and political subdivisions.

(b) The Governor is responsible for preparing and administering a statewide traffic safety program designed to reduce traffic accidents and the resulting deaths, injuries, and property damage. The Governor may employ personnel necessary to administer this Act.

The statewide traffic safety program

Sec. 3. The statewide traffic safety program shall include, but not be limited to:

(a) Administration by the Governor through appropriate agencies of a program of driver education and training for Texas;

(1) Setting minimum standards by published rules and regulations for classroom instruction, training in driving skills, personnel qualifications for instructors, program content, and supplementary materials and equipment, which shall allow for innovation and experimentation on a controlled basis, not necessarily following established standards;

(2) Providing a means for continuing evaluation of the effects of all approved programs for the purpose of identifying practices most conducive to preventing traffic accidents;

(3) Providing for contracts between the governing bodies of centrally located independent school districts or other suitable public and private agencies and the State to provide for approved driver education and training programs; and

(4) Instruction offered pursuant to any contract must be offered to all applicants over fifteen (15) years of age;

(b) Plans and methods for improving driver licensing, accident records, vehicle registration and title, traffic engineering, vehicle inspection, manpower, police traffic supervision, traffic courts, highway design and uniform traffic laws;

(c) Plans for local traffic safety programs by political and legal subdivisions of the State, if the programs are approved by the Governor and conform with the uniform standards promulgated under the Highway Safety Act of 1966.¹

¹ See 23 U.S.C.A. § 401 et seq.

Research and development

Sec. 4. The Governor is authorized to cooperate with the Federal Government and with any political or legal subdivision of the State in research designed to aid in traffic safety and to accept any federal funds available for this purpose.

Cooperation of state agencies: local authority

Sec. 5. (a) All departments, agencies, and institutions of the State, and all officers and employees of the State, when requested by the Governor, shall cooperate in all activities of the State consistent with the purposes stated and authority granted in this Act and the functions of their office or employment.

(b) Political and legal subdivisions of the State are authorized to cooperate with and contract with the State and with each other and with private persons in the establishment, development, and maintenance of a statewide traffic safety program. These political and legal subdivisions may expend any funds made available under this Act or from any other source for activities incident to the performance of any part of the program and may contract and pay for personal services and property to be used in the program or activities incident to the program.

Funds: grants in aid

Sec. 6. (a) The Governor shall receive on behalf of the State for the implementation of this Act all funds made available from the United States under the Highway Safety Act of 1966,¹ or any other federal Act.

(b) The State may accept and expend gifts, grants, or donations of money or property from private sources to implement this Act.

(c) There is created a special fund in the State Treasury called the Traffic Safety Fund. All funds received from any source to implement this Act shall be placed in the Traffic Safety Fund and shall be expended with State funds for the implementation of this Act in the manner in which other State money is expended.

¹ See 23 U.S.C.A. § 401 et seq.

(d) Grants in aid for governmental purposes and payments to discharge contractual obligations may be made to legal and political subdivisions of the State to carry out any duties and activities which are part of a statewide traffic safety program created, developed, and maintained under this Act. For the implementation of this Act, contractual payment may be made from the Traffic Safety Fund for services rendered and property furnished by private persons and by agencies which are not political and legal subdivisions of the State.

(e) All payments from the Traffic Safety Fund shall be in accordance with the terms of this Act and rules and regulations promulgated by the Governor.

Responsibilities of Governor

Sec. 7. (a) The Governor shall make rules and regulations for the administration of this Act, including rules, regulations, procedures, and statements of policy governing grants in aid and contractual relations.

(b) The Governor shall allocate such funds as may be appropriated by the Legislature in the General Appropriations Act to implement the purposes of this Act.

Sec. 8. [Amends art. 6687b, sec. 15].

Severability clause

Sec. 9. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

Repealer

Sec. 10. Chapter 502, 55th Legislature, Regular Session, 1957, as amended (Article 6701j, Vernon's Texas Civil Statutes), is repealed. Acts 1967, 60th Leg., p. 777, ch. 327, eff. May 30, 1967.

Title of Act:

An Act concerning traffic safety; expressing legislative intent; providing for authority of the Governor; establishing a statewide traffic safety program; providing for research and development projects; directing cooperation of State agencies; providing for authority of local political sub-

divisions; establishing a Traffic Safety Fund; providing for grants in aid to political subdivisions for governmental purposes; providing for responsibilities of the Governor; directing the disposition of fees; providing a severability clause; providing a repealer; and creating an emergency. Acts 1967, 60th Leg., p. 775 ch. 327.

CHAPTER TWO—ESTABLISHMENT OF COUNTY ROADS

Art. 6716—1. The Optional County Road Law of 1947

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Salary of engineer

Sec. 6. The County Road Engineer shall receive an annual salary not to exceed Twenty Thousand Dollars (\$20,000), the exact amount thereof to be determined by the Commissioners Court, and said salary shall be paid in twelve (12) equal monthly installments out of the Road and Bridge Fund of the county.

Sec. 6 amended by Acts 1967, 60th Leg., p. 805, ch. 340, § 1, eff. June 8, 1967.

CHAPTER FIVE—BRIDGES AND FERRIES

Art. 6795b—1. Causeways, bridges, and tunnels authorized in Gulf Coast counties of 50,000 or more

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Bonds for payment of outstanding toll bridge revenue bonds

Sec. 8(a). When any county has heretofore issued or may hereafter issue bonds under authority of Chapter 304, Acts of the Regular Session of the Fiftieth Legislature, 1947, as amended¹ payable from the net revenues derived from tolls collected for the use of a causeway or bridge and which bonds are also payable from an unlimited tax authorized under Article III, Section 52, of the Constitution, and laws enacted pursu-

ant thereto, such county acting through its Commissioners Court may, after being duly authorized in the manner provided by Article III, Section 52, of the Constitution, and laws enacted pursuant thereto, authorize, issue, and sell its bonds and use the proceeds therefrom in an amount sufficient to call, redeem, and pay off its outstanding tax and revenue bonds pursuant to the terms of said bonds, and thereby remove the pledge of the revenues from such facility and the covenants in connection with said bonds and the operation of said bridge, and make such causeway or bridge available for the free use of the public.

Sec. 8(a) added by Acts 1967, 60th Leg., p. 292, ch. 136, § 1, eff. May 8, 1967.

¹ This article.

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TITLE 117—SALARIES

Art. 6820. Judicial district expenses

All district judges and district attorneys when engaged in the discharge of their official duties in any county in this state other than the county of their residence, shall be allowed their traveling and other necessary expenses, as provided by the Travel Regulations Act of 1959, while actually engaged in the discharge of such duties. Such officers shall also receive the actual and necessary postage, telegraph and telephone expenses incurred by them in the actual discharge of their duties. Such expenses shall be paid by the state upon the sworn and itemized account of each district judge or attorney entitled thereto, showing such expenses.

Amended by Acts 1967, 60th Leg., p. 1934, ch. 724, § 2, eff. Sept. 1, 1967.

Acts 1967, 60th Leg., p. 1934, ch. 724, § 1 1967 act repealed article 6823 and section amended article 6823a; section 3 of the 4 thereof provided the effective date.

Art. 6823. Repealed. Acts 1967, 60th Leg., p. 1934, ch. 724, § 3. Eff. Sept. 1, 1967

Acts 1967, 60th Leg., p. 1934, ch. 724, and section 4 thereof provided the effective §§ 1, 2 amended articles 6823a and 6820 date.

Art. 6823a. Travel Regulations Act of 1959

* * * * *

Application of act

Sec. 2. The provisions of this Act shall apply to all officers, heads of state agencies, and state employees. Heads of state agencies shall mean elected state officials, excluding members of the Legislature who shall receive travel reimbursement as provided by the Constitution, appointed state officials, appointed state officials whose appointment is subject to Senate confirmation, directors of legislative interim committees or boards, heads of state hospitals and special schools, and heads of state institutions of higher education.

Sec. 2 amended by Acts 1967, 60th Leg., p. 1934, ch. 724, § 1, eff. Sept. 1, 1967.

* * * * *

Advanced approval of governor; travel outside United States

Sec. 5. Any travel connected with official business of the state for which reimbursement for travel expenses incurred is claimed, with the exception of travel to, in, and from the several states, United States possessions, Mexico, and Canada, must have the advance written approval of the Governor. Blanket authority by the Governor may be given the Department of Public Safety to law enforcement personnel.

Sec. 5 amended by Acts 1967, 60th Leg., p. 1111, ch. 492, § 1, eff. Aug. 28, 1967.

Rules and regulations; standard expense account forms; reimbursement for travel by private conveyance; overpayment

Sec. 6.

* * * * *

c. In determining transportation reimbursement for travel by private conveyance, the Comptroller shall base reimbursement on the mileage by shortest highway distance between point of origin and the destination via intermediate points at which official state business is conducted and other

necessary mileage at points where official state business is conducted. In determining the amounts of reimbursement for transportation by personal car within the State, the Comptroller shall compute all distances according to the shortest route between points. In determining the amount of reimbursement for transportation by personal car within this state, the Comptroller shall adopt a mileage guide including a chart of distances showing the shortest route between points, and which shall include all Farm-to-Market roads and shall be reissued annually.

Sec. 6(c) amended by Acts 1963, 58th Leg., p. 1171, ch. 457, § 1, eff. Aug. 23, 1963; Acts 1967, 60th Leg., p. 2053, ch. 758, § 1, eff. Aug. 28, 1967.

* * * * *

Acts 1967, 60th Leg., p. 1934, ch. 724, § 1, amended section 2 of this article; section 2 of the act amended article 6820; section 3 of the act repealed article 6823 and section 4 thereof provided the effective date.

Acts 1967, 60th Leg., p. 2053, ch. 758, which amended subsection c of section 6 of this article, provided in sections 2 and 3 thereof:

"Sec. 2. All laws and parts of laws in conflict with this Act are hereby repealed.

"Sec. 3. If any provision of this Act or the application thereof is held to be invalid, such invalidity shall not affect the provisions or applications of this Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared severable."

TITLE 122—TAXATION

Chap. 12. Multistate Tax Compact [New] Art. 7359a

CHAPTER TWO—TAXES BASED UPON GROSS RECEIPTS

Art. 7083a. Allocation of revenue derived from certain occupations and gross receipts taxes; appropriations and allocations for certain funds

Sec. 2.

* * * * *

(7) There shall be allocated, transferred, and credited to the special fund in the Treasury known as the "Medical Assistance Fund" for the purpose of providing Medical Assistance on behalf of recipients of public assistance and other groups of needy individuals in the manner as authorized by law or as hereafter may be authorized by law, an amount out of state funds for each fiscal year which will provide funds in amounts equivalent to the funds appropriated by the Legislature for such purposes; and such allocations to the "Medical Assistance Fund" shall represent and constitute the fifth priority claim on the amount in the "Clearance Fund," after the Constitutional allocation is made to the Available School Fund, in accordance with the priorities as established in the law as it now exists or as it may hereafter be amended.

Acts 1941, 47th Leg., p. 269, ch. 184, Art. XX, § 2, subsec. 7, added Acts 1961, 57th Leg., p. 858, ch. 380, § 9, eff. May 29, 1961. As amended Acts 1967, 60th Leg., p. 317, ch. 151, § 18, eff. Aug. 28, 1967.

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CHAPTER SIX—PROPERTY SUBJECT TO TAXATION AND RENDITION

7150g. Exemption of property of non-profit educational corporations maintaining theater-schools [New].

Art. 7150. [7507] [5065] Exemption from taxation

The following property shall be exempt from taxation, to-wit:

* * * * *

1(a) The term "actual places of religious worship" shall include property owned by a church or by a strictly religious institution or organization, including the personal property therein and the grounds attached to such buildings necessary for the proper use and enjoyment of same, used exclusively to support and serve the spread of a religious faith, and to effect accompanying religious, charitable, benevolent and educational purposes by the dissemination of information on a religious faith through radio, television and similar media of communication. Such church, religious institution or organization shall be, or shall be sponsored by, a faith group, denomination or association of churches, which ordains ministers or elects Christian Science Readers and establishes houses of worship completely dedicated to the propagation of the religious faith of such faith groups, denominations or association of churches.

Subd. 1(a) added by Acts 1967, 60th Leg., p. 802, ch. 336, § 1, eff. Aug. 28, 1967.

* * * * *

7. Public Charities. All buildings and personal property belonging to institutions of purely public charity, together with the lands belonging to and occupied by such institutions not leased or otherwise used with a view to profit, unless such rents and profits and all moneys and credits are appropriated by such institutions solely to sustain such institutions and for the benefit of the sick and disabled members and their families and the burial of the same, or for the maintenance of persons when unable to provide for themselves, whether such persons are members of such institutions or not. An institution of purely public charity under this article is one which dispenses its aid to its members and others in sickness or distress, or at death, without regard to poverty or riches of the recipient, also when funds, property and assets of such institutions are placed and bound by its law to relieve, aid and administer in any way to the relief of its members when in want, sickness and distress, and provide homes for its helpless and dependent members and to educate and maintain the orphans of its deceased members or other persons; and any corporation in this state of a non-profit and purely charitable nature and formed for the charitable and benevolent purpose of preventing cruelty to animals, to promote humane and kind treatment of animals, and to aid and assist by all legal and proper means the enforcement of the laws of this state for the prevention of cruelty to animals of every kind and nature.

Sec. 7 amended by Acts 1961, 57th Leg., p. 1087, ch. 487, § 1, eff. Aug. 28, 1961; Acts 1967, 60th Leg., p. 742, ch. 310, § 1, eff. Aug. 28, 1967.

* * * * *

Sec. 22. The property of all fraternal organizations shall be exempt from taxation for so long as the property is owned and used for charitable, benevolent, religious, and educational purposes, and is not in whole or in part leased out to others, or otherwise used with a view to profit.

The term "Fraternal Organization" as used in this Act shall mean, "A lodge, or lodges, engaged in charitable, benevolent, religious, and educational work."

However, this Act shall not apply to any fraternal organization or lodge which pays to its members, either directly or indirectly, any type of insurance benefit, be it life, health, accident or death benefit, or any other type of insurance; neither shall any organization which shall directly or indirectly participate or engage in any political activity, either in support of or in opposition to any candidate seeking any public office, have or be entitled to benefits as provided under this Act.

Sec. 22 added by Acts 1967, 60th Leg., p. 319, ch. 152, § 1, eff. Aug. 28, 1967.

Section 22 of this article added by Acts 1967, 60th Leg., p. 355, ch. 363, § 1, see section 22, post.

Sec. 22. All real and personal property owned by non-profit corporations (as defined in the Texas Non-Profit Corporation Act), which property is reasonably necessary for, and used for, the promotion of any of the following purposes:

- (1) Libraries and archival institutions
- (2) Zoos
- (3) Restoration and preservation of historic houses, structures and landmarks
- (4) Symphony orchestras, choirs, and chorals
- (5) Theaters of the dramatic arts, historical pageants.

Sec. 22 added by Acts 1967, 60th Leg., p. 855, ch. 363, § 1, eff. Aug. 28, 1967.

Section 22 of this article amended by Acts 1967, 60th Leg., p. 319, ch. 152, § 1, see section 22, ante.

Section 2 of the 1967 amendment, which added section 22 to this article, provided: "Sec. 2. If any part, Section, subsection, paragraph, sentence, clause, phrase, or

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word contained in this Act shall be held ing portions of this Act, and it is declared by the courts to be invalid, such holding that such remaining portions would have shall not affect the validity of the remain- been enacted in any event."

Art. 7150g. Exemption of property of non-profit educational corporations maintaining theater-schools

Any non-profit educational corporation organized to promote the teaching and study of the art of theatrics which (a) is exempt from Federal income taxes, (b) maintains a theater-school program with regular classes for at least four grades, formal text books and curriculum, an enrollment of 150 or more students during each of at least two semesters every calendar year and a faculty substantially all of whom hold degrees in theater arts from accredited colleges or universities and (c) offers apprenticeship or other practical training in theater management and operation for college students at the undergraduate or graduate level and/or similar training for playwrights, actors and production personnel shall be deemed an institution of purely public charity and all its property shall be exempt from ad valorem taxes. The exemption contained in the preceding sentence shall apply even though such corporation offers theatrical productions to which an admission is charged, provided that a majority of such productions each season shall have significant literary merit of the character which contributes to the educational program of secondary schools, colleges or universities. Provided, however, the exemption provided for in this Section shall apply only to the property of such corporation which is actually used for the purposes specified herein. If at any time such non-profit educational corporation shall in any fiscal year become self-sustaining from all sources of income other than gifts, grants and donations then this Act shall be null and void.

Acts 1967, 60th Leg., p. 334, ch. 157, § 1, eff. Aug. 28, 1967.

Title of Act:

An Act relating to exempting from ad valorem taxation certain non-profit, educational corporations which maintain regular theater-schools; and declaring an emergency. Acts 1967, 60th Leg., p. 333, ch. 157.

Art. 7172. [7528] [5086] Lien for taxes

Section 1. All taxes upon real property shall be a lien upon such property until the same shall have been paid. And should the assessor fail to assess any real estate for any one or more years, the lien shall be good for every year that he should fail to assess for; and he may, in listing property for taxes any year thereafter, assess all the back taxes due thereon, according to the provisions of this title.

Sec. 2. (a) When a mineral estate is severed (either by reservation, lease or grant) from the surface estate, and when different persons own the mineral estate and surface estate, the lien resulting from ad valorem taxes assessed against each interest in the mineral estate is valid and enforceable only for the duration of the interest it encumbers. After an interest in the mineral estate terminates, the ad valorem tax lien encumbering it expires and is not enforceable

(1) against any part of the surface estate not owned by the owner of the interest in the mineral estate which was encumbered by the tax lien;

(2) against any part of the mineral estate not owned by the owner of the interest in the mineral estate which was encumbered by the tax lien;

(3) against the owner of the surface estate as a personal obligation, unless he also owns the interest in the mineral estate which was encumbered by the tax lien; or

(4) against any personal property not owned by the owner of the interest in the mineral estate which was encumbered by the tax lien.

(b) Subsection (a) of this section does not prohibit recovery of delinquent ad valorem taxes, interest, or penalty, from the owner of any

interest in the mineral estate against which the taxes were assessed, and the interest owner remains personally liable for all taxes assessed against his interest in the mineral estate before it terminated.

Amended by Acts 1967, 60th Leg., p. 1814, ch. 696, § 1, eff. Aug. 28, 1967.

Sections 2 and 3 of the amendatory act of 1967 provided:

"Sec. 2. Where property is owned under circumstances that would provide relief from a lien by this Act, and such property is subject to a lien on the effective date of this Act, and no litigation to enforce

such lien is then pending such liens shall terminate and cannot be enforced in any court of the State of Texas two years after the effective date of this Act.

"Sec. 3. This Act applies to ad valorem taxes assessed on and after January 1, 1968."

CHAPTER SEVEN—ASSESSMENTS AND ASSESSORS

Art.

7244a. Valuation of assessment of intangible personal property of trust forming part of pension plan, profit-sharing plan, etc., of employer [New].

Art. 7244a. Valuation for assessment of intangible personal property of trust forming part of pension plan, profit-sharing plan, etc., of employer

All intangible personal property of any trust forming part of a pension plan, disability or death benefit plan, profit-sharing or stock bonus plan created or adopted by an employer for the exclusive benefit of some or all of the employees of such employer or their beneficiaries, to which contributions are made by such employer or by some or all such employees, or both, shall for the purposes of taxation be valued for assessment in this state in the following manner: From the total valuation of its assets shall be deducted the gross amount held for the satisfaction of liabilities to employees and their beneficiaries, to the extent that under the terms of the trust instrument it is impossible, at any time prior to the satisfaction of all such liabilities, for any part of the corpus or income to be used for or diverted to purposes other than for the exclusive benefit of such employees and their beneficiaries, and from the remainder shall be deducted the assessed value of all real estate and tangible personal property belonging to such trust and the remainder shall be the assessed taxable value of its intangible personal property. All real estate, furniture, fixtures and automobiles owned by any such trust shall be rendered for taxation in the city and county where such property is located. All other personal property owned by such trust shall be taxable only in the city and county where the principal business office of such employer is fixed by its charter.

Acts 1967, 60th Leg., p. 429, ch. 194, § 1, eff. Aug. 28, 1967.

Acts 1967, 60th Leg., p. 429, ch. 194, § 2 declared an emergency and section 3 of the act was a severability provision.

Title of Act:

An Act prescribing a method of ascertaining assessable value for tax purposes of property of any trust forming part of a pension plan, disability or death benefit

plan, profit-sharing or stock bonus plan of an employer for the exclusive benefit of employees or their beneficiaries by providing for deduction of liabilities to employees and their beneficiaries; fixing the taxable situs of property owned by any such trust; and declaring an emergency. Acts 1967, 60th Leg., p. 429, ch. 194.

CHAPTER TWELVE—MULTISTATE TAX COMPACT [NEW]

Art.
7359a. Multistate Tax Compact.

Art. 7359a. Multistate Tax Compact

Adoption of Compact

Section 1. The Multistate Tax Compact is adopted and entered into with all jurisdictions legally adopting it to read as follows:

MULTISTATE TAX COMPACT

Article I. Purposes.

The purposes of this compact are to:

1. Facilitate proper determination of State and local tax liability of multistate taxpayers, including the equitable apportionment of tax bases and settlement of apportionment disputes.
2. Promote uniformity or compatibility in significant components of tax systems.
3. Facilitate taxpayer convenience and compliance in the filing of tax returns and in other phases of tax administration.
4. Avoid duplicative taxation.

Article II. Definitions.

As used in this compact:

1. "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any Territory or Possession of the United States.
2. "Subdivision" means any governmental unit or special district of a State.
3. "Taxpayer" means any corporation, partnership, firm, association, governmental unit or agency or person acting as a business entity in more than one State.
4. "Income tax" means a tax imposed on or measured by net income including any tax imposed on or measured by an amount arrived at by deducting expenses from gross income, one or more forms of which expenses are not specifically and directly related to particular transactions.
5. "Capital stock tax" means a tax measured in any way by the capital of a corporation considered in its entirety.
6. "Gross receipts tax" means a tax, other than a sales tax, which is imposed on or measured by the gross volume of business, in terms of gross receipts or in other terms, and in the determination of which no deduction is allowed which would constitute the tax an income tax.
7. "Sales tax" means a tax imposed with respect to the transfer for a consideration of ownership, possession or custody of tangible personal property or the rendering of services measured by the price of the tangible personal property transferred or services rendered and which is required by State or local law to be separately stated from the sales price by the seller, or which is customarily separately stated from the sales price, but does not include a tax imposed exclusively on the sale of a specifically identified commodity or article or class of commodities or articles.
8. "Use tax" means a nonrecurring tax, other than a sales tax, which (a) is imposed on or with respect to the exercise or enjoyment of any right or power over tangible personal property incident to the ownership, possession or custody of that property or the leasing of that property from another including any consumption, keeping, retention, or other use of tangible personal property and (b) is complementary to a sales tax.

9. "Tax" means an income tax, capital stock tax, gross receipts tax, sales tax, use tax, and any other tax which has a multistate impact, except that the provisions of Articles III, IV and V of this compact shall apply only to the taxes specifically designated therein and the provisions of Article IX of this compact shall apply only in respect to determinations pursuant to Article IV.

Article III. Elements of Income Tax Laws.

Taxpayer Option, State and Local Taxes.

1. Any taxpayer subject to an income tax whose income is subject to apportionment and allocation for tax purposes pursuant to the laws of a party State or pursuant to the laws of subdivisions in two or more party States may elect to apportion and allocate his income in the manner provided by the laws of such State or by the laws of such States and subdivisions without reference to this compact, or may elect to apportion and allocate in accordance with Article IV. This election for any tax year may be made in all party States or subdivisions thereof or in any one or more of the party States or subdivisions thereof without reference to the election made in the others. For the purposes of this paragraph, taxes imposed by subdivisions shall be considered separately from State taxes and the apportionment and allocation also may be applied to the entire tax base. In no instance wherein Article IV is employed for all subdivisions of a State may the sum of all apportionments and allocations to subdivisions within a State be greater than the apportionment and allocation that would be assignable to that State if the apportionment or allocation were being made with respect to a State income tax.

Taxpayer Option, Short Form.

2. Each party State or any subdivision thereof which imposes an income tax shall provide by law that any taxpayer required to file a return, whose only activities within the taxing jurisdiction consist of sales and do not include owning or renting real estate or tangible personal property, and whose dollar volume of gross sales made during the tax year within the State or subdivision, as the case may be, is not in excess of \$100,000 may elect to report and pay any tax due on the basis of a percentage of such volume, and shall adopt rates which shall produce a tax which reasonably approximates the tax otherwise due. The Multistate Tax Commission, not more than once in five years, may adjust the \$100,000 figure in order to reflect such changes as may occur in the real value of the dollar, and such adjusted figure, upon adoption by the Commission, shall replace the \$100,000 figure specifically provided herein. Each party State and subdivision thereof may make the same election available to taxpayers additional to those specified in this paragraph.

Coverage.

3. Nothing in this Article relates to the reporting or payment of any tax other than an income tax.

Article IV. Division of Income.

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

(a) "Business income" means income arising from transactions and activity in the regular course of the taxpayer's trade or business and includes income from tangible and intangible property if the acquisition, management, and disposition of the property constitute integral parts of the taxpayer's regular trade or business operations.

(b) "Commercial domicile" means the principal place from which the trade or business of the taxpayer is directed or managed.

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(c) "Compensation" means wages, salaries, commissions and any other form of remuneration paid to employees for personal services.

(d) "Financial organization" means any bank, trust company, savings bank, industrial bank, land bank, safe deposit company, private banker, savings and loan association, credit union, cooperative bank, small loan company, sales finance company, investment company, or any type of insurance company.

(e) "Nonbusiness income" means all income other than business income.

(f) "Public utility" means any business entity (1) which owns or operates any plant, equipment, property, franchise, or license for the transmission of communications, transportation of goods or persons, except by pipe line, or the production, transmission, sale, delivery, or furnishing of electricity, water or steam; and (2) whose rates of charges for goods or services have been established or approved by a Federal, State or local government or governmental agency.

(g) "Sales" means all gross receipts of the taxpayer not allocated under paragraphs of this Article.

(h) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any Territory or Possession of the United States, and any foreign country or political subdivision thereof.

(i) "This State" means the State in which the relevant tax return is filed or, in the case of application of this Article to the apportionment and allocation of income for local tax purposes, the subdivision or local taxing district in which the relevant tax return is filed.

2. Any taxpayer having income from business activity which is taxable both within and without this State, other than activity as a financial organization or public utility or the rendering of purely personal services by an individual, shall allocate and apportion his net income as provided in this Article. If a taxpayer has income from business activity as a public utility but derives the greater percentage of his income from activities subject to this Article, the taxpayer may elect to allocate and apportion his entire net income as provided in this Article.

3. For purposes of allocation and apportionment of income under this Article, a taxpayer is taxable in another State if (1) in that State he is subject to a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax, or (2) that State has jurisdiction to subject the taxpayer to a net income tax regardless of whether, in fact, the State does or does not.

4. Rents and royalties from real or tangible personal property, capital gains, interest, dividends or patent or copyright royalties, to the extent that they constitute nonbusiness income, shall be allocated as provided in paragraphs 5 through 8 of this Article.

5. (a) Net rents and royalties from real property located in this State are allocable to this State.

(b) Net rents and royalties from tangible personal property are allocable to this State: (1) if and to the extent that the property is utilized in this State, or (2) in their entirety if the taxpayer's commercial domicile is in this State and the taxpayer is not organized under the laws of or taxable in the State in which the property is utilized.

(c) The extent of utilization of tangible personal property in a State is determined by multiplying the rents and royalties by a fraction, the numerator of which is the number of days of physical location of the property in the State during the rental or royalty period in the taxable year and the denominator of which is the number of days of physical location of the property everywhere during all rental or royalty periods in the taxable year. If the physical location of the property during the rental or royalty period is unknown or unascertainable by the taxpayer, tangible personal property is utilized in the State in which the property was located at the time the rental or royalty payer obtained possession.

6. (a) Capital gains and losses from sales of real property located in this State are allocable to this State.

(b) Capital gains and losses from sales of tangible personal property are allocable to this State if (1) the property had a situs in this State at the time of the sale, or (2) the taxpayer's commercial domicile is in this State and the taxpayer is not taxable in the State in which the property had a situs.

(c) Capital gains and losses from sales of intangible personal property are allocable to this State if the taxpayer's commercial domicile is in this State.

7. Interest and dividends are allocable to this State if the taxpayer's commercial domicile is in this State.

8. (a) Patent and copyright royalties are allocable to this State: (1) if and to the extent that the patent or copyright is utilized by the payer in this State, or (2) if and to the extent that the patent or copyright is utilized by the payer in a State in which the taxpayer is not taxable and the taxpayer's commercial domicile is in this State.

(b) A patent is utilized in a State to the extent that it is employed in production, fabrication, manufacturing, or other processing in the State or to the extent that a patented product is produced in the State. If the basis of receipts from patent royalties does not permit allocation to States or if the accounting procedures do not reflect States of utilization, the patent is utilized in the State in which the taxpayer's commercial domicile is located.

(c) A copyright is utilized in a State to the extent that printing or other publication originates in the State. If the basis of receipts from copyright royalties does not permit allocation to States or if the accounting procedures do not reflect States of utilization, the copyright is utilized in the State in which the taxpayer's commercial domicile is located.

9. All business income shall be apportioned to this State by multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor, and the denominator of which is three.

10. The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in this State during the tax period and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used during the tax period.

11. Property owned by the taxpayer is valued at its original cost. Property rented by the taxpayer is valued at eight times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from sub-rentals.

12. The average value of property shall be determined by averaging the values at the beginning and ending of the tax period but the tax administrator may require the averaging of monthly values during the tax period if reasonably required to reflect properly the average value of the taxpayer's property.

13. The payroll factor is a fraction, the numerator of which is the total amount paid in this State during the tax period by the taxpayer for compensation and the denominator of which is the total compensation paid everywhere during the tax period.

14. Compensation is paid in this State if:

(a) the individual's service is performed entirely within the State;

(b) the individual's service is performed both within and without the State, but the service performed without the State is incidental to the individual's service within the State; or

(c) some of the service is performed in the State and (1) the base of operations or, if there is no base of operations, the place from which

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the service is directed or controlled is in the State, or (2) the base of operations or the place from which the service is directed or controlled is not in any State in which some part of the service is performed, but the individual's residence is in this State.

15. The sales factor is a fraction, the numerator of which is the total sales of the taxpayer in this State during the tax period, and the denominator of which is the total sales of the taxpayer everywhere during the tax period.

16. Sales of tangible personal property are in this State if:

(a) the property is delivered or shipped to a purchaser, other than the United States Government, within this State regardless of the f. o. b. point or other conditions of the sale; or

(b) the property is shipped from an office, store, warehouse, factory, or other place of storage in this State and (1) the purchaser is the United States Government or (2) the taxpayer is not taxable in the State of the purchaser.

17. Sales, other than sales of tangible personal property, are in this State if:

(a) the income-producing activity is performed in this State; or

(b) the income-producing activity is performed both in and outside this State and a greater proportion of the income-producing activity is performed in this State than in any other State, based on costs of performance.

18. If the allocation and apportionment provisions of this Article do not fairly represent the extent of the taxpayer's business activity in this State, the taxpayer may petition for or the tax administrator may require, in respect to all or any part of the taxpayer's business activity, if reasonable:

(a) separate accounting;

(b) the exclusion of any one or more of the factors;

(c) the inclusion of one or more additional factors which will fairly represent the taxpayer's business activity in this State; or

(d) the employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's income.

Article V. Elements of Sales and Use Tax Laws.

Tax Credit.

1. Each purchaser liable for a use tax on tangible personal property shall be entitled to full credit for the combined amount or amounts of legally imposed sales or use taxes paid by him with respect to the same property to another State and any subdivision thereof. The credit shall be applied first against the amount of any use tax due the State, and any unused portion of the credit shall then be applied against the amount of any use tax due a subdivision.

Exemption Certificates, Vendors May Rely.

2. Whenever a vendor receives and accepts in good faith from a purchaser a resale or other exemption certificate or other written evidence of exemption authorized by the appropriate State or subdivision taxing authority, the vendor shall be relieved of liability for a sales or use tax with respect to the transaction.

Article VI. The Commission.

Organization and Management.

1. (a) The Multistate Tax Commission is hereby established. It shall be composed of one 'member' from each party State who shall be the head of the State agency charged with the administration of the types of

taxes to which this compact applies. If there is more than one such agency the State shall provide by law for the selection of the Commission member from the heads of the relevant agencies. State law may provide that a member of the Commission be represented by an alternate but only if there is on file with the Commission written notification of the designation and identity of the alternate. The Attorney General of each party State or his designee, or other counsel if the laws of the party State specifically provide, shall be entitled to attend the meetings of the Commission, but shall not vote. Such Attorneys General, designees, or other counsel shall receive all notices of meetings required under paragraph 1(e) of this Article.

(b) Each party State shall provide by law for the selection of representatives from its subdivisions affected by this compact to consult with the Commission member from that State.

(c) Each member shall be entitled to one vote. The Commission shall not act unless a majority of the members are present, and no action shall be binding unless approved by a majority of the total number of members.

(d) The Commission shall adopt an official seal to be used as it may provide.

(e) The Commission shall hold an annual meeting and such other regular meetings as its bylaws may provide and such special meetings as its Executive Committee may determine. The Commission bylaws shall specify the dates of the annual and any other regular meetings, and shall provide for the giving of notice of annual, regular and special meetings. Notices of special meetings shall include the reasons therefor and an agenda of the items to be considered.

(f) The Commission shall elect annually, from among its members, a Chairman, a Vice Chairman and a Treasurer. The Commission shall appoint an Executive Director who shall serve at its pleasure, and it shall fix his duties and compensation. The Executive Director shall be Secretary of the Commission. The Commission shall make provision for the bonding of such of its officers and employees as it may deem appropriate.

(g) Irrespective of the civil service, personnel or other merit system laws of any party State, the Executive Director shall appoint or discharge such personnel as may be necessary for the performance of the functions of the Commission and shall fix their duties and compensation. The Commission bylaws shall provide for personnel policies and programs.

(h) The Commission may borrow, accept or contract for the services of personnel from any State, the United States, or any other governmental entity.

(i) The Commission may accept for any of its purposes and functions any and all donations and grants of money, equipment, supplies, materials and services, conditional or otherwise, from any governmental entity, and may utilize and dispose of the same.

(j) The Commission may establish one or more offices for the transacting of its business.

(k) The Commission shall adopt bylaws for the conduct of its business. The Commission shall publish its bylaws in convenient form, and shall file a copy of the bylaws and any amendments thereto with the appropriate agency or officer in each of the party States.

(l) The Commission annually shall make to the Governor and legislature of each party State a report covering its activities for the preceding year. Any donation or grant accepted by the Commission or services borrowed shall be reported in the annual report of the Commission, and shall include the nature, amount and conditions, if any, of the donation, gift, grant or services borrowed and the identity of the donor or lender. The Commission may make additional reports as it may deem desirable.

Committees.

2. (a) To assist in the conduct of its business when the full Commission is not meeting, the Commission shall have an Executive Committee of seven members, including the Chairman, Vice Chairman, Treasurer and four other members elected annually by the Commission. The Executive Committee, subject to the provisions of this compact and consistent with the policies of the Commission, shall function as provided in the bylaws of the Commission.

(b) The Commission may establish advisory and technical committees, membership on which may include private persons and public officials, in furthering any of its activities. Such committees may consider any matter of concern to the Commission, including problems of special interest to any party State and problems dealing with particular types of taxes.

(c) The Commission may establish such additional committees as its bylaws may provide.

Powers.

3. In addition to powers conferred elsewhere in this compact, the Commission shall have power to:

(a) Study State and local tax systems and particular types of State and local taxes.

(b) Develop and recommend proposals for an increase in uniformity or compatibility of State and local tax laws with a view toward encouraging the simplification and improvement of State and local tax law and administration.

(c) Compile and publish information as in its judgment would assist the party States in implementation of the compact and taxpayers in complying with State and local tax laws.

(d) Do all things necessary and incidental to the administration of its functions pursuant to this compact.

Finance.

4. (a) The Commission shall submit to the Governor or designated officer or officers of each party State a budget of its estimated expenditures for such period as may be required by the laws of that State for presentation to the legislature thereof.

(b) Each of the Commission's budgets of estimated expenditures shall contain specific recommendations of the amounts to be appropriated by each of the party States. The total amount of appropriations requested under any such budget shall be apportioned among the party States as follows: one-tenth in equal shares; and the remainder in proportion to the amount of revenue collected by each party State and its subdivisions from income taxes, capital stock taxes, gross receipts taxes, sales and use taxes. In determining such amounts, the Commission shall employ such available public sources of information as, in its judgment, present the most equitable and accurate comparisons among the party States. Each of the Commission's budgets of estimated expenditures and requests for appropriations shall indicate the sources used in obtaining information employed in applying the formula contained in this paragraph.

(c) The Commission shall not pledge the credit of any party State. The Commission may meet any of its obligations in whole or in part with funds available to it under paragraph (1) (i) of this Article: provided that the Commission takes specific action setting aside such funds prior to incurring any obligation to be met in whole or in part in such manner. Except where the Commission makes use of funds available to it under paragraph 1(i), the Commission shall not incur any obligation prior to the allotment of funds by the party States adequate to meet the same.

(d) The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the audit and accounting procedures established under its bylaws. All receipts and disbursements of funds handled by the Commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Commission.

(e) The accounts of the Commission shall be open at any reasonable time for inspection by duly constituted officers of the party States and by any persons authorized by the Commission.

(f) Nothing contained in this Article shall be construed to prevent Commission compliance with laws relating to audit or inspection of accounts by or on behalf of any government contributing to the support of the Commission.

Article VII. Uniform Regulations and Forms.

1. Whenever any two or more party States, or subdivisions of party States, have uniform or similar provisions of law relating to an income tax, capital stock tax, gross receipts tax, sales or use tax, the Commission may adopt uniform regulations for any phase of the administration of such law, including assertion of jurisdiction to tax, or prescribing uniform tax forms. The Commission may also act with respect to the provisions of Article IV of this compact.

2. Prior to the adoption of any regulation, the Commission shall:

(a) As provided in its bylaws, hold at least one public hearing on due notice to all affected party States and subdivisions thereof and to all taxpayers and other persons who have made timely request of the Commission for advance notice of its regulation-making proceedings.

(b) Afford all affected party States and subdivisions and interested persons an opportunity to submit relevant written data and views, which shall be considered fully by the Commission.

3. The Commission shall submit any regulations adopted by it to the appropriate officials of all party States and subdivisions to which they might apply. Each such State and subdivision shall consider any such regulation for adoption in accordance with its own laws and procedures.

Article VIII. Interstate Audits.

1. This Article shall be in force only in those party States that specifically provide therefor by statute.

2. Any party State or subdivision thereof desiring to make or participate in an audit of any accounts, books, papers, records or other documents may request the Commission to perform the audit on its behalf. In responding to the request, the Commission shall have access to and may examine, at any reasonable time, such accounts, books, papers, records, and other documents and any relevant property or stock of merchandise. The Commission may enter into agreements with party States or their subdivisions for assistance in performance of the audit. The Commission shall make charges, to be paid by the State or local government or governments for which it performs the service, for any audits performed by it in order to reimburse itself for the actual costs incurred in making the audit.

3. The Commission may require the attendance of any person within the State where it is conducting an audit or part thereof at a time and place fixed by it within such State for the purpose of giving testimony with respect to any account, book, paper, document, other record, property or stock of merchandise being examined in connection with the audit. If the person is not within the jurisdiction, he may be required to attend for such purpose at any time and place fixed by the Commission within

For Annotations and Historical Notes, see V.A.T.S.

the State of which he is a resident: provided that such State has adopted this Article.

4. The Commission may apply to any court having power to issue compulsory process for orders in aid of its powers and responsibilities pursuant to this Article and any and all such courts shall have jurisdiction to issue such orders. Failure of any person to obey any such order shall be punishable as contempt of the issuing court. If the party or subject matter on account of which the Commission seeks an order is within the jurisdiction of the court to which application is made, such application may be to a court in the State or subdivision on behalf of which the audit is being made or a court in the State in which the object of the order being sought is situated. The provisions of this paragraph apply only to courts in a State that has adopted this Article.

5. The Commission may decline to perform any audit requested if it finds that its available personnel or other resources are insufficient for the purpose or that, in the terms requested, the audit is impracticable or of satisfactory performance. If the Commission, on the basis of its experience, has reason to believe that an audit of a particular taxpayer, either at a particular time or on a particular schedule, would be of interest to a number of party States or their subdivisions, it may offer to make the audit or audits, the offer to be contingent on sufficient participation therein as determined by the Commission.

6. Information obtained by any audit pursuant to this Article shall be confidential and available only for tax purposes to party States, their subdivisions or the United States. Availability of information shall be in accordance with the laws of the States or subdivisions on whose account the Commission performs the audit, and only through the appropriate agencies or officers of such States or subdivisions. Nothing in this Article shall be construed to require any taxpayer to keep records for any period not otherwise required by law.

7. Other arrangements made or authorized pursuant to law for cooperative audit by or on behalf of the party States or any of their subdivisions are not superseded or invalidated by this Article.

8. In no event shall the Commission make any charge against a taxpayer for an audit.

9. As used in this Article, 'tax,' in addition to the meaning ascribed to it in Article II, means any tax or license fee imposed in whole or in part for revenue purposes.

Article IX. Arbitration.

1. Whenever the Commission finds a need for settling disputes concerning apportionments and allocations by arbitration, it may adopt a regulation placing this Article in effect, notwithstanding the provisions of Article VII.

2. The Commission shall select and maintain an Arbitration Panel composed of officers and employees of State and local governments and private persons who shall be knowledgeable and experienced in matters of tax law and administration.

3. Whenever a taxpayer who has elected to employ Article IV, or whenever the laws of the party State or subdivision thereof are substantially identical with the relevant provisions of Article IV, the taxpayer, by written notice to the Commission and to each party State or subdivision thereof that would be affected, may secure arbitration of an apportionment or allocation, if he is dissatisfied with the final administrative determination of the tax agency of the State or subdivision with respect thereto on the ground that it would subject him to double or multiple taxation by two or more party States or subdivisions thereof. Each party State and subdivision thereof hereby consents to the arbitration as provided herein, and agrees to be bound thereby.

4. The Arbitration Board shall be composed of one person selected by the taxpayer, one by the agency or agencies involved, and one member of the Commission's Arbitration Panel. If the agencies involved are unable to agree on the person to be selected by them, such person shall be selected by lot from the total membership of the Arbitration Panel. The two persons selected for the Board in the manner provided by the foregoing provisions of this paragraph shall jointly select the third member of the Board. If they are unable to agree on the selection, the third member shall be selected by lot from among the total membership of the Arbitration Panel. No member of a Board selected by lot shall be qualified to serve if he is an officer or employee or is otherwise affiliated with any party to the arbitration proceeding. Residence within the jurisdiction of a party to the arbitration proceeding shall not constitute affiliation within the meaning of this paragraph.

5. The Board may sit in any State or subdivision party to the proceeding, in the State of the taxpayer's incorporation, residence or domicile, in any State where the taxpayer does business, or in any place that it finds most appropriate for gaining access to evidence relevant to the matter before it.

6. The Board shall give due notice of the times and places of its hearings. The parties shall be entitled to be heard, to present evidence, and to examine and cross-examine witnesses. The Board shall act by majority vote.

7. The Board shall have power to administer oaths, take testimony, subpoena and require the attendance of witnesses and the production of accounts, books, papers, records, and other documents, and issue commissions to take testimony. Subpoenas may be signed by any member of the Board. In case of failure to obey a subpoena, and upon application by the Board, any judge of a court of competent jurisdiction of the State in which the Board is sitting or in which the person to whom the subpoena is directed may be found may make an order requiring compliance with the subpoena, and the court may punish failure to obey the order as a contempt. The provisions of this paragraph apply only in States that have adopted this Article.

8. Unless the parties otherwise agree the expenses and other costs of the arbitration shall be assessed and allocated among the parties by the Board in such manner as it may determine. The Commission shall fix a schedule of compensation for members of Arbitration Boards and of other allowable expenses and costs. No officer or employee of a State or local government who serves as a member of a Board shall be entitled to compensation therefor unless he is required on account of his service to forego the regular compensation attaching to his public employment, but any such Board member shall be entitled to expenses.

9. The Board shall determine the disputed apportionment or allocation and any matters necessary thereto. The determinations of the Board shall be final for purposes of making the apportionment or allocation, but for no other purpose.

10. The Board shall file with the Commission and with each tax agency represented in the proceeding: the determination of the Board; the Board's written statement of its reasons therefor; the record of the Board's proceedings; and any other documents required by the arbitration rules of the Commission to be filed.

11. The Commission shall publish the determinations of Boards together with the statements of the reasons therefor.

12. The Commission shall adopt and publish rules of procedure and practice and shall file a copy of such rules and of any amendment thereto with the appropriate agency or officer in each of the party States.

13. Nothing contained herein shall prevent at any time a written compromise of any matter or matters in dispute, if otherwise lawful, by the parties to the arbitration proceeding.

Article X. Entry Into Force and Withdrawal.

1. This compact shall enter into force when enacted into law by any seven States. Thereafter, this compact shall become effective as to any other State upon its enactment thereof. The Commission shall arrange for notification of all party States whenever there is a new enactment of the compact.

2. Any party State may withdraw from this compact by enacting a statute repealing the same. No withdrawal shall affect any liability already incurred by or chargeable to a party State prior to the time of such withdrawal.

3. No proceeding commenced before an Arbitration Board prior to the withdrawal of a State and to which the withdrawing State or any subdivision thereof is a party shall be discontinued or terminated by the withdrawal, nor shall the Board thereby lose jurisdiction over any of the parties to the proceeding necessary to make a binding determination therein.

Article XI. Effect on Other Laws and Jurisdiction.

Nothing in this compact shall be construed to:

(a) Affect the power of any State or subdivision thereof to fix rates of taxation, except that a party State shall be obligated to implement Article III 2 of this compact.

(b) Apply to any tax or fixed fee imposed for the registration of a motor vehicle or any tax on motor fuel, other than a sales tax; provided that the definition of "tax" in Article VIII 9 may apply for the purposes of that Article and the Commission's powers of study and recommendation pursuant to Article VI 3 may apply.

(c) Withdraw or limit the jurisdiction of any State or local court or administrative officer or body with respect to any person, corporation or other entity or subject matter, except to the extent that such jurisdiction is expressly conferred by or pursuant to this compact upon another agency or body.

(d) Supersede or limit the jurisdiction of any court of the United States.

Article XII. Construction and Severability.

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any State or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any State participating therein, the compact shall remain in full force and effect as to the remaining party States and in full force and effect as to the State affected as to all severable matters.

Appointment of Commission Member

Sec. 2. (a) The governor shall appoint the Comptroller of Public Accounts of the State of Texas to represent this state on the Multistate Tax Commission created by Article VI of the compact.

(b) The comptroller may designate one of his division chiefs as an alternate representative on the commission.

Local Government Council

Sec. 3. After consultation with representatives of local governments, the governor shall appoint three persons who are representative of

political subdivisions affected or likely to be affected by the compact. The comptroller and his alternate shall consult regularly with these appointees in accordance with Article VI 1(b) of the compact.

Multistate Tax Compact Advisory Committee

Sec. 4. (a) The Multistate Tax Compact Advisory Committee is created. It consists of the comptroller and his alternate designated under Section 2(b) of this Act, the attorney general or his designee, two members of the Senate appointed by the President of the Senate, and two members of the House appointed by the Speaker of the House. The comptroller is chairman of the advisory committee.

(b) The committee shall meet at the call of its chairman, or at the request of a majority of its members, but in any event must meet at least three times a year. The committee may consider any matters relating to recommendations of the Multistate Tax Commission and the activities of the members representing this state on the commission.

Interstate Audit Article Adopted

Sec. 5. The provisions of Article VIII of the compact, relating to interstate audits, are in force with respect to this state.

Acts 1967, 60th Leg., p. 1254, ch. 566, emerg. eff. June 13, 1967.

Title of Act:

An Act relating to adopting the Multistate Tax Compact; providing for membership on the Multistate Tax Commission, consultation with local government repre-

sentatives, and creation of the Multistate Tax Compact Advisory Committee; and declaring an emergency. Acts 1967, 60th Leg., p. 1254, ch. 566.

TITLE 122A—TAXATION—GENERAL

CHAPTER 1—GENERAL PROVISIONS

<p>Art. 1.031 Examination of Records [New].</p> <p>1.045 Limitation for Collection and Refunds [New].</p>	<p>Art. 1.11A Tax Refunds [New].</p> <p>1.14 Injunction [New].</p>
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Art. 1.031 Examination of Records

(1) For the purpose of carrying out the terms of this Title the Comptroller or any authorized agent shall have the authority to examine at the principal or any other office in the United States of any person, firm, agent, or corporation permitted to do business in this State, all books, records and papers and also any officers or employees thereof, under oath; and failure or refusal of any person, firm, agent or corporation to permit such examination shall, upon certification of such refusal by the Comptroller to the Secretary of State, immediately forfeit the charter or permit to do business in this State until such examination as is required to be made is completed. The Comptroller shall not make public or use said information derived in the course of said examination of said books, records and papers and/or officers or employees except for the purpose of a judicial proceeding for the collection of delinquent taxes in which the State of Texas is a party.

(2) No charge shall be made by the Comptroller to examine the books, records, papers or any officers or employees, notwithstanding any provision to the contrary in this Title.”
Acts 1959, 56th Leg., 3rd C.S., p. 187, ch. 1, art. 1.031, added by Acts 1967, 60th Leg., p. 1022, ch. 449, eff. July 1, 1967.

Sections 2-5 of the act of 1967 provided:
“Sec. 2. Saving clause. The repeal of any law by this Act shall not affect or impair any act done or obligation, right, license, permit or penalty accrued or existing under the authority of the law repealed; and such law shall be treated as still remaining in force for the purpose of sustaining any proper action concerning any such obligation, right, license, permit or penalty. Taxes incurred under any law repealed by this Act are an obligation within the meaning of this section. In addition, any permit or license obtained under any law repealed by this Act shall remain effective for the term and under the conditions prescribed by the repealed law under which the permit or license was granted or issued.

“Sec. 3. Severability. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, this invalidity shall not affect other provisions or applications of this Act which can be given effect without the invalid provisions or application, and to this end the provisions of this Act are declared severable.

“Sec. 4. Repealer. Subsection (3) of Article 1.04 of Chapter 1, Title 122A, Taxation—General, being a part of Chapter 1, Acts of the 56th Legislature, 1959, 3rd Called Session, is hereby repealed.

“Sec. 5. Effective date. This Act shall be effective July 1, 1967.”

Art. 1.04 Penalties Recovered by Suit

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(3) Repealed. Acts 1967, 60th Leg., p. 1022, ch. 449, § 4, eff. July 1, 1967.

Art. 1.045 Limitation for Collection and Refunds

(A) Limitation. Except where a shorter period of time is provided in this Title, the Comptroller shall assess any tax imposed by this Title within seven (7) years from the date such tax is due and payable, and the Comptroller may bring an action in the courts of this State, or of any other state, or of the United States within seven (7) years from the date such tax is due and payable to collect the amount delinquent together with

penalties and interest. No action may be commenced to collect taxes imposed by this Title after seven (7) years (or such other shorter period of time as may be provided in this Title) from the date such tax is due and payable, provided that:

(1) In the case of a false or fraudulent return with intent to evade the tax; or

(2) In the case of failure to file a return; or

(3) In the case of gross error in information reported in a return that would increase the amount of tax payable by twenty-five percent (25%) or more; the tax may be assessed and collected, or a proceeding in any court for the collection of such a tax may be begun without assessment, at any time.

(B) **Period for Sales and Use Tax.** For the purpose of the Limited Sales, Excise and Use Tax imposed by Chapter 20 of this Title, the period of time provided by this Article shall be four (4) years, and any provision of Chapter 20 to the contrary is hereby repealed to the extent of such conflict.

(C) **Agreement to Extend Period.** If, before the expiration of the period of time prescribed in this Article for the assessment and collection of any tax imposed by this Title, or before the expiration of any shorter period of time as may be otherwise provided in this Title, the Comptroller, or his representative, and the taxpayer have consented in writing to an assessment after such time, the tax may be assessed and collected, and an action may be commenced in any court to collect the amount delinquent, at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

(D) **Beginning of Period.** The "date such tax is due and payable" as used in this Article, for purposes of any tax imposed by this Title, shall mean the day after the due date of the tax payment as prescribed by the Article of this Title imposing such tax, provided, however, that with respect to any tax, other than the Limited Sales, Excise and Use Tax, required to be paid by this Title prior to the effective date of this Article, such term shall mean September 1, 1965.

(E) **Suspension of Time for Litigation or Redetermination.** When, before the expiration of the period of time prescribed in this Article for the assessment and collection of any tax imposed by this Title, or before the expiration of any shorter period of time as may be otherwise provided for such assessment and collection by any Article of this Title, a tax payment is made under protest, a judicial proceeding is pending in a court of competent jurisdiction to determine the amount of tax due, or an administrative proceeding is pending before the Comptroller for redetermination of tax liability, the period of time prescribed in this Article or otherwise provided by any Article of this Title shall be suspended with respect to the amount of the tax in issue in the protest, court proceeding or administrative proceeding, until such matters are finally determined, whereupon the running of said period of time shall resume until finally expired.

(F) **Extension of Time for Action by Regulatory Bodies.**

(1) Notwithstanding any provision of any other Article of this Title, when any administrative proceeding before any local, state or federal regulatory agency or judicial proceeding arising therefrom, results in a final determination which affects the amount of tax liability imposed by any Article of this Title, such final determination shall be reported to the Comptroller within sixty (60) days after becoming final, with a statement of the reasons for the difference in tax liability, in such detail as the Comptroller may require.

(2) If, from such report or from investigation, it shall appear that the tax liability affected by such final determination has not been fully

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assessed, the Comptroller shall, within one year after the receipt of such report or within one year of discovery of such final determination, if unreported, assess the deficiency, with penalties and interest. The Comptroller may bring an action in the courts of this State, or of any other state, or of the United States within such one-year period to collect such deficiency together with penalties and interest. If no report of such final determination is filed within the prescribed sixty-day period, then the Comptroller shall have one year in which to assess any deficiency, penalties and interest, and bring an action to collect such deficiency, penalties and interest, from the date such final determination is reported to the Comptroller, or from the date the Comptroller discovers such final determination, whichever shall first occur.

(3) Should such report or investigation disclose an overpayment of such tax liability, the Comptroller shall issue a refund or credit for such overpayment within the aforementioned one-year period after receiving such report or discovering such final determination.

(4) No action may be commenced to collect any deficiency disclosed by such final determination after one year from the date the Comptroller receives such report or discovers such final determination unless the period prescribed for such an action by this Article or any other Article of this Title has not expired.

(G) Limitation for Refunds and Credits. Notwithstanding any provision of this Title, the period of time during which the Comptroller may refund any overpayment of tax or issue a credit for overpayment of any tax imposed by this Title shall not expire prior to the expiration of the period of time within which the Comptroller may assess a deficiency with respect to such tax. The Comptroller shall not issue any such refund or credit after the time for assessment of a deficiency has expired unless such tax was paid under protest and such refund or credit is made under court order.

Acts 1959, 56th Leg., 3rd C.S., p. 187, ch. 1, art. 1.045, added by Acts 1967, 60th Leg., p. 1019, ch. 448, § 1, eff. July 1, 1967.

Sections 2 and 3 of the act of 1967 provided:

"Sec. 2. Severability. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, this invalidity shall not affect other provisions or applications of this Act which

can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared severable.

"Sec. 3. Effective date. This Act shall be effective July 1, 1967."

Art. 1.11A Tax Refunds

(1) This Article applies to any occupation, excise, gross receipts, franchise, license or other privilege tax or fee collected or administered by the Comptroller of Public Accounts. It does not apply to the State ad valorem tax nor to refunds for non-taxable use of any motor fuel or special fuels.

(2) When the Comptroller determines that any person, firm or corporation has through mistake of law or fact overpaid the amount due the State on any tax collected or administered by the Comptroller, the Comptroller may refund such overpayment by warrant on the State Treasury from any funds appropriated for such purpose.

Acts 1959, 56th Leg., 3rd C.S., p. 187, ch. 1, art. 1.11A, added by Acts 1967, 60th Leg., p. 1018, ch. 447, § 1, eff. July 1, 1967.

Sections 2 and 3 of the act of 1967 provided:

"Sec. 2. Severability. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, this invalidity shall not affect other provisions or applications of this Act which

can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared severable.

"Sec. 3. Effective date. This Act shall be effective July 1, 1967."

Art. 1.13 Timely Filing of Reports

(a) Any report, required by any provision of this Title to be filed or made on or before a specific date shall be deemed timely filed if said report, shall be placed in the United States Post Office or in the hands of a common or contract carrier properly addressed to the Comptroller of Public Accounts on or before the date required for such payment, report, annual report, return, declaration, statement, or document to be filed or made.

(b) The postmark or receipt mark (if received by a common or contract carrier) will be prima facie evidence of the date that such report was deposited with the post office or the carrier. The person making the report or the Comptroller may show by competent evidence that the actual date of posting was to the contrary.

(c) The person making the report shall be deemed to have substantially complied with the filing requirements as to timeliness if he exercised reasonable diligence to comply and through no fault of his own the reports were not timely filed.

(d) If the report is filed within ten (10) days after the due date and as originally filed shows the correct amount of taxes due, no assessment for penalties and interest will be made solely on the grounds of late filing after the lapse of ninety (90) days immediately following the date the report was required to be filed.

(e) If the due date falls on a Saturday, Sunday, or legal holiday, the next business day thereafter will be considered to be the due date.

(f) The term "report" shall include any payment, report, annual report, return, declaration, statement or other document required by any provision of this Title to be filed with the Comptroller.

(g) The Comptroller is hereby authorized to refund or issue credits for penalties and interest paid solely as a result of returns timely mailed but postmarked after the required filing date; provided, however, that no refund or credit shall be allowed for such penalties incurred prior to September 1, 1961, the original effective date of this Article.

Acts 1959, 56th Leg., 3rd C.S., p. 187, ch. 1, art. 1.13 added Acts 1961, 57th Leg., 1st C.S., p. 71, ch. 24, art. VII, § 1, eff. Sept. 1, 1961, amended by Acts 1967, 60th Leg., p. 523, ch. 227, § 1, emerg. eff. May 19, 1967.

Art. 1.14 Injunction

(a) In this Article, "person" means any individual, firm, copartnership, agency, joint venture, association, social club, fraternal organization, corporation, estate, trust, business trust, receiver, assignee for the benefit of creditors, trustee, trustee in bankruptcy, syndicate, cooperative, assignee, any entity, or any other group or combination acting as a unit, and their successors, administrators, executors, and representatives.

(b) Every person engaged in any business pursuant to which he or it may receive, collect or withhold any money which has been paid or withheld as a tax imposed by the provisions of this Title who shall fail to file the reports or to pay any such tax or taxes, as required by this Title, may be enjoined by a suit brought by the Attorney General from continuing in such business until such report or reports are filed and such tax or taxes are paid. Venue of any such suit or injunction is hereby fixed in Travis County, Texas.

(c) In all cases where the Comptroller determines that tax collections are insecure, he may require a cash deposit, bond or other security as a condition for any person who receives, collects or withholds money as taxes to obtain or retain any permit issued pursuant to the provisions of this Title. The security shall be in the amount and form as the Comptroller deems sufficient except that it shall not exceed the persons estimated yearly tax liability.

Acts 1959, 56th Leg., 3rd C.S., p. 187, ch. 1, art. 1.14, added by Acts 1967, 60th Leg., p. 1818, ch. 699, § 1, eff. Aug. 28, 1967.

CHAPTER 7—CIGARETTE TAX LAW

Art. 7.10 Possession of Unstamped Cigarettes

Every person, other than a distributing agent, bonded distributor, or common carrier, shall before receiving or accepting delivery of any cigarettes without stamps affixed to evidence the payment of the tax, obtain from the Treasurer the requisite amount or number of stamps necessary to stamp such cigarettes and the possession of any unstamped cigarettes without the possession of the requisite amount or number of stamps shall be prima facie evidence that said cigarettes are possessed for the purpose of making a "first sale" thereof without stamps and without payment of the tax levied herein.

Every distributor in this State shall cause all cigarettes received by him to have the requisite denominations and amount of stamps affixed to represent the tax as levied herein; provided, however, that any distributor who has obtained from the Treasurer and has in his possession the requisite amount and number of stamps necessary to stamp all cigarettes received by him may hold such cigarettes from a period of not longer than ninety-six (96) hours, excluding Saturdays, Sundays, and legal holidays, before affixing the stamps as required herein.

Amended by Acts 1967, 60th Leg., p. 2046, ch. 755, § 1, eff. Aug. 28, 1967.

Art. 7.23 Distributing agents; paying taxes and affixing stamps; licensing

(1) Every distributing agent in this State now engaged, or who desires to become engaged in the business of storing unstamped cigarettes previously sold in interstate commerce and received in interstate commerce for distribution or delivery only upon order received from without the State, shall within thirty (30) days from the date this law becomes effective, file with the Comptroller, an application for a distributing agent's permit, on a form prescribed by the Comptroller to be furnished upon written request, the failure to furnish which shall be no excuse for the failure to file the same unless an absolute refusal is shown. Said form shall set forth the name under which such distributing agent transacts or intends to transact such business as a distributing agent, the principal office and place of business in Texas for which the permit is to apply, and if other than an individual, the principal officers or members thereof and their addresses. The Comptroller may require any other information he may desire in said application. No distributing agent shall engage in such business until such application has been filed and the fee of One Hundred Dollars (\$100) paid for the permit and until the permit has been obtained. Said permit shall expire on the last day of February of each year but may be renewed upon like application and upon payment of another fee in the amount set out above. An application shall be filed and a permit obtained for each place of business owned or operated by a distributing agent.

Upon receipt of the application and permit fee herein provided for, the Comptroller shall issue to every distributing agent, for the place of business designated, a non-assignable, consecutively numbered permit, authorizing the storing and distribution of unstamped cigarettes within this State when such distribution is made upon interstate orders only. Notwithstanding anything in this Chapter which may provide to the contrary, the distribution or delivery of cigarettes by a distributing agent to a licensed distributor in Texas pursuant to instructions received from outside the State shall not constitute the "first sale" of such cigarettes. Sec. 1 amended by Acts 1965, 59th Leg., p. 1262, ch. 580, § 4A, eff. June 17, 1965; Acts 1967, 60th Leg., p. 106, ch. 50, § 1, emerg. eff. April 17, 1967.

CHAPTER 8—CIGARS AND TOBACCO PRODUCTS TAX

Art. 8.01 Definitions

Whenever used in this Chapter:

* * * * *

(q) The term "Cigars containing a substantial amount of non-tobacco ingredients" shall mean cigars which contain sheet binder, sheet wrapper, or sheet filler or any combination of sheet binder, sheet wrapper, or sheet filler, regardless of the composition of such sheet wrapper, sheet binder, or sheet filler.

Par. (q) added by Acts 1967, 60th Leg., p. 2055, ch. 760, § 1, eff. Aug. 28, 1967.

Section 2 of the act of 1967 amended article 8.02, paragraph (c).

Art. 8.02 Tax Levy and Rate

There is hereby levied a tax upon the "first sale" of cigars and tobacco products as those terms are defined herein, which tax shall be determined by the following schedule:

* * * * *

(c) (1) Upon cigars of all description weighing more than three (3) pounds per one thousand (1,000) retailing for over three and three-tenths cents (3.3¢) each, containing no substantial amount of non-tobacco ingredients, having a factory list price, exclusive of this tax, of less than One Hundred Seventy Dollars (\$170) per thousand (1,000), Twelve Dollars (\$12) per thousand (1,000).

(2) Upon cigars of all description weighing more than three (3) pounds per one thousand (1,000) retailing for over three and three-tenths cents (3.3¢) each, containing no substantial amount of non-tobacco ingredients, having a factory list price, exclusive of this tax, of One Hundred Seventy Dollars (\$170) or more per thousand (1,000), Fifteen Dollars (\$15) per thousand (1,000).

(3) Upon cigars of all description weighing more than three (3) pounds per one thousand (1,000) retailing for over three and three-tenths cents (3.3¢) each, containing a substantial amount of non-tobacco ingredients, Fifteen Dollars (\$15) per thousand (1,000).

(4) All cigars described in this Paragraph (c) are presumed to contain a substantial amount of non-tobacco ingredients unless the report to the Comptroller made for the purpose of establishing the tax upon such cigars is accompanied by an affidavit, by the manufacturer when the manufacturer prepares such report or by both the manufacturer and the distributor, when the distributor prepares such report, stating that specific cigars described in such report contain no sheet wrapper, sheet binder, or sheet filler.

Par. (c) amended by Acts 1967, 60th Leg., p. 2056, ch. 760, § 2, eff. Aug. 28, 1967.

* * * * *

Section 1 of the act of 1967 added paragraph article 8.01.

CHAPTER 9—MOTOR FUEL (GASOLINE) TAX

Art. 9.01 Definitions

The following words, terms and phrases shall, for all purposes of this Chapter, be defined as follows:

(1) "Motor fuel" means (a) all products commonly or commercially known or sold as gasoline including natural, absorption, casinghead and

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drip gasolines, regardless of their classification or uses; and (b) any liquid prepared, advertised, offered for sale or sold for use as or commonly and commercially used as a fuel in propelling motor vehicles, which when subjected to distillation in accordance with the standard method of test for distillation of gasoline, naphtha, kerosene, and similar petroleum products (American Society for Testing Materials Designation D-86) shows not less than ten per centum (10%) distilled (recovered) below three hundred forty-seven degrees (347°) Fahrenheit and not less than ninety-five per centum (95%) distilled (recovered) below four hundred sixty-four degrees (464°) Fahrenheit; provided, however, the term 'motor fuel' shall not include liquefied gases which would not exist as liquids at a temperature of sixty degrees (60°) Fahrenheit and at a pressure of fourteen and seven-tenths (14.7) pounds per square inch absolute; and provided further, that the term "motor fuel" shall not include commercial solvents or naphthas which have a distillation range of one hundred fifty degrees (150°) Fahrenheit or less, or raw petroleum products or petrochemical intermediates, when used as or sold for use in production or manufacture of plastics, detergents, synthetic rubber, herbicides, insecticides, or other chemicals or products which are not prepared, advertised, offered for sale or sold for use as fuel for generating power in internal combustion engines.

Subsec. 1 amended by Acts 1967, 60th Leg., p. 1800, ch. 689, § 1, eff. Sept. 1, 1967.

(2) "Motor vehicle" means every self-propelled vehicle designed for operation or required to be licensed for operation upon the public highway. Tractors, combines, and other vehicles not required to be so licensed shall be deemed to be motor vehicles to the extent they are operated upon the public highway with motor fuel on which the tax is required to be paid. Subsec. 2 amended by Acts 1967, 60th Leg., p. 1801, ch. 689, § 1a, eff. Sept. 1, 1967.

* * * * *

Acts 1967, 60th Leg., p. 1800, ch. 689, §§ 1-8 which amended articles 9.01 to 9.03, 9.06, 9.13 and 9.23, provided in sections 9 and 10 of the act:

"Sec. 9. Saving Clause. All taxes, penalties and interest accrued, and all liens created and bonds executed to secure their payments under any laws repealed or amended by this Act prior to its effective date, are hereby declared to be legal and valid obligations to this State; and any offenses committed or any fines or penalties incurred under any laws repealed or amended by this Act prior to the effective date thereof, shall not be affected by the repeal or amendment of any such laws, but the punishment of such offenses and the recovery of such fines or penalties shall take place as if the laws repealed or amended had remained in force.

"Sec. 10. Repealer. All laws or parts of laws in conflict herewith are, insofar as such conflict exists, hereby repealed and this Act shall prevail over any conflicting provision of law."

Art. 9.02 Rate of Tax; Allowances for Handling and Evaporation

* * * * *

(6) When a distributor imports motor fuel into or exports motor fuel from the State of Texas in the fuel supply tanks of motor vehicles having an aggregate capacity of more than thirty (30) gallons per vehicle, the amount of motor fuel consumed by him within this State shall be deemed to be such proportion of the total amount of such motor fuel consumed in his entire operations within and without this State as the total number of miles traveled on the public highways within this State bears to the total number of miles traveled within and without this State.

Subsec. 6 added by Acts 1967, 60th Leg., p. 1801, ch. 689, § 2, eff. Sept. 1, 1967.

(7) In the absence of records showing the number of miles actually operated per gallon of motor fuel consumed, it shall be prima facie presumed that not less than one (1) gallon of motor fuel was consumed for every four (4) miles traveled. Provided, however, that if a distributor

furnishes evidence sufficient and satisfactory to the Comptroller that records cannot be acquired from all of his vehicle operators in time to file reports within the time prescribed by law accounting for the amount of motor fuel consumed and the miles traveled in his operations as provided in (6) above, the Comptroller may agree to accept reports with the tax computed on a fixed mileage basis by which the miles traveled within the State will be divided by the mileage factor acceptable to the Comptroller to determine the amount of motor fuel consumed in his operations upon the highways of this State. It is expressly provided, however, that whenever an audit made by the Comptroller from the records of any such distributor shows that a greater amount of fuel was consumed than was reported by the distributor for tax purposes, said distributor will be liable for the tax on any additional amount shown, and any penalties and interest due thereon.

Subsec. 7 added by Acts 1967, 60th Leg., p. 1801, ch. 689, § 2, eff. Sept. 1, 1967.

Acts 1967, 60th Leg., p. 1800, ch. 689, §§ 1, 1a amended article 9.01; sections 3-8 of the 1967 act amended articles 9.03, 9.06, 9.13 and 9.23, and sections 9 and 10 thereof, a savings clause and repealer provision, are set out as notes under article 9.01.

Art. 9.03 Reports

* * * * *

(4) When it shall appear that a distributor to whom the provisions of this Chapter shall apply has erroneously reported and remitted or paid more taxes than were due the State of Texas upon any motor fuel during any taxpaying period, either on account of a mistake of fact or law, it shall be the duty of the Comptroller to credit the total amount of taxes due by such distributor for the current period with the total amount of taxes so erroneously paid, or said distributor may file claim for refund of the taxes erroneously paid. Such credit shall be allowed or the tax refund claim paid before any penalties and interest shall be applicable.

Subsec. 4 amended by Acts 1967, 60th Leg., p. 1801, ch. 689, § 3, eff. Sept. 1, 1967.

* * * * *

(6) Every distributor who imports into this State motor fuel in motor vehicle fuel supply tanks having an aggregate capacity of more than thirty (30) gallons per vehicle shall file, as a part of the monthly report required of distributors, schedules as the Comptroller by regulation may require, showing the mileage traveled and fuel purchased and consumed in motor vehicles operated into and from the State of Texas.

Subsec. 6 added by Acts 1967, 60th Leg., p. 1802, ch. 689, § 4, eff. Sept. 1, 1967.

Acts 1967, 60th Leg., p. 1800, ch. 689, §§ 1-2 amended articles 9.01 and 9.02; sections 5-8 of the 1967 Act amended articles 9.06, 9.13 and 9.23, and sections 9 and 10 thereof, a savings clause and repealer provision, are set out as notes under article 9.01.

Art. 9.06 Application for Distributor's Permit

* * * * *

(3) Before importing motor fuel into this State in fuel supply tanks of motor vehicles having an aggregate capacity of more than thirty (30) gallons per vehicle, the importer shall reproduce the distributor's permit he is required herein to obtain from the Comptroller authorizing the first sale, use, or distribution of motor fuel in this State, and shall carry a photocopy of said permit with each such motor vehicle as it is being operated into or from the State of Texas by him. If an applicant for a distributor's permit to import motor fuel in fuel supply tanks of motor vehicles for taxable use upon the public highways of Texas does not intend to sell or distribute motor fuel to other persons within the State of Texas,

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the distributor's permit so issued to him may be classified and referred to as a distributor-user's permit.

The Comptroller by regulations may exempt from the permit and reporting requirements of this Chapter highway users who maintain records in Texas, and all or substantially all of whose fuel uses are purchased within the State of Texas with the tax paid thereon, and require in such instances an annual affidavit attesting to the intrastate or substantially intrastate fuel purchases; provided that the enforcement of this Act is not adversely affected thereby and that the Comptroller is satisfied that an equitable amount of motor fuel is purchased with the tax paid thereon in this State.

Subsec. 3 added by Acts 1967, 60th Leg., p. 1802, ch. 689, § 5, eff. Sept. 1, 1967.

(4) Any carrier operating motor vehicles into or from this State for commercial purposes with fuel supply tanks exceeding thirty (30) gallons per vehicle, may obtain a trip-permit which shall be good for a period of not more than twenty (20) consecutive days beginning and ending on the dates specified on the face of the permit. A fee for each trip-permit shall be collected from the applicant therefor which shall be in an amount equivalent to the tax payable on the quantity of motor fuel that could be imported in the fuel supply tanks of such motor vehicles, but never less than Five Dollars (\$5). Such fees shall be in lieu of the use tax otherwise assessable against said permit holder for motor fuel imported and consumed in motor vehicles operating on the public highways of this State, and no reports shall be required with respect to such vehicles. All fees collected by the Comptroller shall be allocated to the same funds to which the motor fuel taxes collected hereunder are allocated.

The above trip-permits may be issued in lieu of annual distributor-user permits if the applicant therefor does not operate motor vehicles into and from the State of Texas more than three times during any calendar year.

Subsec. 4 added by Acts 1967, 60th Leg., p. 1802, ch. 689, § 5, eff. Sept. 1, 1967.

(5) (a) Except as otherwise provided in this Article, every distributor shall be liable for the tax on motor fuel imported into this State in fuel supply tanks of motor vehicles leased to him and used on the public highways of Texas to the same extent and in the same manner as motor fuel imported in motor vehicles owned or operated by such distributor and used on the public highways of Texas.

(b) Provided, however, a lessor who is engaged regularly in the business of leasing for compensation motor vehicles and equipment he owns without drivers to carriers or other lessees for interstate operation, may be deemed to be a distributor-user when he supplies or pays for the motor fuel consumed in such vehicles, and such lessor may be issued a permit as a distributor when application and bond have been properly filed with the Comptroller for such permit.

(c) Every such lessor shall file with his application for a bonded distributor's permit a copy of the form lease agreement or service contract he usually enters into with his lessees. When the distributor's permit has been received by him such lessor shall make and assign to each motor vehicle he leases for interstate operation a photocopy thereof to be carried in the cab compartment of said motor vehicle, and on which shall be typed or printed on the back the unit or motor number of the motor vehicle to which it is assigned, and the name of the lessee. Such lessor shall be responsible for the proper use of each photocopy of said permit issued and its return to him with the motor vehicle to which it is assigned.

Subsec. 5 added by Acts 1967, 60th Leg., p. 1802, ch. 689, § 5, eff. Sept. 1, 1967.

Acts 1967, 60th Leg., p. 1800, ch. 689, §§ 1-4 amended articles 9.01 to 9.03; sections 6-8 of the 1967 act amended articles 9.13 and 9.23, and sections 9 and 10 thereof, a savings clause and repealer provision, are set out as notes under article 9.01.

Art. 9.13 Claims for Refunds

* * * * *

(A6) The forfeiture provision of Subsection (6) of this Article shall not be construed as forfeiting a claim in which the amount of motor fuel deducted as taxable use on the public highway has been erroneously reported due to a mathematical error or a mistake in calculating the amount so used.

Subsec. A6 added by Acts 1967, 60th Leg., p. 1803, ch. 689, § 6, eff. Sept. 1, 1967.

* * * * *

(8) (a) Any person who shall export, or lose by fire or other accident motor fuel in any quantity of one hundred (100) gallons or more upon which the tax imposed herein has been paid, or who shall sell motor fuel in any quantity to the United States Government, for the exclusive use of said Government upon which the tax has been paid, may file claim for refund of the net tax paid to the State in the manner herein provided, or as the Comptroller may direct. Provided, that any bonded distributor holding a valid distributor's permit who establishes proof sufficient and satisfactory to the Comptroller of such export, loss by accident, or sale to the United States Government, may take credit for the net amount of the tax paid to the State on any subsequent monthly report and tax payment made to the Comptroller within one (1) year from the date of such exportation, loss or sale.

(b) It is expressly provided, however, that every bonded distributor shall be entitled to a credit equivalent to the tax rate per gallon paid on all motor fuel upon which the Texas motor fuel tax has been paid and which has thereafter been consumed in motor vehicles outside of this State. When the amount of credit herein provided to which the distributor is entitled for any calendar month exceeds the amount of tax for which such distributor is liable for motor fuel consumed in such vehicles during the same month, such excess shall under regulations promulgated by the Comptroller, be allowed as a credit against the tax for which such distributor would be otherwise liable for any of the twelve (12) succeeding months; or upon claim filed with the Comptroller within one (1) year from the first day of any calendar month in which said motor fuel was used, such excess may be refunded as herein provided. Evidence of the mileage traveled and the gallonage consumed and the payment of the motor fuel tax, on such form as may be required by or is satisfactory to the Comptroller, shall be furnished by such distributor claiming the credit or tax refund herein allowed. Nothing herein shall be construed as requiring an invoice of exemption to be filed with the above described claim for tax refund.

Subsec. 8 amended by Acts 1967, 60th Leg., p. 1803, ch. 689, § 7, eff. Sept. 1, 1967.

* * * * *

Acts 1967, 60th Leg., p. 1800, ch. 689, §§ 1-5 amended articles 9.01 to 9.03 and 9.06; section 8 of the 1967 act amended article 9.23, and sections 9 and 10 thereof, a savings clause and repealer provision, are set out as notes under article 9.01.

Art. 9.23 Rules and Regulations

(1) It is hereby made the duty of the Comptroller to collect, supervise, and enforce the collection of all taxes, penalties, costs and interest due or that may become due under the provisions of this Chapter, and to that end the Comptroller is hereby vested with all of the power and authority conferred by this Chapter. Said Comptroller shall also have the power and authority to promulgate rules and regulations, not inconsistent with this Chapter or the Constitutions of this State or the United States, for the enforcement of the provisions of this Chapter and the collection of the revenues levied hereunder.

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(2) Upon final adoption of any rule or regulation, the Comptroller shall file a copy thereof with the Secretary of State, State of Texas, and the same shall have the force and effect of law as of the date of the filing unless a subsequent date is specified therein. Any person who violates any valid rule and regulation which has been duly filed with said Secretary of State, or violates any provision thereof, shall be subject to the penalties prescribed in Articles 9.18 and 9.26 of this Chapter.

Amended by Acts 1967, 60th Leg., p. 1804, ch. 689, § 8, eff. Sept. 1, 1967.

Acts 1967, 60th Leg., p. 1800, ch. 689, §§ 1-7 amended articles 9.01 to 9.03, 9.06 and 9.13; sections 9 and 10 thereof, a savings clause and repealer provision, are set out as notes under article 9.01.

CHAPTER 10—SPECIAL FUELS TAX

Art. 10.03 Levy of Tax

* * * * *

(6) Every licensed supplier shall deduct the tax on one per cent (1%) of the taxable gallons of special fuels sold, delivered or used by him in the payment of taxes to the State of Texas, which deduction or allowance shall be apportioned among the supplier and dealers who purchase said taxable fuels as follows:

Every supplier who makes a bulk sale of special fuels to a dealer, upon which sale the tax is required to be collected, shall set out the tax separately on the invoice and deduct one half of one per cent (1/2 of 1%) of the amount of such tax and the balance shall be the amount of tax the supplier is entitled to collect from such dealer; any dealer or user who is licensed to report and pay taxes directly to this State on special fuels sold or used by him shall be entitled to deduct one half of one per cent (1/2 of 1%) of the taxes paid directly to the State of Texas by him.

The above deductions or allowances shall be for evaporation and handling losses, and for the expense of collecting taxes, making reports and tax remittances and keeping records.

It is also provided that every supplier who delivers the liquefied gas he sells in vehicle tanks, having a total capacity not exceeding 3,100 gallons per tank, which is unloaded by means of motor-powered pumping units operated by the same motor with liquefied gas fuel supplied from the same fuel tank which is used to propel the vehicle over the public highways shall, when he has issued or secured an invoice upon each delivery of liquefied gas into the fuel supply tanks of such motor vehicles, containing all the information required to be shown thereon, and has kept the other records required of a supplier, be allowed a deduction from the taxable gallons delivered into the fuel supply tanks of each motor vehicle during the month reported at the rate of 1 1/2 gallons per 1,000 gallons of liquefied gas unloaded by such pumping operation.

Sec. 6 amended by Acts 1965, 59th Leg., p. 334, ch. 158, § 3, eff. May 17, 1965; Acts 1967, 60th Leg., p. 1058, ch. 463, § 1, emerg. eff. June 12, 1967.

* * * * *

Sections 2-4 of the amendatory act of 1967 provided:

"Sec. 2. All taxes, penalties and interest incurred, and all liens created and bonds executed to secure their payment under any laws repealed or amended by this Act prior to its effective date, are hereby declared to be legal and valid obligations to this State; and any offense committed or any fines or penalties incurred under any laws repealed or amended by this Act prior to the effective date of this Act, shall not be affected by the

repeal or amendment of any such laws, but the punishment of such offense and recovery of such fines and penalties shall take place as if the laws repealed or amended had remained in force.

"Sec. 3. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or application of this Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

"Sec. 4. All laws or parts of laws in conflict herewith are, insofar as such confliction exists, hereby repealed and this

Act shall prevail over any conflicting provision of law."

Art. 10.07 Tax Liability on Leased Motor Vehicles

(1) Except as otherwise provided in this Article, every user or import user shall be liable for the tax on special fuels imported into this State in fuel supply tanks of motor vehicles leased to him and used on the Texas highways to the same extent and in the same manner as special fuels imported in his own motor vehicles and used on the public highway of Texas.

(2) Provided, however, a lessor who is engaged regularly in the business of leasing for compensation motor vehicles and equipment he owns without drivers to carriers or other lessees for interstate operation, may be deemed to be the user or import-user when he supplies or pays for the special fuels consumed in such vehicles, and such lessor may be issued a permit as an import-user when application and bond have been properly filed with the Comptroller for such permit.

Any lessee may exclude motor vehicles of which he is lessee from his reports and liabilities pursuant to this Chapter, but only if the motor vehicles in question have been leased from a lessor holding a valid permit as a bonded import-user for the calendar year.

(3) Every such lessor shall file with his application for a bonded import-user's permit one copy of the form lease or service contract he enters into with the various lessees of his motor vehicles. When the import-user permit has been secured such lessor shall make and assign to each motor vehicle he leases for interstate operation a photocopy of such permit to be carried in the cab compartment of said motor vehicle, and on which shall be typed or printed on the back the unit or motor number of the motor vehicle to which it is assigned, and the name of the lessee. Such lessor shall be responsible for the proper use of each photocopy of said permit issued and its return to him with the motor vehicle to which it is assigned.

A "lessor" as used herein means any person (a) whose principal business is the bona fide leasing or renting of motor vehicles without drivers for compensation to the general public, and (b) who maintains established places of business and whose lease or rental contracts require such motor vehicles to be returned to the established places of business.

Amended by Acts 1967, 60th Leg., p. 1061, ch. 465, § 1, eff. Sept. 1, 1967.

Sections 2-5 of Acts 1967, 60th Leg., p. 1061, ch. 465 amended articles 10.08, 10.09, 10.14(1) and 10.21, respectively; sections 6 and 7 of the act provided:

"Sec. 6. All taxes, penalties and interest accrued, and all liens created and bonds executed to secure their payments under any laws repealed or amended by this Act prior to its effective date, are hereby declared to be legal and valid obligations to this State; and any offenses committed or any fines or penalties incurred under any

laws repealed or amended by this Act prior to the effective date thereof, shall not be affected by the repeal or amendment of any such laws, but the punishment of such offenses and the recovery of such fines or penalties shall take place as if the laws repealed or amended had remained in force.

"Sec. 7. All laws or parts of laws in conflict herewith are, insofar as such conflict exists, hereby repealed and this Act shall prevail over any conflicting provision of law."

Art. 10.08 Tax Computation on Mileage Basis

(1) In the event the tax on special fuels imported into this State in the fuel supply tanks of motor vehicles for taxable use on the Texas public highways can be more accurately determined on a mileage basis the Comptroller is authorized to approve and adopt such basis. When an import-user imports special fuels into or exports special fuels from the State of Texas in the fuel supply tanks of motor vehicles, the amount of special fuels consumed in such vehicles on the Texas public highways shall be deemed to be such proportion of the total amount of such special fuels consumed in his entire operations within and without this State as the

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total number of miles traveled on the public highways within this State bears to the total number of miles traveled within and without this State.

(2) In the absence of records showing the number of miles actually operated per gallon of special fuels consumed, it shall be prima facie presumed that not less than one (1) gallon of special fuels was consumed for every four (4) miles traveled.

Amended by Acts 1967, 60th Leg., p. 1062, ch. 465, § 2, eff. Sept. 1, 1967.

Sections 1, 3-5 of Acts 1967, 60th Leg., p. 1061, ch. 465 amended articles 10.07, 10.09, 10.14(1) and 10.21 respectively; sections 6 and 7 of the act of 1967 contained savings and repealer clauses and are set out as notes under article 10.07.

Art. 10.09 Application for Permits

(1) Every person defined herein as a supplier or dealer or user shall secure from the Comptroller the kind and class of permit required herein to act in such capacities or to perform such functions. Applications shall be filed with the Comptroller for any such permit on a form prescribed by the Comptroller, showing the kind and class of permit desired, and such information as the Comptroller may require.

(2) Any carrier operating motor vehicles into this State for commercial purposes may make application for a trip permit which shall be good for a period of not more than twenty (20) consecutive days beginning and ending on the dates specified on the face of the permit issued. A fee for such trip permits shall be required which shall be in an amount equivalent to the tax payable on the quantity of special fuels that could be imported in the fuel supply tanks of such motor vehicles, but never less than Five Dollars (\$5). Such fees shall be in lieu of the use tax otherwise assessable against the permit holder for importing and using special fuels in motor vehicles on the public highways of this State, and no reports of mileage shall be required with respect to such vehicles. All such fees collected by the Comptroller shall be allocated to the same funds to which the special fuels taxes collected hereunder are allocated.

The above trip-permits may be issued in lieu of annual import user-permits if the applicant therefor does not operate motor vehicles into or from the State of Texas more than three (3) times during any calendar year.

Amended by Acts 1967, 60th Leg., p. 1062, ch. 465, § 3, eff. Sept. 1, 1967.

Sections 1, 2, 4, 5 of Acts 1967, 60th Leg., p. 1061, ch. 465 amended articles 10.07, 10.08, 10.14(1) and 10.21, respectively; sections 6, 7 of the act of 1967 contained savings and repealer clauses and are set out as notes under article 10.07.

Art. 10.14 Refunds

(1) Except as otherwise provided by Article 10.15 of this Chapter, any licensed dealer who shall have paid the tax at the rate imposed by this Chapter upon any special fuels which have been used or sold for use by such dealer for any purpose other than propelling a motor vehicle upon the public highways of this State, or which have been sold to the United States Government for the exclusive use of said government, and any licensed user who shall have paid said tax at the rate imposed upon any special fuels which have been used by such user for any purpose other than propelling a motor vehicle upon said public highways, may file claim for a refund of the tax or taxes so paid, less one per cent (1%) allowed suppliers for the expense of collecting and reporting such taxes to this State. Such claims shall be filed with the Comptroller on forms prescribed by the Comptroller and shall show the date of filing and the period covered in the claim, the number of gallons and kind of special fuels sold or used for purposes subject to tax refund, and shall show such other facts and information as the Comptroller may by rule and regulation require. Every such claim shall be supported by an invoice or invoices issued to or by the claimant, as hereinafter provided, or such other in-

formation as the Comptroller may require, and shall be filed in the Office of the Comptroller within one (1) year from the first day of the calendar month in which the special fuels were invoiced or required to be invoiced for sale or use, and no claim shall be made by the claimant or approved by the Comptroller after the expiration of one (1) year from the first day of the calendar month in which said special fuels were invoiced or required to be invoiced for sale or use.

Every bonded import-user shall be entitled to a credit equivalent to the tax rate per gallon paid on all special fuels upon which the Texas special fuels tax has been paid and which has thereafter been consumed in motor vehicles outside of the State of Texas. When the amount of credit herein provided to which the import-user is entitled for any calendar month exceeds the amount of tax for which such import-user is liable for special fuels consumed in such vehicles during the same month, such excess shall under regulations promulgated by the Comptroller, be allowed as a credit against the tax for which such import-user would be otherwise liable for any of the twelve (12) succeeding months; or upon claim filed with the Comptroller within one (1) year from the first day of any calendar month in which said special fuel was used, such excess may be refunded as hereinabove provided. Evidence of the mileage traveled and the gallonage consumed and the payment of the special fuels tax, on such form as may be required by or is satisfactory to the Comptroller, shall be furnished by such import-user claiming the credit or tax refund herein allowed.

Subsec. 1 amended by Acts 1967, 60th Leg., p. 1063, ch. 465, § 4, eff. Sept. 1, 1967.

* * * * *
Sections 1-3, 5 of Acts 1967, 60th Leg., p. 1061, ch. 465 amended articles 10.07, 10.08, 10.09 and 10.21 respectively; sections 6 and 7 of the act of 1967 contained savings and repealer clauses and are set out as notes under article 10.07.

Art. 10.21 Rules and Regulations

(1) It is hereby made the duty of the Comptroller to collect, supervise, and enforce the collection of all taxes, penalties, interest and costs, due or that may become due under the provisions of this Chapter, and to that end the Comptroller is hereby vested with all of the power and authority conferred by this Chapter. The Comptroller shall also have the power and authority to promulgate rules and regulations, not inconsistent with this Chapter or the Constitutions of this State or the United States, for the enforcement of the provisions of this Chapter and the collection of all taxes, penalties, interest and costs levied hereunder.

(2) Upon final adoption of any rule and regulation, the Comptroller shall file a copy thereof with the Secretary of State, State of Texas, and the same shall have the force and effect of law as of the date of such filing unless a subsequent date is specified therein. Any person who violates or fails to comply with any valid rule and regulation which has been duly promulgated by the Comptroller and filed with said Secretary of State, or violates or fails to comply with any provision thereof, shall be subject to the penalties prescribed by Articles 10.18 and 10.25 of this Chapter.

Amended by Acts 1967, 60th Leg., p. 1063, ch. 465, § 5, eff. Sept. 1, 1967.

Sections 1-4 of Acts 1967, 60th Leg., p. 1061, ch. 465 amended articles 10.07, 10.08, 10.09 and 10.14(1), respectively; sections 6 and 7 of the act of 1967 contained savings and repealer clauses and are set out as notes under article 10.07.

CHAPTER 12—FRANCHISE TAX

Art. 12.01 Base and Rate of Tax

Text of article 12.01, subsection (1) until May 1, 1968

(1) Except as herein provided, every domestic and foreign corporation heretofore or hereafter chartered or authorized to do business in Texas or doing business in Texas, shall, on or before May 1st of each year, file such reports as are required by Articles 12.08 and 12.19 and pay in advance to the Secretary of State a franchise tax for the year following which shall be based on whichever of the following shall yield the greatest tax:

(a) Two Dollars and Twenty-five Cents (\$2.25) per One Thousand Dollars (\$1,000) or fractional part thereof applied to that portion of the sum of the stated capital, surplus and undivided profits, and outstanding bonds, notes and debentures, the sum of which for the purposes of this Chapter is hereafter referred to as "taxable capital," allocable to Texas in accordance with Article 12.02 of this Chapter.

As used in this Chapter, the phrase "stated capital" shall have the same meaning as defined in Article 1.02 of the Texas Business Corporation Act.

For the purpose of this Subsection outstanding bonds, notes and debentures shall include all written evidences of indebtedness which bear a maturity date of one (1) year or more from date of issue and all such instruments which bear a maturity date of less than one (1) year from date of issue which represent indebtedness which has remained continuously outstanding for a period of one (1) year or more from date of inception whether or not said indebtedness has been renewed or extended by the issuance of other evidences of the same indebtedness to the same or other parties, and it is further provided that this term shall not include instruments which have been previously classified as surplus.

(b) Two Dollars and Twenty-five Cents (\$2.25) per One Thousand Dollars (\$1,000) or fractional part thereof applied to the assessed value for County ad valorem tax purposes of the property owned by the corporation in this State.

(c) Twenty-five Dollars (\$25).

Text of article 12.01, subsection (1) effective May 1, 1968

(1) Except as herein provided, every domestic and foreign corporation heretofore or hereafter chartered or authorized to do business in Texas or doing business in Texas, shall, on or before May 1st of each year, file such reports as are required by Articles 12.08 and 12.19 and pay in advance to the Comptroller a franchise tax for the year following which shall be based on whichever of the following Subsections (a), (b), or (c) shall yield the greatest tax:

(a) Basic Tax

(i) Two Dollars and Twenty-five Cents (\$2.25) per One Thousand Dollars (\$1,000) or fractional part thereof applied to that portion of the sum of the stated capital, surplus and undivided profits, the sum of which for the purposes of this Chapter is hereafter referred to as "taxable capital," allocable to Texas in accordance with Article 12.02 of this Chapter.

As used in this Chapter, the phrase "stated capital" shall have the same meaning as defined in Article 1.02 of the Texas Business Corporation Act.

(ii) Tax on Debt. In addition to the franchise tax due and payable under Subsection (1) (a) (i) of Article 12.01 of this Chapter, there is hereby levied on all corporations paying a franchise tax under said

Subsection (i) for the privilege of doing business in the corporate form during the periods listed below, an additional tax as follows:

For the Period from:	An additional tax for the year of:
May 1, 1968, to and including April 30, 1969,	\$2.25
May 1, 1969, to and including April 30, 1970,	\$2.00
May 1, 1970, to and including April 30, 1971,	\$1.50
May 1, 1971, to and including April 30, 1972,	\$1.00
May 1, 1972, to and including April 30, 1973,	\$0.50

per One Thousand Dollars (\$1,000) or fractional part thereof applied to that portion of taxable debt allocable to Texas.

For the purposes of this Subsection (1) (a) (ii), "Taxable Debt" shall mean outstanding bonds, notes and debentures, including all written evidences of indebtedness which bear a maturity date of one (1) year or more from date of issue and all such instruments which bear a maturity date of less than one (1) year from date of issue which represent indebtedness which has remained continuously outstanding for a period of one (1) year or more from date of inception whether or not said indebtedness has been renewed or extended by the issuance of other evidences of the same indebtedness to the same or other parties, but this term shall not include instruments which have been previously classified as surplus.

Taxable debt allocable to Texas shall be determined by using the same percentage used to allocate taxable capital to Texas under the provisions of Article 12.02.

The additional franchise tax levied by this Subsection (1) (a) (ii) shall expire after April 30, 1973.

The additional franchise tax levied by this Subsection (1) (a) (ii) shall not apply to corporations organized for the purpose of providing homes for elderly people sixty-two (62) years of age and older not for profit without regard to whether such corporations are for purely public charity.

(b) Two Dollars and Twenty-five Cents (\$2.25) per One Thousand Dollars (\$1,000) or fractional part thereof applied to the assessed value for County ad valorem tax purposes of the property owned by the corporation in this State.

(c) Twenty-five Dollars (\$25).

Subsec. (1) amended by Acts 1967, 60th Leg., p. 849, ch. 359, § 1, eff. May 1, 1968.

* * * * *

<p>Acts 1967, 60th Leg., p. 851, ch. 359, § 1 amended subsection (1) of this article; sections 2-4 of the 1967 act provided:</p> <p>"Sec. 2. Effective date. This Act amending Article 12.01 shall be effective May 1, 1968.</p> <p>"Sec. 3. Saving Clause. The repeal of any law by this Act shall not affect or impair any act done or obligation, right, license, permit or penalty accrued or existing under the authority of the law repealed; and such law shall be treated as still remaining in force for the purpose of sustaining any proper action concerning any such obligation, right, license, permit or penalty. Taxes incurred under any law repealed by</p>	<p>this Act are an obligation within the meaning of this Section. In addition, any permit or license obtained under any law repealed by this Act shall remain effective for the term and under the conditions prescribed by the repealed law under which the permit or license was granted or issued.</p> <p>"Sec. 4. Severability. If any portion of this Act or the application thereof to any person, case or circumstance is held invalid, such invalidity shall not affect any other provision or application which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable."</p>
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Art. 12.03 Corporations Exempt

The franchise tax imposed by this Chapter shall not apply to any insurance company, surety, guaranty or fidelity company, transportation company or sleeping, palace car and dining car company now required to pay an annual tax measured by their gross receipts, or to any corporation organized as a railway terminal corporation and having no annual net income from the business done by it, or to corporations having no capital stock and organized for the exclusive purpose of promoting the public interest of any county, city, or town, or other area within the State or to corporations organized for the purpose of religious worship or for providing places of burial not for private profit, or to corporations organized for the purpose of holding agricultural fairs and encouraging agricultural pursuits, or for strictly educational purposes, which includes non-profit corporations organized for the sole purpose of providing a student loan fund, or for purely public charity, or to state-chartered building and loan associations; or to any mutual investment company registered under the Federal Investment Company Act of 1940, as from time to time amended, which holds stocks, bonds or other securities of other companies solely for mutual investment purposes, or for non-profit corporations having no capital stock organized for the purpose of the education of the public in the protection and conservation of fish, game and other wildlife, grasslands and forests, or to non-profit water supply or sewer service corporations organized on behalf of cities or towns pursuant to Acts of 1933, 43rd Legislature, 1st Called Session, Chapter 76, as amended,¹ or to any corporation organized under the Texas Non-Profit Corporation Act for the purpose of constructing, acquiring, owning, leasing, or operating a natural gas utility facility in behalf of and for the benefit of the city or residents of the city.

Amended by Acts 1961, 57th Leg., p. 41, ch. 27, § 1; Acts 1965, 59th Leg., p. 1450, ch. 637, § 1, eff. June 17, 1965; Acts 1967, 60th Leg., p. 1205, ch. 540, § 1, emerg. eff. June 14, 1967.

¹ Vernon's Ann.Civ.St. art. 1434a.

CHAPTER 14—INHERITANCE TAX AND FEDERAL ESTATE TAX CREDIT

I. BASIC INHERITANCE TAX

Art. 14.015 Exempt transfers

The inheritance tax imposed by Article 14.01 shall not apply to the following transfers of property:

(1) **Exemption for Non-Residents.** Money on deposit in any bank doing business in Texas or to shares or share accounts in any savings and loan association doing business in Texas owned by non-residents of Texas who are citizens of a foreign country and who are not engaged in business in Texas, or owned by non-resident citizens of the United States who reside in a foreign country and who are not engaged in business in Texas.

(2) **Religious, Charitable and Educational Organizations.** Property passing to or for the use of charitable, educational, or religious societies or institutions, incorporated, unincorporated, or in the form of a trust, provided that no part of the net earnings of any such organization inures to the benefit of any private shareholder or individual.

For the purposes of this Subsection, a religious, educational, or charitable organization shall include, but not be limited to, a program of physical fitness, character development, and citizenship training or like program.

(3) **Public Use.** Property transferred to or for the use of this state or any town therein for public purposes.

(4) The value of an annuity or other payment received by any beneficiary (other than a personal representative of the decedent) which qualifies for exemption from the Federal Estate Tax under Subsection (c) of Section 2039 of the Internal Revenue Code of 1954, as now or hereafter amended, said Subsection (c) being codified as 26 United States Code Annotated § 2039(c).

Acts 1959, 56th Leg., 3rd C.S., p. 187, ch. 1, art. 14.015, added by Acts 1965, 59th Leg., p. 830, ch. 402, § 4, eff. July 1, 1965. Subsec. 4 added by Acts 1967, 60th Leg., p. 1769, ch. 671, § 1, emerg. eff. June 17, 1967.

III. ADMINISTRATION

Art. 14.14 Returns and reports

(A) Preliminary Report. Every personal representative coming into possession of an estate, and where there is no personal representative, then every person coming into possession of any portion of an estate on which a tax is payable under this Chapter shall file a preliminary report within two (2) months after coming into possession of any such property or within ninety (90) days of the date of death of the decedent, whichever date shall occur first. Such preliminary report shall provide such information as the Comptroller deems necessary.

Subsec. (A) amended by Acts 1967, 60th Leg., p. 421, ch. 187, § 1, emerg. eff. May 15, 1967.

* * * * *

Art. 14.18 Lien

(A) To secure the payment of all taxes, penalties, interest, and costs levied by this Chapter, there shall be a lien upon the entire estate of the deceased and collectible out of said entire estate, or any part thereof, regardless of exemptions and deductions, in force from and attach as of the date of death of the decedent until released by the Comptroller.

(B) Exemption. The lien provided by this Article shall not attach to the stock of goods of a business firm, but shall attach to the proceeds from the sale of such goods. "Stock of Goods" includes such tangible personal property as is normally sold in the operation of the business.

(C) Notice. All persons acquiring any portion of an estate subject to taxation under this Chapter shall be personally liable for the tax imposed by this Chapter and be charged with notice of the existence of all such unpaid taxes, penalties, interest, and costs, and of the lien securing their payment.

(D) Enforcement. The lien provided by this Article may be enforced in any suit brought for the collection of said taxes, penalties, interest, and costs or otherwise enforced under the laws of this state. The lien provided for by this Article shall remain in force on any property of the estate whether or not any probate proceedings are filed on the estate. Said lien shall remain in force only for five (5) years after the date of the death of the decedent, unless sooner released by the Comptroller or unless a suit for the collection of any tax due and to enforce said lien is filed before the expiration of said five (5) year period; provided, a suit for the collection of taxes without the foreclosure of said lien may be filed within ten (10) years from said death and the collection of said taxes, except where suit has been filed for same as herein provided, after said ten (10) year period is forever barred; provided, the provisions of this Section (D) pertaining to the duration of the lien for five (5) years and the ten (10) year bar of the collection of taxes shall have no force or effect unless the reports required by Article 14.14 of this Chapter are filed as provided in said Article.

Amended by Acts 1965, 59th Leg., p. 830, ch. 402, § 7, eff. July 1, 1965; Acts 1967, 60th Leg., p. 421, ch. 187, § 2, emerg. eff. May 15, 1967.

For Annotations and Historical Notes, see V.A.T.S.

Art. 14.19 Release of lien

(A) Tax Paid. When all known taxes, penalties, interest and costs have been paid, the Comptroller shall notify the County Clerk that the tax lien upon property listed on the inventory and appraisal is released.

If any part-owner or coparcener of property shall pay his pro rata share of taxes as provided in Article 14.16(D), the Comptroller shall release the tax lien for such property or share of property.

(B) Before Tax Paid. Subject to such rules and regulations as the Comptroller may prescribe, the Comptroller may authorize the transfer of property and the release of the tax lien on specific properties before the taxes imposed by this Chapter are fully paid provided that:

(1) Such sale or transfer is necessary to pay the tax imposed by this Chapter or the Federal estate tax or such sale or transfer is necessary to preserve the estate; and

(2) Such sale or transfer is made for adequate and full consideration; and

(3) The remaining property of the estate is sufficient to assure payment of the taxes levied by this Chapter and any prior claims or liens or sufficient surety is made to guarantee payment.

The lien for taxes, penalties, or interest shall attach to the proceeds of any sale or exchange authorized by this Article.

(C) The tax lien shall not attach to stock in a corporation incorporated and existing under the laws of the State of Texas that is owned by a non-resident decedent or his estate, and such stock may be transferred without obtaining the authorization for transfer and release of lien that are provided for by Subdivision (B) of this Article.

Acts 1965, 59th Leg., p. 830, ch. 402, § 7, eff. July 1, 1965; Subsec. C added by Acts 1967, 60th Leg., p. 1768, ch. 670, § 1, emerg. eff. June 17, 1967.

CHAPTER 16—STOCK TRANSFER TAX

Repeal

Chapter 16, Stock Transfer Tax, consisting of articles 16.01 to 16.10, was repealed by Acts 1967, 60th Leg., p. 1157, ch. 513, § 1, effective September 1, 1967.

Arts. 16.01 to 16.10 Repealed. Acts 1967, 60th Leg., p. 1157, ch. 513, § 1. Eff. Sept. 1, 1967

Prior to repeal, article 16.01 was amended by Acts 1963, 58th Leg., p. 1351, ch. 513, § 1.

CHAPTER 19—MISCELLANEOUS OCCUPATION TAXES

Art. 19.01 Miscellaneous Occupation Taxes

There shall be levied on and collected from every person, firm, company or association of persons, pursuing any of the occupations named in the following numbered subdivisions of this Article, an annual occupation tax, which shall be paid annually in advance except where herein otherwise provided, on every such occupation or separate establishment, as follows:

* * * * *

(4) Repealed. Acts 1967, 60th Leg., p. 659, ch. 274, § 5. Eff. Oct. 1, 1967.

See, now, Vernon's Ann.Civ.St. art. 5069—1.01 et seq.

* * * * *

(7) Tax on Dealers in Pistols.

* * * * *

(b) Records and reports. Each dealer shall keep a record of all pistols bartered, sold, leased or otherwise disposed of for a period of ten (10) years. Such records shall show the number of the pistol, the name of the manufacturer, date of the transaction, salesman, purchaser, and their addresses, which record shall be made available and accessible to any authorized law-enforcing agency of the State of Texas or any county or city therein during normal business hours.

Sec. 7(b) amended by Acts 1967, 60th Leg., p. 878, ch. 381, § 1, eff. Aug. 28, 1967.

* * * * *

(8) Repealed. Acts 1967, 60th Leg., p. 352, ch. 169, § 1, eff. Aug. 28, 1967.

* * * * *

(10) Billiard Tables. From every person owning and operating for profit and every firm, association of persons, corporation and every other organization, save and except religious, charitable or educational organizations, authorized under the laws of the State of Texas, owning and operating any billiard table, by whatever name called, there shall be collected an annual tax of Five Dollars (\$5) for each billiard table.

(a) Billiard Table Defined. A billiard table is defined as any table, whether coin-operated or not, surrounded by a ledge or cushion with or without pockets upon which balls are impelled by a stick or cue.

(b) Cities and Towns May Levy Tax and License Owners and Operators. All cities and towns, whether incorporated under general or special law, shall have the power and authority to levy and collect a tax, equal to one-half (1/2) of the amount herein levied, and may ban, prohibit, regulate, supervise, control or license, any person, firm, association of persons, corporations and all other organizations, save and except religious, charitable or educational organizations, authorized under the laws of the State of Texas, operating a billiard table within the incorporated limits of such city or town; but in the event that a fee is charged for licensing the operation of billiard tables, said fee shall not exceed Ten Dollars (\$10) annually per table; and said cities and towns may fix penalties for the violation thereof.

Sec. 10 added by Acts 1963, 58th Leg., p. 114, ch. 65, § 1, eff. Aug. 23, 1963. Amended by Acts 1967, 60th Leg., p. 891, ch. 387, § 1, eff. Aug. 28, 1967.

CHAPTER 20—LIMITED SALES, EXCISE AND USE TAX

Art. 20.04 Exemptions

* * * * *

(O) Vessels.

* * * * *

(3) The taxes imposed by this Chapter shall not apply to the receipts from the sale, lease or rental of, or the storage, use or other consumption in this State of drilling equipment used in the exploration for or production of oil, gas, sulphur, or other minerals when such equipment is built for exclusive use outside the boundaries of the State and is removed forthwith from the State upon completion.

Sec. O, subdiv. (3) amended by Acts 1967, 60th Leg., p. 1060, ch. 464, § 1, eff. Aug. 28, 1967.

* * * * *

(W) Casing, Drill Pipe, Tubing, and Other Pipe. There are exempted from the taxes imposed by this chapter, the receipts from the sale, lease, or rental in this state of casing, drill pipe, tubing, and other pipe to be

For Annotations and Historical Notes, see V.A.T.S.

used in exploration for or production of oil, gas, sulphur, and other minerals offshore outside the territorial limits of the state.

Sec. W added by Acts 1967, 60th Leg., p. 159, ch. 84, § 1, emerg. eff. July 1, 1967.

(X) Property for Use in Offshore Exploration and Production. (a) There are exempted from the taxes imposed by this Chapter the receipts from the sale, lease or rental in this State of tangible personal property for use exclusively in the exploration for or the production of oil, gas, sulphur, or other minerals offshore and outside the territorial limits of the State.

(b) The property described in Subdivision (a) of this section may be delivered to the purchaser or lessee in this State and removed by means of his own facilities or by any other means beyond the territorial limits of the State.

(c) Receipts from the sale, lease or rental of property described in Subdivision (a) of this section are exempt when the property is shipped to any place in the State for further assembly or fabrication, and receipts from the sale, lease or rental of such property made upon completion of the assembly or fabrication are exempt if the property is forthwith removed beyond the territorial limits of the State.

Acts 1961, 57th Leg., 1st C.S., p. 71, ch. 24, art. I, § 1. Sec. X added by Acts 1967, 60th Leg., p. 1060, ch. 464, § 2, eff. Aug. 28, 1967.

Acts 1967, 60th Leg., p. 159, ch. 84, which amended this article by adding section (W) thereto, provided in sections 2-5:

"Sec. 2. This Act does not apply to any act done or obligation, right, penalty, or tax accrued or existing before the effective date of this Act.

"Sec. 3. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity

shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

"Sec. 4. All laws or parts of laws in conflict herewith are repealed to the extent of the conflict.

"Sec. 5. This Act takes effect on July 1, 1967."

Art. 20.05. Return and Payments

* * * * *

(C) Return; Time for Filing; Persons Required to File; Signatures; Accounting Basis.

(1) On or before the last day of the month following each quarterly period of three (3) months, except as provided in Subsection (5) of this section, a return for said quarterly period shall be filed with the Comptroller in such form as the Comptroller may prescribe.

(2) For purposes of the limited sales tax a return shall be filed by every person subject to the tax. For purposes of the use tax a return shall be filed by every retailer engaged in business in the State and by every person who has purchased tangible personal property, the storage, use or other consumption of which is subject to the use tax, but who has not paid the use tax due to a retailer required to collect the tax.

(3) Returns shall be signed by the person required to file the return or by his duly authorized agent but need not be verified by oath.

(4) A taxpayer who keeps his regular books and records on a cash basis or on an accrual basis, or on any generally recognized accounting basis which correctly reflects the operation of the business, may file the tax returns required by this Chapter on the same accounting basis that is used for the regular books and records.

(5) A taxpayer whose business is solely manufacturing, as defined in Paragraph (U), Article 20.01 of this Chapter, and who derives less than two percent (2%) of his receipts from taxable sales, leases, or rentals during a quarterly period may omit the return required under this section provided he files annually on either a calendar year basis or on the basis of his fiscal year a like report for his yearly operation.

Sec. C amended by Acts 1967, 60th Leg., p. 2069, ch. 770, § 1, eff. Aug. 28, 1967.

* * * * *

TITLE 124—TRESPASS TO TRY TITLE

2. CLAIM FOR IMPROVEMENTS

Art.
7401A. Removal of Improvements [New].

2. CLAIM FOR IMPROVEMENTS

Art. 7401A. Removal of Improvements

Section 1. In an action of trespass to try title, the defendant may in his pleadings:

(1) allege that he and those under whom he claims have had adverse possession of the premises in controversy without the intent to defraud, and that he and those under whom he claims have made permanent and valuable improvements on the land during the time they have had possession, without the intent to defraud;

(2) identify the improvements; and

(3) include in his prayer for relief a prayer for judgment allowing the defendant, in the event the court or jury finds that he is not the rightful owner of the land, to remove the improvements upon giving a good and sufficient surety bond, in such amount as the court deems proper under the circumstances, conditioned upon the defendant's removal of the improvements in such a manner as to restore the land to substantially the same condition as that which obtained before the improvements were made.

Sec. 2. If the defendant has pleaded as provided in Section 1 of this article and the court or jury finds that he is not the rightful owner of the land, but that he and those under whom he claims, being possessors of the land without the intent to defraud, have made permanent and valuable improvements on the land without the intent to defraud, then the court or jury shall at the same time determine whether or not the improvements can be removed without substantial and permanent damage to the land.

Sec. 3. If the court or jury determines that the improvements can be removed without substantial and permanent damage to the land, then the court shall fix the amount of the surety bond, and, upon the defendant's giving of a bond in that amount, conditioned as stated in Section 1 of this article, the court shall appoint a referee to supervise the removal of the improvements and to make such reports to the court as the court may direct. The court shall retain jurisdiction of the suit and make final disposition of the case and determine the rights, duties, and liabilities of the parties and sureties consistent with the relevant principles of law and equity.

Sec. 4. The court may condition the defendant's right to remove the improvements on the satisfaction of any money judgment in favor of the plaintiff arising out of any claim of the plaintiff in the suit.

Sec. 5. The remedy provided by this article is cumulative of all other remedies provided by this title and by other applicable statutes and rules of law and equity, and the defendant may plead for this remedy as an alternative to any other remedy to which he may be entitled.

Added by Acts 1967, 60th Leg., p. 2024, ch. 748, § 1, eff. Aug. 28, 1967.

Section 2 of the act of 1967 provided: was instituted before the effective date of
"This Act does not apply to any suit which this Act."

TITLE 125A—TRUSTS AND TRUSTEES**TEXAS TRUST ACT****Saved From Repeal**

Acts 1967, 60th Leg., p. 770, ch. 323, declaring construction payments and loan receipts to be trust funds, provided in section 7: "No trust created by this Act shall be subject to the Texas Trust Act nor shall this Act be construed to amend, repeal, or alter any provisions of the Texas Trust Act." See article 5472e, §§ 1-7.

TITLE 126—TRUSTS—CONSPIRACIES AGAINST TRADE

Arts. 7426-7447. Repealed. Acts 1967, 60th Leg., vol. 2, p. 2619, ch. 785, § 4. Eff. Sept. 1, 1967

Acts 1967, 60th Leg., vol. 2, p. 2343, ch. 785, adopting the Business & Commerce Code, repealed articles 7426-7447 effective September 1, 1967.

For text of Business and Commerce Code, with Tables and Index, see page 1485.

See, now, V.A.T.C. Bus. & C. § 15.01 et seq.

TITLE 127—VETERINARY MEDICINE AND SURGERY

Art. 7465b. Texas Veterinary Medical Diagnostic Laboratory [New].

Art. 7465a. Veterinary licensing act

* * * * *

State Board of Veterinary Medical Examiners

Sec. 5. (a) The Board consists of six members appointed by the Governor for six-year terms.

(b) To be eligible for appointment to the Board, a person must

(1) have resided in the state and practiced veterinary medicine for the six years next preceding his appointment;

(2) be of good repute; and

(3) not be a member of the faculty of any veterinary medical college or of the veterinary medical department of any college or have a financial interest in a veterinary medical college.

(c) A person appointed to the Board qualifies for office by taking the constitutional oath of office. After taking the oath, he shall file a signed copy of it with the Secretary of State.

(d) The Governor shall fill by appointment vacancies on the Board resulting from death or resignation of a member. The person appointed to fill a vacancy serves for the unexpired portion of the vacated term.

(e) At its first meeting each year the Board shall elect from its number a president and any other officers it considers necessary or convenient. Four members of the Board constitute a quorum for the transaction of Board business.

(f) Each Board member is entitled to compensation in the amount of \$25 a day for each day he is engaged in the duties of his office. Each member is also entitled to be reimbursed for his actual, necessary expenses incurred while performing the duties of his office.

Sec. 5 amended by Acts 1967, 60th Leg., p. 1756, ch. 662, § 1, emerg. eff. June 17, 1967.

* * * * *

Revocation or suspension of license; refusal to examine applicant or issue or renew license; grounds

Sec. 14. The Board may revoke or suspend any license, may refuse to examine an applicant, to issue a license or to issue a renewal of a license, after notice and hearing as provided in Section 15 of this Act, or as provided by the rules of the Board, if it finds that an applicant or licensee:

(a) Has presented to the Board dishonest or fraudulent evidence of qualification; has been guilty of illegal fraud or deception in the process of examination, or for the purpose of securing a license; or

(b) Is chronically or habitually intoxicated or is addicted to drugs; or

(c) Has engaged in dishonest or illegal practices in or connected with the practice of veterinary medicine; or

(d) Has been convicted of a felony under the laws of this or any other state of the United States or of the United States; or

(e) Has engaged in practices or conduct in connection with the practice of veterinary medicine which are violative of the standards of professional conduct as duly promulgated by the Board in accordance with law; or

For Annotations and Historical Notes, see V.A.T.S.

(f) Has permitted or allowed another to use his license, or certificate to practice veterinary medicine in this state, for the purpose of treating, or offering to treat, sick, injured or afflicted animals."

Sec. 14 amended by Acts 1967, 60th Leg., p. 1756, ch. 662, § 2, emerg. eff. June 17, 1967.

* * * * *

Veterinary fund

* * * * *

Sec. 20. All fees collected by the Board under this Act shall be placed in the State Treasury every thirty (30) days, as collected, to the credit of a special fund to be known as the "Veterinary Fund," and all expenditures from this fund shall be on order of the Board, on warrants issued by the State Comptroller for the purposes and in the amounts fixed by the Legislature in appropriation bills. On August 31st of each year, all money in excess of Forty Thousand Dollars (\$40,000) remaining in said "Veterinary Fund" shall revert to the General Revenue Fund of the State Treasury.

Sec. 20 amended by Acts 1967, 60th Leg., p. 1757, ch. 662, § 3, emerg. eff. June 17, 1967.

* * * * *

Acts 1967, 60th Leg., p. 1756, ch. 662, §§ 1-3 amended sections 5, 14 and 20 of this article; sections 4 and 5 of the act of 1967 provided:

"Sec. 4. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or ap-

plication of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

"Sec. 5. All laws or parts of laws in conflict herewith are repealed to the extent of such conflict only."

Art. 7465b. Texas Veterinary Medical Diagnostic Laboratory

Section 1. There is hereby created an agency of the State of Texas to be known as the Texas Veterinary Medical Diagnostic Laboratory. It shall not be a part or unit of any institution or system of higher education of the state but it shall be under the jurisdiction and supervision of the Board of Directors of Texas A&M University. The said Board of Directors shall staff the agency with an executive director and such other employees necessary for the proper functioning thereof.

Sec. 2. The Board of Directors of Texas A&M University shall make available to the State Building Commission state land in Brazos County for a site on which shall be constructed and equipped a building to house the facilities of the Texas Veterinary Medical Diagnostic Laboratory and an animal building for use related to the use of the laboratory building. Acts 1967, 60th Leg., p. 37, ch. 17, eff. Aug. 28, 1967.

Title of Act:

An Act creating and establishing the Texas Veterinary Medical Diagnostic Laboratory as a State Agency under the jurisdiction and supervision of the Board of Directors of Texas A & M University, such Agency not to be any part or unit of any institution or system of higher education of the state; providing for the staffing

of the Agency by said Board of Directors; providing for the construction and equipping of a veterinary medical diagnostic laboratory building and related animal building on state land in Brazos County made available to the State Building Commission by said Board of Directors; and declaring an emergency. Acts 1967, 60th Leg., p. 37, ch. 17.

TITLE 128—WATER

I. IRRIGATION AND WATER RIGHTS

CHAPTER ONE—USE OF STATE WATER

3. REGULATION OF USE

Art.
7542a. Water Right Adjudication Act
[New].

4. POLLUTION

Art.
7621d--1. Texas Water Quality Act of 1967
[New].
7621g. Regional Waste Disposal Act
[New].

2. TEXAS WATER RIGHTS COMMISSION

Art. 7467. Property of the State

The waters of the ordinary flow and underflow and tides of every flowing river or natural stream, of all lakes, bays or arms of the Gulf of Mexico, and the storm, flood or rain waters of every river or natural stream, canyon, ravine, depression or watershed, within the State of Texas, are hereby declared to be the property of the State, and the right to the use thereof may be acquired by appropriation in the manner and for the uses and purposes hereinafter provided, and may be taken or diverted from its natural channel for any of the purposes expressed in this chapter.

Amended by Acts 1967, 60th Leg., p. 198, ch. 110, § 1, eff. Aug. 28, 1967.

Art. 7467c. Seasonal and Temporary Permits

(1) Seasonal permits may be granted under the provisions of this Chapter relating to regular permits and shall be governed by the same restrictions and regulations, and the applicant shall pay the same fees in connection therewith; provided, that the right to take, use or divert water under a seasonal permit shall be limited to that portion or portions of the calendar year expressly stated in such permit; provided further, that the Texas Water Rights Commission shall set forth in each seasonal permit granted such conditions as may be necessary to fully protect prior appropriations or vested rights on the stream.

(2) Under such rules and regulations governing notice and procedure as the Texas Water Rights Commission may prescribe, temporary permits may be issued for beneficial purposes where the same will not interfere with or adversely affect prior appropriations or vested rights on the stream. Such temporary permits shall be subject to all the requirements of this Chapter relating to the use of water and shall have priorities as against each other as of the time of making application therefor. A temporary permit shall not be granted for a period exceeding three (3) calendar years and shall not vest in the holder thereof any permanent right to the use of water and shall expire and be cancelled by the Texas Water Rights Commission in accordance with the terms of the permit. A temporary permit may be granted by the Texas Water Rights Commission under the provisions hereof, upon the payment of fees prescribed by the rules and regulations of the Texas Water Rights Commission, but not to exceed Five Hundred Dollars (\$500) for the issuance of any such permit or extension.

Amended by Acts 1967, 60th Leg., p. 192, ch. 103, § 1, emerg. eff. May 4, 1967.

For Annotations and Historical Notes, see V.A.T.S.

Art. 7475. Repealed. Acts 1967, 60th Leg., p. 852, ch. 360, § 2. Eff. Aug. 28, 1967

Acts 1967, 60th Leg., p. 852, ch. 360, § 1 amended article 7531.

Art. 7477. Texas Water Rights Commission Act

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Appeals

Sec. 12. (a) Any person affected by the ruling, order, decision, or other act of the Commission, may, within 30 days after the date on which such act is performed, or, in case of a ruling, order, or decision, within 30 days after the effective date thereof, file a petition in an action to review, set aside, modify, or suspend such ruling, order, decision, or other act. Any party affected by the failure of the Commission to act in a reasonable time upon an application to appropriate water, or to perform with reasonable promptness any other duty imposed by this Chapter, may file a petition in an action to compel the Commission to show cause why it should not be directed by the court to take immediate action. The venue in any or all such actions is hereby fixed exclusively in the District Court of Travis County, Texas. The plaintiff shall pursue his action with reasonable diligence. If the plaintiff does not secure proper service of process, or does not prosecute his action within one year after the action is filed, the court shall presume that the action has been abandoned. The court shall dismiss the suit on a motion for dismissal made by the Attorney General unless the plaintiff after receiving due notice can show good and sufficient cause for the delay.

Sec. 12(a) amended by Acts 1967, 60th Leg., p. 197, ch. 108, § 1, eff. Aug. 28, 1967.

Art. 7495. Approval for Alterations, etc.

All holders of permits and certified filings must obtain the approval of the Texas Water Rights Commission prior to making any alterations, enlargement, extension or other change to any reservoir, dam, main canal, or diversion works upon which a permit has been granted or a certified filing recorded. A detailed statement and plans for alterations or changes shall be filed with the Texas Water Rights Commission and its approval obtained before the alterations or changes are made. This article does not apply to the ordinary maintenance or emergency repair of the facility.

Amended by Acts 1967, 60th Leg., p. 1375, ch. 595, § 1, eff. Aug. 28, 1967.

Art. 7496. Repealed. Acts 1967, 60th Leg., p. 199, ch. 111, § 1. Eff. Aug. 28, 1967

Acts 1967, 60th Leg., p. 199, ch. 111, § 2 provided: "Presentations filed by the Texas Water Rights Commission before the effective date of this Act are not affected by this Act."

Arts. 7497-7499a. Repealed. Acts 1967, 60th Leg., p. 199, ch. 111, § 1. Eff. Aug. 28, 1967

Effect of repeal of these articles on presentations filed before effective date of repealing act, see note under former article 7496.

Art. 7509. Publication of notice

The notice shall be published once in each week for two consecutive weeks prior to the date stated in the notice for the hearing of the application in some newspaper having a general circulation in that section of the state in which the source of water is located. In addition

to the publication, a copy of the notice shall be mailed by first class mail, postage prepaid, by the Texas Water Rights Commission to each claimant or appropriator of water from the source of water supply, the record of whose claim or appropriation has been filed in the office of the commission; and further, such notice shall be mailed by first class mail, postage prepaid, to all navigation districts within the watershed concerned. The inadvertent failure of the commission to mail a notice to a navigation district which is not a claimant or appropriator of water shall not abate the hearing on the application for appropriation of water. The notice shall be mailed and first published not less than twenty days before the date set for the hearing.

Amended by Acts 1967, 60th Leg., p. 848, ch. 357, § 1, eff. Aug. 28, 1967.

Art. 7531. Rules

Section 1. The Texas Water Rights Commission shall adopt reasonable rules and regulations, including modes of procedure, not in conflict with this chapter, for the performance of the duties, powers and functions prescribed and vested in it by this chapter, and for the enforcement of its provisions, and shall have a seal, the form of which it shall prescribe. All such rules and regulations made for the administration of this chapter shall be binding upon all persons affected by such provisions. The rules and regulations shall be printed, and copies shall be furnished to all interested persons upon application therefor, provided, that the commission, at its discretion, may make a reasonable charge therefor. No amendment of an existing rule or no new rule is effective until at least 30 days have expired since the date a copy of the new or amended rule was filed with the secretary of state.

Sec. 2. Full authority is hereby given the commission to enforce by injunction, mandatory injunction or other appropriate remedy, in the courts of competent jurisdiction, any and all reasonable rules and regulations promulgated by it, which are not in conflict with this chapter, and all of the terms and conditions, which are not in conflict with this chapter, contained in declarations of appropriations (certified filings) and in permits to appropriate water heretofore granted and which may hereafter be granted by it, under authority of law.

Amended by Acts 1967, 60th Leg., p. 851, ch. 360, § 1, eff. Aug. 28, 1967.

Section 2 of the amendatory act of 1967
repealed article 7475.

Art. 7532. Fees**Texas Water Rights Commission to Collect Fees**

Section 1. (a) The Texas Water Rights Commission shall charge and collect the fees provided in this section. The Commission shall make a record of fees provided when due, and shall render an account to the person charged with the fees. Each fee is a separate charge and is in addition to other fees unless provided otherwise.

(b) The fees for filing all applications or petitions is \$25.00, plus the cost of required notice.

(c) The fee for recording each instrument recorded in the office of the Commission is \$1.00 per page.

(d) The fee for the use of water for irrigation is 50 cents per acre for each acre to be irrigated.

(e) The fee for the use of water for a steam or gas power plant, or for cooling, condensing, or steam purposes is \$1.00 for each indicated horsepower.

(f) The fee for impounding water, except under Section 5, Chapter 136, General Laws, Acts of the 39th Legislature, Regular Session, 1925, as amended (Article 7500a, Vernon's Texas Civil Statutes), or for the use

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of water for recreation or pleasure, is 50 cents per acre-foot of storage, based on the total holding capacity of the reservoir at normal operating level.

(g) The fee for other uses of water not specifically named in this section is \$1.00 per acre-foot.

(h) A fee charged under this section for one use of water under a permit from the Commission may not exceed \$5,000; and the fee for each additional use of water under a permit for which the maximum fee is paid may not exceed \$1,000.

(i) The fees provided in Subsections (d) through (g) of this section are one-time fees, payable when the application for an appropriation is made.

Retention of Fees by Texas Water Rights Commission

Section 2. The Texas Water Rights Commission shall hold all fees, other than filing fees, which are paid upon application until the Commission finally determines whether the application should be granted, and if not, the Commission shall return the fees to the applicant.

State Agency Exceptions

Section 3. The Texas Water Development Board and the Texas Parks and Wildlife Commission are exempted from payment of any filing, recording or use fees required by this Article.

Amended by Acts 1967, 60th Leg., p. 1376, ch. 596, § 1, eff. Aug. 28, 1967.

Acts 1967, 60th Leg., p. 1377, ch. 596, § 2 All other laws or parts of laws inconsistent provided: "Sec. 2. Article 7534, Revised with the provisions of the article are re-Civil Statutes of Texas, 1925, is repealed. pealed to the extent of conflict only."

Art. 7533. Fees and charges deposited

Section 1. The fees and charges collected in accordance with the provisions of this chapter shall be immediately deposited in the State Treasury to the credit of the general revenue and full and detailed verified monthly and annual reports of all such receipts, as well as of the expenditures of the Commission, shall be filed with the Comptroller of Public Accounts.

Sec. 2. The Texas Water Rights Commission shall transmit all collections of costs authorized by the Water Rights Adjudication Act (Senate Bill No. 92, Acts of the 60th Legislature, 1967),¹ to the State Treasurer for deposit in a Water Rights Administration Fund, from which the Commission shall be entitled to and shall pay all expenses necessary to efficiently administer and perform the duties set forth in Section 8 of the Water Rights Adjudication Act; and there is hereby appropriated to the Commission for the biennium ending August 31, 1969, all of such funds for salaries, travel and other necessary expenses.

Amended by Acts 1967, 60th Leg., p. 1377, ch. 597, § 1, eff. Aug. 28, 1967.

¹ See article 7542a.

Art. 7534. Repealed. Acts 1967, 60th Leg., p. 1377, ch. 596, § 2. Eff. Aug. 28, 1967

See, now, article 7532.

Acts 1967, 60th Leg., p. 1377, ch. 596, § 1 amended article 7532.

Art. 7537a. Study, investigation and exploration of underground water supply

The Texas Water Development Board is authorized and empowered to make and have made studies and investigations of and reports on the physical characteristics of water-bearing formations and the sources, occurrence, quantity and quality of the underground water supply of the

State of Texas, together with studies and investigations of and reports on feasible methods to conserve, preserve, improve the quality of and supplement said supply. Such work shall be first undertaken by said Board in the territories where, in their judgment, the greatest need therefor exists, and in determining said need, said Board shall look to the interest and welfare of domestic and municipal uses, commercial uses, irrigation uses and all other beneficial uses which, in their judgment, are essential to the general welfare of the state. Such work may include investigation and exploration of water bearing formations by coring or other mechanical or electrical means or by contracting therefor when the area to be investigated has an influence on water resources which is more than local in character.

Amended by Acts 1961, 57th Leg., p. 1016, ch. 443, § 1, effective Aug. 28, 1961; Acts 1967, 60th Leg., p. 197, ch. 109, § 1, eff. Aug. 28, 1967.

3. REGULATION OF USE

Art. 7542a. Water Right Adjudication Act

Short title

Section 1. This Act may be cited as the Water Rights Adjudication Act.

Definitions

Sec. 2. As used in this Act:

“Section” and “Subsection” refer to parts of this Act.

“Person” means any individual, firm, association, organization, partnership, business trust, public or private corporation, company or political subdivision of the state, agency of the state, the United States, or any other legal entity.

“United States” means the United States of America, and in relation to any particular matter includes the officers, agents, employees, agencies or instrumentalities authorized to act in relation thereto.

“Commission” means the Texas Water Rights Commission.

“Water right” means a right under the laws of the State of Texas to impound, divert or use public waters of the state.

“Certified filing” means a record of appropriation filed with the Board of Water Engineers under the provisions of Section 14 of Chapter 171, Acts of the 33rd Legislature of Texas, 1913, and amendments thereof.

“Permit” means a permit to appropriate public water issued by the Texas Water Rights Commission or its predecessors or successors in interest.

Declaration of policy

Sec. 3. It is declared that the conservation and best utilization of the water resources of this state are a public necessity and it is in the interest of the people of the state to require recordation with the Commission of claims of water rights which are presently unrecorded, to limit the exercise of such claims to actual use, and to provide for the adjudication and administration of water rights to the end that the surface water resources of the state may be put to their greatest beneficial use. Therefore, the enactment of this Act is in furtherance of the public rights, duties and functions above set forth and in response to the mandate expressed in Section 59 of Article XVI of the Constitution of Texas and is in the exercise of the police powers of the state in the interest of the public welfare.

Recordation and limitation of certain water right claims

Sec. 4. (a) This Section applies to all claims of riparian water rights, all claims under Article 7500a, Revised Civil Statutes of Texas, 1925, to

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impound, divert or use public waters of the state for other than domestic or livestock purposes for which no permit has been issued, all claims of water rights under the Irrigation Acts of 1889 and 1895 which were not filed with the State Board of Water Engineers in accordance with the Irrigation Act of 1913, as amended, and all other claims of water rights other than claims under permits or certified filings.

(b) Any claim to which this Section applies shall be recognized only if valid under existing law and only to the extent of the maximum actual application of water to beneficial use without waste during any calendar year from 1963 to 1967, inclusive. However, in any case where any claimant of a riparian right has prior to the effective date of this Act commenced or completed the construction of works designed to apply a greater quantity of water to beneficial use, such right shall be recognized to the extent of the maximum amount of water actually applied to beneficial use without waste during any calendar year from 1963 to 1970, inclusive.

(c) On or before September 1, 1969, every person claiming any water right to which this Section applies shall file with the Commission a statement setting forth the name and address of the claimant, the location and the nature of the right claimed, the stream or watercourse and the river basin in which the right is claimed, the date of commencement of works, the dates and volumes of use of water, together with such other information as may be required by the Commission to show the nature and extent of the claim. Each claimant or owner shall be required to certify under oath that the statements made in support of his claim are true and correct to the best of his knowledge and belief. Any claimant desiring recognition of a right based on use from 1968 to 1970, inclusive, as provided in Subsection (b) shall file an additional sworn statement on or before July 1, 1971. The Commission shall prescribe forms for the sworn statements, but use of Commission forms shall not be mandatory. On or before January 1, 1968, and June 1, 1969, the Commission shall cause notice of the requirements of this Section to be published once each week for two (2) consecutive weeks in newspapers having general circulation in each county of the state and by first class mail to each user of surface water who has filed a report of water use with the Commission. Upon sworn petition, notice and hearing in the manner prescribed for applications for permits and upon finding of extenuating circumstances and good cause shown for failure to timely file, the Commission may authorize the filing of the sworn statement or statements required by this subsection until entry of a preliminary determination of claims of water right in accordance with Section 5(d) of this Act which includes the area described in the petition or September 1, 1974, if a preliminary determination has not been entered.

(d) The filing of all claims to use public water is necessary for the conservation and best utilization of the water resources of the state; therefore, failure to file the sworn statement or statements with the Commission in substantial compliance with this Section shall extinguish and bar any claim of water rights to which this Section applies, and thereafter no such right shall be recognized. The sworn statements required by this Section shall be binding on the person submitting the statement and his successors in interest but shall not be binding on the Commission or any other person in interest. Nothing herein shall be construed to recognize any water right which did not exist prior to the effective date of this Act. This Section shall not apply to use of water for domestic or livestock purposes.

Adjudication of water rights

Sec. 5. (a) The water rights in any stream or segment thereof may be adjudicated as provided in this Act upon the Commission's own motion or upon a petition to the Commission signed by ten (10) or more claimants of water rights from the source of supply or upon petition of the

Texas Water Development Board. Promptly after the filing of a petition, the Commission shall investigate the facts and conditions necessary to determine whether the adjudication would be in the public interest. If the Commission finds that an adjudication would be in the public interest, it shall enter an order to that effect designating the stream or segment to be adjudicated and directing an investigation to be made of the area described to gather relevant data and information essential to the proper understanding of the claims of water rights involved. The results of the investigation shall be reduced to writing and made a matter of record in the Commission's office. In connection with the investigation, the Commission shall make a map or plat showing with substantial accuracy the course of the stream or segment, the location of reservoirs, diversion works and places of use including lands which are being irrigated or have facilities for irrigation.

(b) The Commission shall prepare a notice of adjudication which shall describe the stream or segment to be adjudicated and the date by which all claims of water rights in the stream or segment shall be filed with the Commission, which date shall not be less than ninety (90) days after notice is issued as hereinafter provided. The notice shall be published each week for two (2) consecutive weeks in one (1) or more newspapers having general circulation in the counties in which such stream or segment is located. Notice shall also be given by certified mail to each claimant of water rights whose diversion is within the stream or segment to be adjudicated insofar as such claimants can reasonably be ascertained from the records of the Commission. Every person claiming a water right of any nature whatsoever, except for domestic or livestock purposes, from the stream or segment under adjudication shall file a sworn claim with the Commission within the time prescribed in the notice, including any extensions thereof, setting forth the name and post office address of the claimant, the location and nature of the right claimed including a description of any permit or certified filing under which the claim is made, the purpose of use, a description of works and irrigated lands, if any, and all other information necessary to show the nature and extent of the claim. The Commission shall prescribe forms for claims, but use of Commission forms shall not be mandatory.

(c) The Commission shall set a time and place for hearing all claims. Not less than thirty (30) days prior to the commencement of such hearings, the Commission shall give notice thereof by certified mail to all persons who have filed claims in accordance with the preceding subsection or this notice may be included in the notice of adjudication provided in Subsection (b). The hearings shall be conducted as provided in Section 9 of this Act.

(d) Upon completion of the hearings, the Commission shall make a preliminary determination of the claims to water rights under adjudication. One copy of the preliminary determination shall be furnished without charge to each person who filed a claim in accordance with Subsection (b). Additional copies of the preliminary determination shall be made available for public inspection at convenient locations throughout the river basin, as designated by the Commission. Copies shall also be made available to other interested persons at reasonable cost, based on the cost of reproduction. All evidence presented to or considered by the Commission shall be open to public inspection for a period of not less than sixty (60) days, as fixed by the Commission, after the notice prescribed in this subsection is issued. The Commission shall also set a date for filing contests on the preliminary determination, which date shall not be less than thirty (30) days after the period for public inspection of the evidence presented to or considered by the Commission has closed. Promptly after the preliminary determination has been made, notice of the fact shall be published each week for two (2) consecutive weeks in one (1) or more newspapers having general circulation in the river basin in which

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the stream or segment is located. Notice shall also be sent by certified mail to each claimant of water rights within the river basin in which the stream or segment is located, insofar as such claimants can be reasonably ascertained from the records of the Commission. Each notice shall also state the place and the period of time that the preliminary determination and evidence presented to or considered by the Commission will be open for public inspection, the locations throughout the river basin where copies of the preliminary determination will be available for public inspection, the method of ordering copies of the preliminary determination and the charge therefor, and the date by which contests on the preliminary determination must be filed.

(e) If any water right claimant affected by the preliminary determination, including claimants to water rights within the river basin but outside the stream or segment under adjudication, disputes the preliminary determination, he shall within the time for filing contests prescribed in the notice, including any extensions thereof, file a written contest with the Commission, stating with reasonable certainty the grounds of his contest, which statement shall be verified by the affidavit of the contestant, his agent, or attorney. If the contest is directed against the preliminary determination of the rights of other claimants, a copy shall be served on each such claimant or his attorney by certified mail, and proof of service shall be filed with the Commission. After the time for filing contests has expired the Commission shall prepare a notice setting forth the part of the preliminary determination to which each contest is directed and the time and place of hearing of the contest. The notice shall be sent to each claimant of water rights within the river basin in which the stream or segment is located insofar as such claimants can reasonably be ascertained from the records of the Commission. The hearing shall be conducted as provided in Section 9 of this Act.

(f) Upon completion of hearings on all contests the Commission shall make a final determination of the claims to water rights under adjudication. A copy of the final determination and any modification thereof shall be sent to each claimant whose rights are adjudicated and each contesting party. Within thirty (30) days from the date of the final determination any affected party may apply to the Commission for a rehearing. Applications for rehearing which in the opinion of the Commission are without merit may be denied without notice to other parties, but no application for rehearing shall be granted without notice to each claimant whose rights are adjudicated and each contesting party.

(g) As soon as practicable after the disposition of all applications for rehearing, the Commission shall file a certified copy of the final determination, together with all evidence presented to or considered by the Commission, in a district court of any county in which the segment under adjudication is located; provided, however, if the segment under adjudication includes all or parts of three or more counties and if petitioned to do so by ten (10) or more affected persons who appeared in the proceedings, the Commission shall file the action in a convenient district court of a judicial district which is not within the river basin of the stream or segment under adjudication. The Commission shall obtain an order from the court fixing a time not less than thirty (30) days from the date of such order for the filing of exceptions to the final determination and fixing a time not less than sixty (60) days from the date of such order for the commencement of hearings on exceptions. The Commission shall immediately give written notice of such order by certified mail to all parties who appeared in the proceedings before the Commission, and proof of such service shall be filed with the court.

(h) Any affected person who appeared in the proceeding before the Commission may file exceptions to the final determination which exceptions shall state with a reasonable degree of certainty the grounds for the exception and shall specify the particular paragraphs and pages of

the determination to which exception is taken. Three (3) copies of such exceptions shall be filed in court, and a copy shall be served on the Commission. The Commission shall make copies of all exceptions available at reasonable cost, based upon the cost of reproduction.

(i) The court shall hear any exceptions which have been filed, and the Commission and all affected persons appearing in the proceedings before the Commission shall be entitled to appear and be heard on the exceptions. Other parties in interest may be permitted to appear and be heard by leave of court for good cause shown. The court shall have the power to conduct non-jury hearings and proceedings at any convenient location within the state. Actual expenses incurred by the court outside of its judicial district shall be taxed as costs.

(j) In passing on exceptions the court shall determine all issues of law and fact independently of the Commission's determination. The substantial evidence rule shall not be used. The court shall not consider any exception which was not brought to the Commission's attention by application for rehearing, nor shall the court consider any issue of fact raised by an exception unless the record of evidence before the Commission reveals that the question was genuinely in issue before the Commission. Any party in interest may demand a jury trial of any such issue of fact, but the court may in its discretion have a separate trial with a separate jury of any such issue or issues. The Legislature hereby specifically declares that the provisions of this subsection shall not be severable from the balance of this Act, and further specifically declares that this Act would not have been passed without the inclusion of this subsection. If this subsection is for any reason ever held by the courts to be invalid, unconstitutional or inoperative in any way, such holding shall apply to this entire Act, and in such event this entire Act shall be null, void and of no force and effect.

(k) Any exception heard by the court without a jury may be resolved on the record of evidence before the Commission, or the court may in its discretion take additional evidence or direct that additional evidence be heard by the Commission. After final hearing the court shall enter a decree affirming or modifying the order of the Commission and may assess such costs as it may deem just. Appeal may be taken from the decree in the same manner and with the same effect as in other civil cases. The final decree in every water right adjudication shall be final and conclusive as to all existing and prior rights and claims to water rights in the adjudicated stream or segment and shall be binding on all claimants to water rights within the river basin, including claimants to water rights outside the adjudicated stream or segment. Except for domestic and livestock purposes or rights subsequently acquired by permit, no water right shall be recognized in the adjudicated stream or segment unless included in the final decree.

(l) Upon the final determination of the rights to the waters of any stream and the expiration of the time for rehearing provided in Section (k) hereof, the Commission shall issue to each person adjudicated a water right a certificate of adjudication, signed by the Chairman and affixed with the seal of the Commission. The certificate of adjudication shall refer to the final decree of adjudication to which it relates and shall state the name and postoffice address of the holder of the adjudicated right, the priority, extent, and purpose of the right, and if for irrigation purposes, a description of the irrigated land, together with all other information relating to the adjudicated right contained in the final decree.

(m) The certificate of adjudication or a true copy shall be transmitted by the Commission to the county clerk of each county in which the appropriation is made. Upon receipt of the recording fee from the holder of the certificate, the county clerk shall file and record the same in a well-bound book provided and kept for that purpose only, and shall index the same alphabetically under the name of the holder of the certificate

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of adjudication and of the stream or source of water supply, and, thereupon, shall deliver the certificate of adjudication, upon demand, to the holder.

Permits issued after adjudication

Sec. 6. Permits, other than temporary permits, issued by the Commission to appropriate water from an adjudicated stream or segment shall be subject to administration in the same manner as provided in this Act for an adjudicated water right.

Abatement of certain civil actions

Sec. 7. Nothing in this Act shall prevent or preclude any person claiming the right to divert water from a stream from filing and prosecuting to conclusion a suit against other claimants of the right to divert or use water from the same stream; provided, however, that if the Commission has ordered a determination of water rights as provided in Section 5 of this Act, or if the Commission shall order such a determination within ninety (90) days after notice of the filing of such a suit, the suit shall be abated on motion of the Commission or any party in interest as to any issues involved in the water rights determination, except that the court may grant or continue any temporary relief necessary to preserve the status quo pending final determination of the water rights involved.

Administration of water rights

Sec. 8. (a) The Commission shall divide the state into water divisions for the purpose of administering adjudicated water rights. Water divisions may be created from time to time, as the necessity therefor arises, and shall be constituted to secure the best protection to the holders of water rights and the most economical supervision on the part of the state.

(b) One watermaster may be appointed by the Commission for each water division. The watermaster shall hold office until a successor is appointed and may be removed at any time by the Commission. The Commission may employ assistant watermasters and other employees necessary to aid the watermaster in the discharge of his duties. In any water division in which the office of watermaster is vacant, the Commission shall have the powers and authority of a watermaster. The watermaster shall perform his duties under the general direction and supervision of the Commission and shall be responsible to the Commission for the proper performance of his duties. Any person dissatisfied with any action of a watermaster may apply to the Commission for relief.

(c) It shall be the duty of the watermaster to divide the water of the streams or other sources of supply of his division in accordance with the adjudicated water rights, and to regulate or cause to be regulated the controlling works of reservoirs and diversion works in time of water shortage, as may be necessary by reason of the rights existing in the streams of his division, or as may be necessary to prevent the waste of water or its diversion or taking or storage or use in excess of the quantities to which the holders of water rights are lawfully entitled. The watermaster shall also have authority to regulate the distribution of water from any system of works that serves users whose rights have been separately determined. Whenever, in the performance of his duties, the watermaster regulates diversion works or the controlling works of reservoirs, it shall be his duty to attach to such diversion works or controlling works a written notice properly dated and signed, setting forth the facts that such diversion works or controlling works have been properly regulated and are wholly under his control, and such notice shall be legal notice to all parties interested in the diversion and distribution of the water served by such diversion works or reservoir.

(d) The compensation and necessary expenses of a watermaster, assistant watermasters and other necessary employees shall be paid by the Commission, and the Commission shall be reimbursed for such compensation and expenses by the holders of water rights that have been determined or adjudicated and whose rights are so administered. The Commission, after the adjudication decree becomes final, shall notify each holder of water rights under the decree of the amount of compensation and expenses that will be required annually for the administration of the water rights so determined. Following a public hearing under the provisions of Section 9, the Commission shall issue an order assessing the annual cost against the holders of water rights to whom the water will be distributed under the final decree. The Commission order shall equitably apportion costs; it may provide for payments in installments and shall specify the dates by which payments shall be made to the Commission. The Commission shall transmit all collections to the State Treasurer. No water shall be diverted, taken or stored by or delivered to any person while delinquent in the payment of his assessed costs. Each order assessing costs shall remain in effect until further order of the Commission and may be modified, revoked or superseded by subsequent order of the Commission. Supplementary orders may be issued from time to time to apply to new diversions.

(e) The owner of any works for the diversion or storage of water shall maintain to the satisfaction of the Commission a substantial headgate at the point of diversion, or a gate on each discharge pipe of a pumping plant, of such construction that it can be locked at the proper place by the watermaster, or a suitable outlet in a dam to allow the free passage of water that the owner of the dam is not entitled to divert or impound, the suitability of such outlet to be determined by the Commission. The owner of any works for the diversion or taking, or storage, or distribution of water, when required by the Commission, shall construct and maintain suitable measuring devices at such points as will enable the watermaster to determine the quantities of water to be diverted or taken, or stored or released, or distributed, in order to satisfy the rights of the respective users thereof. The Commission may order flumes to be installed along the line of any ditch if necessary for the protection of water rights or other property. If the owner of any such works shall refuse or neglect to comply with the directions of the Commission, as provided in this Section, the Commission after ten (10) days notice or such additional time as shall be reasonable under the circumstances, may order the watermaster to make such adjustment of the control works as will prevent the owner of the works from diverting or taking or storing or distributing any of the water to which he would otherwise be entitled until he shall have made full compliance with the order of the Commission.

(f) Any person injured by the exercise of the duties prescribed by this Act may bring suit against the Commission to review the action or to obtain an injunction. If the water right involved has been adjudicated as provided in this Act, an injunction shall be issued only if it is shown that the Commission has failed to carry into effect the decree adjudicating the water right involved.

(g) In any area in which water rights of record in the office of the Commission have not been adjudicated, the holders or claimants of such rights and the Commission may enter into a written agreement for their administration. The agreement shall provide the basis and manner of distribution of the waters to which the agreement relates; the services of a special watermaster, and assistants if necessary, to carry out the agreement; and the allocation, collection and payment of the annual costs of administration; and shall be recorded in the offices of the Commission and of the county clerk of each county in which any of the works or lands affected by the agreement are located. The administration of water rights under any such agreement shall be governed by the provision of this

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Section other than Subsection (d). No such agreement shall impair any vested right to the use of water nor create any additional rights to the use of any water.

Notice and procedure

Sec. 9. Notice of any hearing or other proceeding ordered by the Commission pursuant to this Act shall be given in the manner prescribed in the Rules and Regulations of the Commission unless otherwise specifically provided for in this Act. In any proceeding in any part of the state, the Commission shall have the power to take evidence, including the testimony of witnesses; to administer oaths; to issue subpoenas and compel the attendance of witnesses; which subpoenas shall be served in the same manner as subpoenas issued out of the courts of the state; to compel witnesses to testify and give evidence; to order the taking of depositions and issue commissions therefor in the same manner as depositions in civil actions. The evidence may be taken by a duly appointed reporter before the Commission or its authorized representative who also shall have the power to administer oaths. Witnesses shall receive the same fees and mileage as witnesses in civil actions, to be paid by the party calling such witnesses. Fees and mileage of witnesses called by the Commission shall be paid out of funds made available to the Commission by the Legislature. In case of neglect or refusal on the part of any person to comply with any order or subpoena issued by the Commission, or the refusal of any witness to testify to any matter regarding which he may lawfully be interrogated, he shall be punished in the manner provided by law for such disobedience in civil actions, upon application therefor by the Commission to a district court of the county in which the proceeding is held. The Commission may adjourn the proceedings from time to time and from place to place, and upon the conclusion of the proceeding, it shall render a decision as to the matters concerning which the proceeding was held.

Cancellation of water rights

Sec. 10. Nothing in this Act shall recognize any abandoned or cancelled water right or impair in any way the power of the Commission under general law to forfeit, cancel or find abandoned any water right, including adjudicated water rights.

Groundwater not affected

Sec. 11. This Act shall not apply to underground water as defined in Acts 1925, 39th Legislature, Chapter 25, as amended by Acts 1949, 51st Legislature, Chapter 306 (codified as Article 7880-3c, Section A(3)).

Savings clause

Sec. 12. No action or proceeding commenced prior to the effective date of this Act, and no right accrued save and except those specifically provided for herein, shall be affected by its enactment.

Severability

Sec. 13. If any provision of this Act or the application thereof to any person or circumstances, is held to be unconstitutional, the remainder of the Act, or the application of such provisions to other persons or circumstances, shall not be affected thereby.

Repealer

Sec. 14. All laws or parts of laws in conflict herewith are repealed to the extent of such conflict only.

Acts 1967, 60th Leg., p. 86, ch. 45, eff. Aug. 28, 1967.

Title of Act:

An Act providing for the recordation of certain claims of water rights and imposing limitations on the exercise of such

claims; providing for the adjudication and administration of water rights; and declaring an emergency. Acts 1967, 60th Leg., p. 86, ch. 45.

Art. 7545. Repealed. Acts 1967, 60th Leg., p. 336, ch. 159, § 1. Eff. Aug. 28, 1967

Water Rights Adjudication Act, see art. 7542a.

Art. 7546. Repealed. Acts 1967, 60th Leg., p. 196, ch. 107, § 1. Eff. Aug. 28, 1967

Acts 1967, 60th Leg., p. 196, ch. 107, § 1, which repealed this article, also repealed articles 7552 and 7553.

Arts. 7552, 7553. Repealed. Acts 1967, 60th Leg., p. 196, ch. 107, § 1. Eff. Aug. 28, 1967

Acts 1967, 60th Leg., p. 196, ch. 107, § 1, which repealed these articles, also repealed article 7546.

Art. 7584. Repealed. Acts 1967, 60th Leg., p. 1379, ch. 599, § 1. Eff. Aug. 28, 1967

For provisions authorizing eminent domain for acquisition of waters for domestic, municipal and irrigation purposes, see art. 7472b.

Art. 7590. Application for permit

Before any person, association of persons, corporation, water improvement or irrigation district shall take any water from any natural stream, watercourse, or watershed in this State into any other watershed, such person, association of persons, corporation, water improvement or irrigation district shall make application to the Texas Water Rights Commission for a permit so to take or divert such waters, and no permit shall be issued by the commission until after full hearing before the commission as to the rights to be affected thereby, and the hearing shall be held and notice thereof given at the time and place, in the manner as the commission may prescribe by its "Rules, Regulations, and Modes of Procedure."

Amended by Acts 1967, 60th Leg., p. 195, ch. 106, § 1, eff. Aug. 28, 1967.

4. POLLUTION

Art. 7621d. Repealed. Acts 1967, 60th Leg., p. 758, ch. 313, § 23. Eff. Sept. 1, 1967

Article 7621d, derived from Acts 1961, 57th Leg., 1st C. S., p. 156, ch. 42, §§ 1-16, as amended by Acts 1965, 59th Leg., p. 795, ch. 382, §§ 1-3, provided for state water pollution control. See, now, art. 7621d-1.

Art. 7621d-1. Texas Water Quality Act of 1967

Statement of policy

Section 1. It is declared to be the policy of the State of Texas to maintain the quality of the waters in this state consistent with the public health and public enjoyment thereof, the propagation and protection of fish and wildlife, including birds, mammals and other terrestrial and aquatic life, the operation of existing industries, and the economic development of the state, and to that end to require the use of all reasonable methods to implement this policy.

Name of Act

Sec. 2. This Act shall be known as the "Texas Water Quality Act of 1967."

Definitions of terms

Sec. 3. When used in this Act, the following words and phrases shall have the meanings ascribed to them in this Section, unless the context clearly shows a different meaning:

(a) "Person" means any individual, public or private corporation, political subdivision, governmental agency, municipality, copartnership, association, firm, trust, estate or any other entity whatsoever.

(b) "Waters" or "waters in the state" means ground waters, percolating or otherwise, lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Gulf of Mexico within the territorial limits of the State of Texas, and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, that are wholly or partially within or bordering the state or within its jurisdiction. Nothing in this Act shall be construed as affecting the ownership, or the rights of owners of the land, in underground water.

(c) "Waste" means sewage, industrial waste, municipal waste, recreational waste, agricultural waste and other waste, or any of them, as hereinbelow defined.

(d) "Sewage" means the water-carried human or animal wastes from residences, buildings, industrial establishments, cities, towns, or other places, together with such ground water infiltration and surface waters with which it may be commingled.

(e) "Municipal waste" means any water-borne liquid, gaseous, solid, or other waste substance, or a combination thereof, resulting from any and all discharges within or emanating from within, or subject to the control of, any municipality, city, town, village, or any type of municipal corporation.

(f) "Recreational waste" means any water-borne liquid, gaseous, solid, or other waste substance, or a combination thereof, arising within or emanating from within any public park, beach, or recreational area of any kind, public or private.

(g) "Agricultural waste" means any water-borne liquid, gaseous, solid, or other waste substance arising from any type of agricultural pursuit, public or private, including but not limited to, poisons and insecticides used in such pursuits.

(h) "Industrial waste" means any water-borne liquid, gaseous, solid, or other waste substance, or a combination thereof, resulting from any process of industry, manufacturing, trade, or business.

(i) "Other waste" means garbage, refuse, decayed wood, sawdust, shavings, bark, sand, lime, cinders, ashes, offal, oil, tar, dyestuffs, acids, chemicals, salt water, and all other substances not sewage, industrial waste, municipal waste, recreational waste or agricultural waste, that may cause impairment of the quality of the waters in the state.

(j) "Pollution" means any discharge or deposit of waste into or adjacent to the waters in the state, or any act or omission in connection therewith that by itself, or in conjunction with any other act or omission or acts or omissions, cause or continues to cause or will cause such waters to be unclean, noxious, odorous, impure, contaminated, altered, or otherwise affected to such an extent that they are rendered harmful, detrimental, or injurious to public health, safety, or welfare, or to terrestrial or aquatic life, or the growth and propagation thereof, or the use of such waters for domestic, commercial, industrial, agricultural, recreational, or other lawful reasonable use.

Where water quality criteria have been established by the Board created by this Act, "pollution" means any discharge or deposit of waste into or adjacent to the waters in the state, or any act or omission in connection therewith, that by itself, or in conjunction with any other act or omission or acts or omissions, causes or continues to cause or

will cause such waters to be of a lesser quality than that established by the board as the criteria for those waters; notwithstanding the foregoing, nothing in this Subsection (j) is intended to limit the authority of the Water Quality Board to issue or to require permits for the discharge of waste into or adjacent to the waters in the state, or to establish criteria for any of the waters in the state.

The Board in considering the issuance of any permit to discharge effluent into any body of water having an established recreational standard shall consider any unpleasant odor quality of such effluent, and the possible adverse effect that same might have on the receiving body of water and its recreational uses before granting such permit, and may consider it as one of the elements of the water quality of such effluent proposed to be discharged into such recreational body of water.

(k) "Board" means the Texas Water Quality Board created by this Act.

(l) "Sewer system" or "sewerage system" means pipelines or conduits, canals, pumping stations, and force mains, and all other constructions, devices, and appliances appurtenant thereto, used for conducting sewage, industrial waste, municipal waste, recreational waste, or agricultural waste, or other wastes to a point of ultimate disposal.

(m) "Treatment facilities" means any plant, disposal field, lagoon, pumping station, constructed drainage ditch or surface water intercepting ditch, incinerator, area devoted to sanitary land fills, or other works not specifically mentioned herein, installed for the purpose of treating, neutralizing, stabilizing or disposing of sewage, industrial waste, municipal waste, recreational waste, agricultural waste, or other wastes.

(n) "Disposal system" means a system for disposing of sewage, industrial waste, municipal waste, recreational waste, agricultural waste, or other wastes, and including sewer systems and treatment facilities.

(o) "Local government" means an incorporated city, a county, river authority, or a water district or authority acting under Section 52, Article III, or Section 59, Article XVI, of the Constitution of the State of Texas.

Creation and organization of the Texas Water Quality Board

Sec. 4. (a) There is hereby created and established a Texas Water Quality Board which shall be composed of seven members. The board shall carry out the functions and duties conferred upon it by this Act. Three members of the board shall be appointed by the governor with the advice and consent of the Senate of the State of Texas. It is provided, however, that the members of the Texas Water Pollution Control Board appointed by the governor under the provisions of Section 3(a) of Chapter 42, Acts of the 57th Legislature, 1st Called Session, 1961, as amended (Article 7621d, Vernon's Texas Civil Statutes), who are in office when this Act goes into effect are hereby constituted appointed members of the Texas Water Quality Board and shall serve for the balance of the respective terms for which they were appointed by the governor under said Section 3(a). Thereafter all appointments by the governor to this board to fill a vacancy at the end of a term shall be for a full six-year term. In the event of a vacancy among the members of this board appointed by the governor, then the governor shall appoint a new member to finish out the unexpired term of the position which became vacant. In addition to the three members appointed by the governor, the board shall consist of the Executive Director of the Texas Water Development Board, the State Commissioner of Health, the Executive Director of the Parks and Wildlife Department, and the Chairman of the Texas Railroad Commission, each of whom shall perform the duties required of a member of the board by this Act, which shall be additional duties required of him in his other official capacity.

(b) The members of the board created hereby shall receive no fixed salary for duties performed as a member of the board, but each of the

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three members appointed by the governor shall be allowed, for each and every day he is in attendance at meetings or on authorized business of the board, the sum of \$25, including time spent in traveling to and from the place of meeting or other authorized business of the board, and all members of the board shall be allowed travel and other necessary expenses while in performance of official duty, to be evidenced by vouchers approved by the executive director of the board.

(c) A member of the board who is appointed by the governor shall serve until his successor has been appointed and has taken the oath of office.

Qualifications of members

Sec. 5. The members of the Texas Water Quality Board who are appointed by the governor and confirmed by the Senate shall qualify by taking the constitutional oath of office before any officer authorized to administer an oath within this state, and the official records of the board shall reflect the date of their certificate of appointment issued by the secretary of state, the date upon which and before whom their oath of office was taken, the date upon which their appointive term became effective and the date their term expires.

Personal representatives

Sec. 6. The Executive Director of the Texas Water Development Board, the Executive Director of the Texas Parks and Wildlife Department, the State Commissioner of Health, and the Chairman of the Railroad Commission of Texas may delegate to a personal representative from his office the authority and duty to represent him on the board, but by such delegation a member is not relieved of responsibility for the acts and decisions of his representative. The designated personal representative, while engaged in the discharge of official board duties on behalf of and as authorized by such member, stands in the place and stead of such member for purposes of attending board meetings and performing other business of the board, and for purposes of participating in and voting on matters arising at board meetings and hearings. The designated personal representative may exercise all of the powers, duties and responsibilities of such member, including the taking of testimony in any hearing called by the board under the provisions of this Act, and shall receive reimbursement for traveling and other necessary expenses while engaged in the performance of official board business in the same manner as the one he represents. A personal representative may serve as either chairman or vice chairman of the board under the provisions of this Act.

Selection of officers and meetings of the board

Sec. 7. The board shall elect a chairman and a vice chairman from its members and the terms of such officers of the board shall be for two years commencing on February 1st of each odd-numbered year hereafter. At the first meeting of the board, the chairman and the vice chairman shall be elected to serve until February 1, 1969. The chairman or, in his absence, the vice chairman shall preside at all meetings of the board and perform the other duties prescribed by this Act. The board shall meet at regular intervals at times provided by a majority vote of the board. Special meetings may be called by the chairman, on his own motion, at any time and must be called by him upon the receipt of written request therefor signed by at least two or more members of the board. A majority of the board shall constitute a quorum to transact business.

Rules, regulations and seal

Sec. 8. (a) The board shall adopt, prescribe, promulgate and enforce rules and regulations reasonably required to effectuate the pro-

visions of this Act, including rules governing procedure and practice before the board. In promulgating rules, the board shall comply, as appropriate, with the requirements of Chapter 274, Acts of the 57th Legislature, Regular Session, 1961, as amended (Article 6252—13, Vernon's Texas Civil Statutes).

(b) The Board shall adopt a seal.

Executive director

Sec. 9. (a) The board shall employ an executive director. The executive director shall keep full and accurate minutes of all transactions and proceedings of the board and shall be custodian of all of the files and records of the board. The executive director is the chief administrative officer of the activities of the board.

(b) The executive director shall employ the staff required by the board, including a deputy, which deputy is subject to approval of the board, to assume his duties and functions in his absence. In addition to its own staff the board may request and shall receive by interagency contract the assistance of any state-supported educational institution, experimental station, or other state agency.

Fiscal resources

Sec. 10. (a) The Legislature shall appropriate such funds as are reasonably necessary to carry out the provisions of this Act, and any agency of the state with the responsibilities under the laws of Texas for water pollution or water quality control and for which appropriations may be made in the biennial appropriation act passed by the Legislature for such responsibilities is hereby authorized to transfer to the board created herein such annual amounts as may be mutually agreed on by such agency and by the board, subject only to the concurrence of the governor. It is further provided that said board is authorized to apply for, request, solicit, contract for, receive, and accept money from any federal or state agency, political subdivision or other legal entity as well as private grants and assistance from any source to carry out the duties required by this Act. Such monies as may be transferred under the provisions hereof, and such gifts and grants as may be received by said board, shall be deposited in the state treasury in a special fund, to be used by the board for any of the purposes set forth in this Act including salaries, wages, professional and consulting fees, planning and construction grants and loans, travel expense, equipment, and other necessary expenses, as provided by legislative appropriation.

(b) The board shall make biennial reports in writing to the governor and to the Legislature, which reports shall include a statement of its activities. All information, documents and data collected by the board in the performance of its duties shall be the property of the State of Texas.

(c) Subject to the limitations imposed in Section 21, upon application of any person and upon payment of the fees, if any, prescribed therefor in the rules and regulations of the board, the board shall furnish copies, certified or otherwise, of its proceedings or other official acts of record, or of any map, paper, or document filed with the board. Certified copies under the hand of the chairman or the executive director and the seal of the board shall be admissible in evidence in any court or administrative proceeding in the same manner and with like effect as the original would be.

Authority, powers, and duties of the board

Sec. 11. (a) The board shall administer this Act and shall have authority to establish and control the quality of the waters in the state as herein provided.

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(b) The board, by official board order, shall set water quality criteria for the waters in the state and may change or amend such criteria from time to time and notwithstanding any general or special law heretofore enacted, is given hereby the sole and exclusive authority to set and establish and to amend and change the water quality criteria for all waters in the State of Texas. In arriving at such water quality criteria, or amendments thereto, the board shall:

(1) Hold public hearings at which any person may appear and present evidence, under oath, as is pertinent for consideration by the Board. Notice of such hearings shall be given to the local governments contiguous to, or which contain wholly or partially within their boundaries, or through which flow the waters in question, where in the judgment of the board the local government may be affected. Notice shall also be given to the holders of rights to appropriate water from the waters in question, as shown by the records of the Texas Water Rights Commission, and to the holders of permits from the board to discharge wastes into or adjacent to the waters in question, where in the judgment of the board the holder of a water right or the holder of a waste discharge permit may be affected.

(2) Consult with the Texas Water Development Board and Texas Water Rights Commission to insure that the criteria or amendments proposed to be set by this board are not inconsistent with the general state water plan objectives.

(c) The board shall publish the criteria set by it, together with any amendments thereto, and copies thereof shall be made available to the public on written request.

(d) Any water quality criteria heretofore adopted by the Texas Water Pollution Control Board before the effective date of this Act shall not be affected hereby but same shall remain in full force and effect unless and until amended by further order of the board created in this Act.

(e) The board, after notice to the parties who in the judgment of the board may be affected, and after a public hearing if the board deems a public hearing to be in the public interest, may issue permits for the discharge of waste into or adjacent to the waters in the state.

(f) Each permit shall set forth the conditions upon which it is issued by the board, including, but without limiting such conditions to, the duration of such permit, the maximum quantity of waste which may be discharged thereunder at any time and from time to time, and the quality, purity, and character of waste which may be discharged thereunder. The board shall issue a permit or a notice denying a permit to each applicant within 90 days after receipt of a permit application containing such information as may be reasonably required by the board. The permittee may be required, for good cause, from time to time, after notice to the permittee and after public hearing initiated by the board, to conform to new or additional conditions and terms imposed by the board following such hearing. The board shall allow the permittee a reasonable time to conform to such new or additional terms and conditions; provided, however, that upon application of the permittee, the board, in its discretion, may grant the permittee an additional period of time within which to conform to such new or additional terms and conditions. Such permit or amended permit shall never become a vested right in the permittee, and it may be revoked or suspended for good cause shown, after notice to the permittee and after public hearing initiated by the Board, in the event of the permittee's failure to comply with the terms and conditions of such permit as issued or as amended. Notices to the permittee shall be sent to his last known address, as shown by the records of the board.

(g) (1) The board, by order, may provide limits on the number and kind of septic tanks in any area defined in said order, may provide

no septic tanks may be used or employed in such area, or may provide that no new septic tanks may be installed in the area if it finds that because of the nature of the soil or drainage in the area the order is necessary to prevent pollution that may directly or indirectly injure the public health. The board shall consult with the Commissioner of Health of the State Department of Health prior to the entry of any such order. The board may enter an order under this subsection only after a public hearing held in the area to be affected by the order.

(2) The board may provide in the order for a gradual and systematic reduction of the number or kind of septic tanks in the area and may by the promulgation of rules and regulations provide for a system of licensing and issuing of permits for new installations of septic tanks in the area affected, in which event no person shall install septic tanks in such area without a license or permit from the board. Any person who knowingly violates any such order of the board shall be subject to the civil penalties provided in Section 15 of this Act.

(h) The board is hereby authorized to:

(1) hold hearings, receive pertinent and relevant proof from any party in interest who appears before the board, compel the attendance of witnesses, make findings of fact and determinations with respect to administering the provisions of this Act or of any orders, rules, or regulations of the board;

(2) delegate to one or more of its members, or his personal representative, or to one or more of its employees, the authority to take testimony in any hearing called by the board, or authorized by the Board to be held, with power to administer oaths, but all orders entered shall be made by and in the name of the board after its official action and attested to by the executive director;

(3) make, alter, or modify any orders, rules and regulations, and if any such order requires the discontinuance of the discharge of waste into any waters in the state, the order shall specify the conditions and time within which such discontinuance must be accomplished;

(4) institute, or cause to be instituted, in courts of competent jurisdiction, legal proceedings to compel compliance with the provisions of this Act and the rules, regulations, decisions, determinations, and orders of the board;

(5) conduct such investigations as it may deem advisable and necessary for the discharge of its duties under this Act; and

(6) make contracts and agreements and execute instruments that are necessary or convenient to the exercise of the powers, rights, duties and functions of the Board.

(7) perform such other and further functions as may be necessary to carry out effectively the duties and responsibilities of the board prescribed in this Act.

(i) It shall be the duty of the board to:

(1) encourage voluntary cooperation by the people, municipalities, industries, associations, agriculture, and representatives of other pursuits in preserving the greatest possible utility of the waters in the state;

(2) encourage the formation and organization of cooperative groups, associations, municipalities, or industrial and other users of the waters in the state for the purpose of providing a medium to discuss and formulate plans for the attainment of water quality control;

(3) establish policies and procedures for the purpose of securing close cooperation in the work of the agencies of the state with respect to water quality control functions carried on by such agencies;

(4) cooperate with governments of the United States and other states, and any other agencies or groups of agencies and organizations, official or unofficial, with respect to water quality control matters or for the formulation of interstate water quality control compacts or agreements; where representation of State interests on a basin plan-

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ning agency is required in complying with Section 3(c) (1) of the Federal Water Pollution Control Act (33 USC 466 et seq.), such state representation shall include an officer or employee of the board;

(5) conduct or cause to be conducted studies and research with respect to water quality criteria or control problems, disposal systems, and treatment of sewage, industrial waste, municipal waste, recreational waste, agricultural waste, and other wastes; and

(6) prepare and develop a general comprehensive plan for the control of water quality in the state.

(j) The board and its duly authorized agents or employees shall have the right to enter at all reasonable times in or upon any property, public or private, for the purpose of inspecting and investigating conditions relating to water quality in the state. Agents and employees shall not enter private property having management in residence without notifying the management, or the person in charge at the time, of their presence and exhibiting proper credentials. Such agents or employees shall observe rules and regulations of the establishment being inspected concerning safety, internal security, and fire protection.

(k) The board, and any employee or agent thereof, when authorized by it, may examine any records or memoranda pertaining to the method of operation of a disposal system, treatment facilities, or discharges of wastes at reasonable business hours.

(l) In issuing, amending, modifying, revoking, or suspending any permit to discharge waste into or adjacent to the waters in this state, or in imposing any new or additional conditions upon any permittee hereunder, the board shall not impose upon the applicant for a permit or the permittee any condition which would require a higher standard of operation than that which is consistent with the best practice in the particular field affected under the conditions applicable to such applicant or permittee. This shall not be construed to prohibit the board from taking any means provided by this Act to prevent the discharge of waste which is injurious to public health.

(m) The board, after consultation with the State Department of Health, shall provide in its rules for a system of approved ratings for city-operated waste disposal systems. A city that operates a waste disposal system which attains an approved rating has the privilege of erecting signs of a design approved by the board on highways approaching that city. If the city's waste disposal system fails to continue to achieve an approved rating, the board may revoke the privilege. On due notice from the board, the city shall remove the signs.

(n) In fulfillment of its powers and duties under this Act, the board may: (1) Enter into agreements with the Department of Interior, the Federal Water Pollution Control Administration, or any other federal agencies now in existence or hereafter created which administer programs providing federal cooperation, assistance, loans, grants, or grants-in-aid for purposes of research, development, investigation, training, planning, studies, programming, and construction related to methods, procedures and facilities for the collection, treatment and disposal of wastes or other water quality control activities as may be necessary to qualify for federal funds, assistance or cooperation under the provisions of the Federal Water Pollution Control Act or any other federal act now in effect or hereafter enacted or amended.

(2) Accept funds from the federal government for purposes coming within the scope of the preceding subsection (1) or any other provision of this Act and expend such sums as may be received from the federal government for such purposes in the manner prescribed by law and in accordance with such agreements as may be necessary and appropriate between the federal government and the board.

(3) Administer and expend state funds provided to the board by legislative appropriations, as distinguished from funds received from

the federal government, for purposes coming within the scope of subsection (1), above, or any other provision of this Act in the manner prescribed by law and within the limits of funds appropriated for such purposes, including without limiting the foregoing:

(i) the making of grants to any municipality or interstate agency, as such terms are defined in the Federal Water Pollution Control Act (33 USC 466, et seq.), or to any local government for the construction of necessary treatment works, as defined in said Act, and necessary sewer and sewerage systems, treatment facilities and disposal systems.

(ii) the making of grants or interest free loans to any planning agency acting in furtherance of Section 3(c) (1) of the Federal Water Pollution Control Act (33 USC 466, et seq.), or to any local government to pay administrative and other expenses for a period of not to exceed three years for developing an effective, comprehensive water quality control and abatement plan for a basin, as such term is defined in Section 3(c) (1) of said Act; provided that any loans made under this paragraph shall be repaid to the board at such time as construction of the project for which the planning loan was made is begun.

(o) State grants under Section (n) for construction shall be subject to the following limitations:

(1) no grant of State funds shall be made in any instance unless the grantee agrees to pay not less than 20 per centum of the estimated reasonable cost (as determined by the board) of the project;

(2) no grant shall be made for any project unless the project has been approved by the board and unless the project is included in the state water quality program;

(3) no grant shall be made unless the grantee agrees to pay the remaining cost;

(4) no grant shall be made until the applicant has made provision satisfactory to the board for assuring proper and efficient operation and maintenance of the project after completion of the construction thereof;

(5) no grant shall be made unless the project is in conformity with the state water quality program and unless the board has determined that such project is entitled to priority over other eligible projects on the basis of financial as well as water quality needs.

In determining the desirability of construction projects under Section (n) and of approving state financial aid therefor, consideration shall be given by the board to the public benefits to be derived by the construction and the propriety of the state aid in such construction, the benefits from the protection and conservation of the waters and other natural resources in the state, the relation of the ultimate cost of constructing and maintaining the project to the public interest and to the public necessity for the project, and the adequacy of the provisions made or proposed by the applicant for such state financial aid for assuring proper and efficient operation and maintenance of the project after completion of the construction thereof. Funds paid for construction shall be used exclusively to meet the cost of construction of the project for which the amount was paid. As used in Section (n), "construction" includes preliminary planning to determine the economic and engineering feasibility of the project, the engineering, architectural, legal, fiscal, and economic investigations and studies, surveys, designs, plans, working drawings, specifications, procedures, and other action necessary to the construction of the project; and erection, building, acquisition, alteration, remodeling, improvement, or extension; and the inspection and supervision of construction.

The board shall adopt rules, regulations and procedures to implement and administer the programs authorized in Section (n) which will assure such engineering review and supervision, fiscal-control and fund-accounting procedures as may be necessary to assure proper dis-

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bursement of and accounting for funds paid by the board or for which the board may be responsible. To the extent that the provisions of federal law are deemed applicable by the board, such rules, regulations and procedures shall be compatible therewith. The fiscal-control and fund-accounting procedures shall be supplemental to such other procedures as may be prescribed by state law and procedures.

Court review of board decision

Sec. 12. Any person affected by any ruling, order, decision, or other act of the board, may, within 30 days after the date on which such act is performed, or in case of a ruling, order, or decision, within 30 days after the effective date thereof, file a petition in an action to review, set aside, or suspend such ruling, order, decision, or other act upon the ground or grounds that the same is invalid, arbitrary, or unreasonable, except that any appeal from an order of the board cancelling or suspending a permit granted under the authority of this Act or under the rules and regulations promulgated hereunder shall be by trial de novo and the question at issue subject to determination under the preponderance of evidence rule and not under the substantial evidence rule. Service of citation on the board must be accomplished within 30 days after the filing of the petition, and it shall be sufficient, in any such action, to serve citation on the Executive Director or the Deputy Director without the necessity of serving the individual members of the Board. The venue in any or all such actions is hereby fixed in the District Court of Travis County, or in any District Court of the county where the aggrieved person or persons reside.

Filing of disposal system plans

Sec. 13. For the purpose of aiding the board in effectuating the provisions of this Act, every person constructing or proposing to construct or materially alter the efficiency of any sewer system or sewerage system, treatment facilities, or disposal system, shall file with the board, at least 30 days prior to beginning of construction, the preliminary plans and specifications for the construction or material alteration of the same.

General prohibition against pollution

Sec. 14. It shall hereafter be unlawful for any person to throw, drain, run, or otherwise discharge into the waters in this state, or to cause, permit, or suffer to be thrown, run, drained, allowed to seep, or otherwise enter such waters, any waste, unless pursuant to and in accordance with a then existing permit, that shall cause a condition of pollution as defined in the first paragraph of Subsection (j) of Section 3 of this Act. This section shall also apply to any activity by any person which may cause pollution of the waters in the state which does not involve discharges of waste, provided that if the Parks and Wildlife Department, the General Land Office or the Railroad Commission of Texas has jurisdiction of such activity, then this section shall not apply.

Enforcement

Sec. 15. (a) Any person violating any of the provisions of Section 14 of this Act shall be subject to a civil penalty of not less than \$50 nor more than \$1,000 for each and every day of such violation and for each and every act of such violation. The penalty shall be recovered in the District Courts of Travis County, the district court of the county of residence of the defendant, or in the district court of the county in which the violation is alleged to have occurred. Any person aiding or abetting any other person in the violation of Section 14 of this Act shall be subject to the same penalties as a person who vio-

lates the provisions of Section 14 of this Act. An action for any such violation may be brought in the following manner:

(1) At the direction of the board, the attorney general shall institute and conduct a suit in the name of the State of Texas under this subsection.

(2) Upon formal resolution of its governing body, a local government may institute and conduct a suit under this subsection. However, the board created by this Act is authorized to be and is a necessary and indispensable party to any suit brought by a local government under this subsection.

(3) At the direction of the Texas Parks and Wildlife Department or the employees thereof duly authorized by such Department, the appropriate County or District Attorney shall institute and conduct a suit in the name of the State of Texas under this subsection for any violation which affects aquatic life, birds and animals.

(b) Whenever it appears that any person is violating or threatening to violate any provision of Section 14 of this Act, the board may bring suit against such person in the district court of the county in which the violation or threat of violation occurs, to restrain such person from continuing such violation or from carrying out the threat of violation. In any such suit, the court shall have jurisdiction to grant to the board, without bond or other undertaking, such prohibitory and mandatory injunctions as the facts may warrant, including temporary restraining orders, after notice and hearing, temporary injunctions, or permanent injunctions. It shall be the duty of the attorney general to represent the board when requested to do so. The action shall have precedence over all other causes on the docket of the trial or appellate court of a different nature, and either the board or the defendant or defendants may appeal as in civil cases.

(c) The Texas Water Development Board, the Texas Parks and Wildlife Department, the State Department of Health, and the Railroad Commission of Texas are charged with the following specific duties in addition to any other duties imposed on such agencies elsewhere in this Act:

(1) It shall be the duty of the Texas Water Development Board to investigate all water quality matters concerning the groundwater in the state, and it shall report all findings as to water quality to the board created herein together with its recommendations in regard thereto.

(2) It shall be the duty of the Texas Parks and Wildlife Department and the employees thereof duly authorized by such Department to enforce the provisions of this Act insofar as any violation hereof occurs which affects aquatic life, birds and animals.

(3) The Texas State Department of Health shall, when requested, continue to perform the research, training, planning and other functions presently being conducted by it in matters concerning pollution in cooperation with, or as a state agency contributing its services to, the board. It is the intent of the Legislature that full use be made of the Texas Sanitation and Health Protection Law, Chapter 178, Acts of the 49th Legislature, 1945, as amended (Article 4477—1, Vernon's Texas Civil Statutes), in the abatement of such nuisances as are set forth therein where not inconsistent with this Act.

(4) The Railroad Commission of Texas shall be solely responsible for the control and disposition of waste and the abatement and prevention of pollution of water, both surface and subsurface, resulting from activities associated with the exploration, development, or production of oil or gas. The commission may issue permits for the discharge of waste resulting from such activities, and discharge of waste hereunder into the waters in the state shall meet the water quality criteria established by the Texas Water Quality Board.

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(5) Notwithstanding any provision of this Act, the Railroad Commission of Texas and the Texas Water Development Board shall respectively continue to exercise the authority granted to them in Chapter 82, Acts of the 57th Legislature, Regular Session, 1961, as amended (Article 7621b, Vernon's Texas Civil Statutes); and the Railroad Commission of Texas shall continue to and be solely responsible for the exercise of the authority granted it in Article 6029a, Revised Civil Statutes of Texas, 1925; and the Texas Water Development Board and the Texas Water Well Drillers Board shall continue to exercise the authority granted to them in Chapter 264, Acts of the 59th Legislature, Regular Session, 1965 (Article 7621e, Vernon's Texas Civil Statutes).

Authority of local governments

Sec. 16. (a) All local governments shall be authorized to inspect the public waters in their areas and to determine whether or not (1) the quality of the water meets the state water quality criteria adopted by the board, (2) persons or local governments discharging effluent into the public waters located in the areas of which the local government has jurisdiction have obtained a permit for discharge of such effluent, and (3) persons and local governments who possess a permit to discharge into the public waters are making discharges in compliance with the requirements of the permit. A local government may make written recommendations to the board as to what in the judgment of such local government the water quality criteria should be for any public waters within the designated limits of the local government exclusive of any extraterritorial limits.

(b) A local government shall have the same authority to go in and on public and private property to make inspections as the board has under the same provisions and restrictions as are applicable to the agents and employees of the board. Any results of such inspections shall be transmitted to the board for its consideration.

(c) A local government, upon formal resolution of its lawful governing body, may sue in the appropriate district court to restrain any person from violating or threatening to violate the provisions of Section 14 of this Act, if the violation of such section causes or would cause a condition of pollution in any of the waters in its boundaries.

(d) The appropriate district court mentioned in the preceding Subsection (c) shall be the district court of the county in which the violation or threatened violation occurs.

(e) In any such action brought by a local government the district court shall have jurisdiction to grant to the local government such relief as in the judgment of the court the facts adduced at the trial may warrant, including but not limited to temporary restraining orders, temporary injunctions, and permanent injunctions.

(f) The local government and the defendant in any such action may appeal the order of a district court as in other civil cases.

(g) The board created by this Act is authorized to be and must be a necessary and indispensable party to any suit brought by a local government under this Section.

Cooperative agreement

Sec. 17. A local government may enter into cooperative agreements and contracts with other local governments or the Board:

(a) to perform water quality management, inspection and enforcement and give and provide technical aid and educational services to any entity that is a party to the agreement; and

(b) for the transfer of money or property from any entity which may be a party to the agreement to another such entity for the purpose of water quality management, inspection, enforcement, technical aid and education as well as construction, ownership, purchase, maintenance and operation of disposal systems.

Exceptions

Sec. 18. Any pollution which is caused by an act of God, war, strike, riot, or other catastrophe shall not be held to be a violation of this Act.

Notices

Sec. 19. (a) Form of notice. Notice of any hearing or of any other proceeding for which notice is required by this Act shall describe briefly and in summary form the purpose of the proceeding and the time, place, and date thereof.

(b) Publication of Hearing Notice. Notice of a hearing shall be published at least twice in a newspaper regularly published or circulated in the county or counties containing such persons as the board has reason to believe may be affected by action of the board taken by it as a result of the hearing, the first date of publication to be not less than 20 days before the date fixed for such hearing.

(c) Individual Service of Notice. Where notice of any proceeding is required by this Act to be given to a person, the notice shall be served personally or mailed to the person not less than 20 days before the date fixed for such proceeding, at his last known address. If the entity to whom notice is to be given is not an individual, the notice may be given to any officer, agent or legal representative thereof.

Private rights to abate pollution unaffected

Sec. 20. This Act shall not in any way affect the right of any private corporation or individual to pursue all common-law remedies available to abate a condition of pollution or other nuisances or recover damages therefor, or both.

Protection of confidential information

Sec. 21. Nothing herein contained shall require any person to disclose any classified data of the federal government or any confidential information relating to secret processes or economics of operation.

Validation of permits, orders, rules and regulations

Sec. 22. All permits, orders, rules, regulations, water quality criteria and other actions taken, performed and established by the Texas Water Pollution Control Board under the authority of Chapter 42, Acts of the 57th Legislature, First Called Session, 1961, as amended, (Article 7621d, Vernon's Texas Civil Statutes) are hereby validated. All such actions shall be administered by and shall be under the jurisdiction of the board created by this Act, the same as if originally performed by this board, and they shall remain in full force and effect unless and until changed and amended by order of this board. All statutes, rules and regulations wherein reference is made to the Texas Water Pollution Control Board or the State Water Pollution Control Board shall hereafter be construed to mean the Texas Water Quality Board. Any permit or order of the Texas Water Pollution Control Board in litigation on the effective date of this Act shall not be affected by this Section, and the rights of the complaining party are expressly reserved.

Repealer

Sec. 23. Chapter 42, Acts of the 57th Legislature, 1st Called Session, 1961, as amended (Article 7621d, Vernon's Texas Civil Statutes), is repealed. To the extent that a general, local, or special law may be construed to give local governments as defined in this Act the authority to set and enforce water quality criteria other than those adopted by the Texas Water Quality Board, that law is repealed.

Sovereignty clause

Sec. 24. If any Section, sentence, clause or phrase of this Act is for any reason held to be unconstitutional, such invalid portion shall not affect the validity of the remaining portions of this Act. The Legislature hereby declares that it would have passed the valid portions of this Act irrespective of the fact that any one or more portions be declared unconstitutional.

Effective date

Sec. 25. The provisions of this Act shall become effective as of September 1, 1967, and it is so enacted.

Acts 1967, 60th Leg., p. 745, ch. 313. Eff. Sept. 1, 1967.

Title of Act:

An Act to establish the Texas Water Quality Board, prescribe its powers, duties, functions, and procedures and to provide for the establishment and control of the quality of the waters in the state and the control, prevention, and abatement of pollution; validating previous actions of the Texas Water Pollution Control Board; pro-

viding penalties; repealing Chapter 42, Acts of the 57th Legislature, 1st Called Session, 1961, as amended (Article 7621d, Vernon's Texas Civil Statutes), and repealing certain other laws to the extent of conflict; providing for severability; and declaring an emergency. Acts 1967, 60th Leg., p. 745, ch. 313.

Art. 7621g. Regional Waste Disposal Act**Purpose and title of act**

Section 1. This Act is for the purpose of authorizing a cooperative effort by public agencies for the safe and economical collection, transportation, treatment and disposal of wastes in order to prevent and control the pollution of the waters in this state. This Act may be cited as the "Regional Waste Disposal Act."

Definitions

Sec. 2. Words and phrases, as used in this Act, shall have the following meanings:

(a) "Person" means any individual, any public agency, public or private corporation, political subdivision, governmental agency, municipality, copartnership, association, firm, trust, estate or any other entity whatsoever.

(b) "District" means any water district or authority or river authority created under Article XVI, Section 59, or Article III, Section 52, of the Constitution of Texas.

(c) "Public agency" means a district, an incorporated city or town, or any other political subdivision or agency of the state which has the power to acquire and operate waste collection, transportation, treatment or disposal facilities or systems.

(d) "Waste" means sewage, industrial waste, municipal waste, recreational waste and agricultural waste, and any other waste that may cause impairment of the quality of the waters in the state.

(e) "Sewer system" or "sewerage system" means pipelines or conduits, canals, pumping stations, and force mains, and all other constructions, devices, and appliances appurtenant thereto, used for conducting waste to a point of ultimate disposal.

(f) "Treatment facilities" means any plant, disposal field, lagoon, pumping station, constructed drainage ditch or surface water intercepting ditch, incinerator, area devoted to sanitary land fills, or other works not specifically mentioned herein, installed for the purpose of treating, neutralizing, stabilizing or disposing of waste.

(g) "Disposal system" means a system for disposing of waste, and including sewer systems and treatment facilities.

Authority of district

Sec. 3. A district is authorized to purchase, construct, improve, repair, operate and maintain one or more disposal systems, and it may make contracts with any person, as defined herein, under which the district will collect, transport, treat and dispose of wastes for such person. A district may also purchase or make contracts with any person for the use of any waste collection, transportation, treatment or disposal facilities or systems owned by such person.

Eminent domain

Sec. 4. The district shall have the power and right of eminent domain for the purpose of acquiring any and all property of any kind, real, personal or mixed, or any interest therein, within or without the boundaries of such district, necessary for the purposes authorized by this Act. Such power of eminent domain shall be exercised in the manner provided in the laws applicable or available to the district.

Public agencies; contracts; terms and provisions

Sec. 5. Public agencies are hereby authorized to make contracts with a district under which the district will make a disposal system available to such public agencies and furnish waste collection, transportation, treatment and disposal services by the district's disposal system. The contract may be upon such terms and for such period of time as the parties may agree, and may provide that it will remain in effect until any bonds issued or to be issued by the district and any bonds which may be issued to refund the same are paid. The contract may contain provisions to assure equitable treatment of parties who contract with the district for waste collection, transportation, treatment and disposal services from the same disposal system, provisions requiring the public agency to regulate the quality or strength of the waste to be handled by the disposal system, and such other provisions and requirements as the district and the governing body of the public agency may find reasonably necessary. The contract shall specify the method of determining the amounts to be paid by the public agency to the district. The contract may also provide for sale to or use of by the district of any disposal system, or any part thereof, at the time owned by the public agency. The public agency shall have the right to the continued performance of such services after the amortization of the district's investment in the disposal system during the useful life thereof, upon payments of reasonable charges therefor reduced to take into consideration such amortization.

Payments by public agencies

Sec. 6. Payments by a public agency to the district for waste collection, transportation, treatment and disposal services may be made from the income of the public agency's waterworks system or its sanitary sewer system or of both systems or of its combined water and sanitary sewer system, as may be prescribed in the contract between the district and the public agency. Such payments shall constitute an operating expense of the system or systems whose revenues are thus to be applied. Payments to be made under the contract by the public agency from the income of the water system shall be subordinate to amounts required to be paid from the net revenues of its water system for principal of and interest on bonds of the public agency which are outstanding at the time of the making of the contract and which are payable solely from such water system net revenues unless the ordinance or resolution authorizing such outstanding bonds of the public agency expressly reserves the right to accord such contract payments a priority over such public agency's bond requirements. Unless the alternative procedure prescribed in Section 7 is followed,

For Annotations and Historical Notes, see V.A.T.S.

neither the district nor the holder of any bonds of the district shall have the right to demand payment of the public agency's obligation out of any funds raised or to be raised by taxation.

Elections by public agencies; authority to levy ad valorem tax; contracts as obligations against taxing power; qualified electors

Sec. 7. (a) If an election is held by a public agency having taxing powers and carried, substantially according to applicable procedure prescribed in Chapter 1, Title 22, Revised Civil Statutes of Texas, as amended, in reference to the issuance of bonds by cities, determining that the governing body of the public agency is authorized to levy an ad valorem tax to pay all or a portion of the payments to be made by the public agency under a contract between the public agency and a district, to be authorized by the governing body of the public agency, the contract, in such event, will constitute an obligation against the taxing power of the public agency to the extent therein provided. No election is required for the exercise of any power conferred by this Act except for the levy of such tax.

(b) Only qualified electors of the public agency who own taxable property therein and who have duly rendered the same for taxation shall be entitled to vote at such election. Except as otherwise provided in this Section and in said Chapter 1, Title 22, the general election code shall govern such election.

Service charges; adjustment of rates

Sec. 8. Whenever the public agency shall have executed a contract with a district under this Act and the payments thereunder are to be made either wholly or partly from the revenues of the public agency's waterworks system or sanitary sewer system or from both systems or a combination of both systems, the duty is hereby imposed on the public agency to establish and maintain and from time to time to adjust the rates charged by the public agency for the services of such system or systems, to the end that the revenues therefrom together with any taxes levied in support thereof will be sufficient at all times to pay: the expense of operating and maintaining such system; and all of the public agency's obligations to the district under the contract; and all of the public agency's obligations under and in connection with revenue bonds theretofore issued, or which may be issued thereafter secured by revenues of such system or systems. The contract may require the use of consulting engineers and financial experts to advise the public agency whether and when such rates are to be adjusted.

Concurrent services; allocation of costs

Sec. 9. Any contract or group of contracts under this Act may provide for services to be rendered concurrently by the district to more than one public agency through the construction and operation of a disposal system and provide that the cost for such services shall be allocated among the several public agencies as determined in the contract or group of contracts.

Bonds; form and denomination

Sec. 10. For the purpose of acquiring, constructing, improving, enlarging and repairing a disposal system or disposal systems, the district is authorized to issue bonds payable from and secured by a pledge of revenues under any contract or contracts it enters into under this Act and from any other income pledged by the district. Said bonds shall constitute negotiable instruments. The bonds shall be in such form and denomination and shall bear such rate or rates of interest as are prescribed by the governing body of the district. A district is likewise authorized to refund any bonds issued under this Act upon such terms and conditions and bearing such rate or rates of interest as the governing body may prescribe.

Rates and charges

Sec. 11. While any such bonds are outstanding, it shall be the duty of the governing body of the district to fix, maintain and collect rates and charges, for services furnished or made available by the disposal system, adequate to pay maintenance and operation costs of and expenses allocable to the disposal system, payment of principal of and interest on such bonds, and to provide and maintain the funds created by the resolution authorizing the bonds. Interest to accrue on the bonds and administrative expenses to estimated date when the disposal system will become revenue producing and reserve funds created by the resolution authorizing the bonds may be set aside out of bond proceeds.

Approval of bonds; interest rate and sale price of bonds

Sec. 12. After any bonds are authorized to be issued by a district pursuant to the power provided in this Act, such bonds and the record relating to their issuance may be submitted to the Attorney General for his examination as to the validity thereof. Where such bonds recite that they are secured by pledge of the proceeds of a contract or contracts between the district and a public agency, a copy of such contract and the proceedings of the public agency authorizing same may also be submitted to the Attorney General. If the Attorney General finds that such bonds have been authorized and the contracts have been made in accordance with the Constitution and laws of the State of Texas, he shall approve the bonds and such contracts, and the bonds shall be registered by the Comptroller of Public Accounts. Thereafter the bonds and contracts, if any, shall be valid and binding and shall be incontestable for any cause. In lieu of, or in addition to, such approval by the Attorney General, the board of directors of the district may have any such bonds validated by suit in the District Court in the manner and with the effect provided in Chapter 316, Acts of the 56th Legislature. The interest rate and sale price of the bonds need not be fixed until after the termination of the validation proceedings or suit. If the proposed bonds recite that they are secured by the proceeds of a contract or contracts made by the district and one or more public agencies, the petition shall so allege and the notice of the suit shall mention such allegation and each public agency's fund or revenues from which such contract or contracts are payable. Such suit shall be in the nature of a proceeding in rem. The judgment shall be res adjudicata as to the validity of such bonds and any such contract or contracts and the pledge of revenues thereof.

Investment of bond proceeds

Sec. 13. Proceeds from the sale of bonds may be invested, pending their use, in such securities or time deposits as are specified in the resolution authorizing the issuance of the bonds or the trust indenture securing them, and the earnings on such investments applied as provided in such resolution, or trust indenture.

Legal and authorized investments

Sec. 14. All bonds issued under this Act shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, trustees, and for the sinking fund of cities, towns, villages, school districts, or any other political corporation or subdivision of the State of Texas. Such bonds shall be eligible to secure the deposits of any and all public funds of the State of Texas, and of any political subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their value when accompanied by all unmatured coupons appurtenant thereto.

Relocation, raising, re-routing or changing grades of highways, railroads or transmission lines; sole-expenses defined

Sec. 15. In the event that any district, in the exercise of the powers granted hereunder, whether it be the power of eminent domain, the power of relocation, or any other power, makes necessary the relocation, raising, re-routing, or changing the grade of or altering the construction of any highway, railroad, electric transmission line, telephone or telegraph properties and facilities, or pipeline, all such necessary relocation, raising, re-routing, changing of grade or alteration of construction shall be accomplished at the sole expense of such district. The term "sole expense" shall mean the actual cost of such relocation, raising, re-routing or change in grade or alteration of construction and providing comparable replacement without enhancement of such facilities after deducting therefrom the net salvage value derived from such facilities.

Cumulative effect of law

Sec. 16. This Act is cumulative of other statutes now or hereafter enacted governing the Texas Water Pollution Control Board or its successors, the Texas State Department of Health, and the Texas Water Rights Commission relating to the issuance of bonds; the collection, transportation, treatment or disposal of wastes; and the design, construction, acquisition or approval of facilities for such purposes.

Powers not in derogation to existing powers; repealer

Sec. 17. The powers granted under this Act shall be in addition to and not in derogation of any and all existing powers of any district or any public agency. Chapter 263, Acts of the 59th Legislature (codified as Article 8197g, Vernon's Texas Civil Statutes), is hereby repealed; otherwise this Act shall not be deemed to repeal, expressly or by implication, any power or right granted to any district or to any public agency, and any district or public agency having powers under existing law similar to or in the nature of those granted hereunder may continue to operate and act in the exercise of such powers or may operate and act under the powers granted herein, or both.

Acts 1967, 60th Leg., p. 182, ch. 97, emerg. eff. April 28, 1967.

Section 18 of Acts 1967, 60th Leg., p. 186, ch. 97 was a severability provision.

Title of Act:

An Act to be cited as the Regional Waste Disposal Act; defining terms; authorizing water districts and authorities and river authorities to provide for the collection, transportation, treatment and disposal of wastes, and to condemn property and issue bonds for such purposes; authorizing certain public agencies to contract with such

districts and authorities to obtain waste collection, transportation, treatment and disposal services and to levy taxes if voted and to obtain and use other revenue to pay for such services, and to sell or permit the use of existing facilities of public agencies; providing for repeal of Chapter 263, Acts of the 59th Legislature, but preserving all other laws; providing severability; and declaring an emergency. Acts 1967, 60th Leg., p. 182, ch. 97.

CHAPTER THREE A—WATER CONTROL AND IMPROVEMENT DISTRICTS

Art.

7880—37a. Selection of Directors in Districts with Boundaries Coterminous with County Boundaries [New].

Art. 7880—37a. Selection of Directors in Districts with Boundaries Coterminous with County Boundaries

(a) In a water control and improvement district which is created after the effective date of the Act adding this Section, the boundaries of

which are coterminous and with the boundaries of a county, the commissioners court of the county may provide in the order granting the petition for creation that the directors are to be selected either

(1) as provided in Section 37 of this Act; or

(2) by the election of two directors from each commissioners precinct in the county and the election of one director from the county at large.

(b) The method of selecting directors under Subsection (a) (2) of this Section is known as the "commissioners precinct method."

(c) If the commissioners court provides for the commissioners precinct method, the directors appointed by the commissioners court under Subsection (g) of this Section shall order an election in the district on the second Tuesday in January next after the district is formed. The two persons receiving the highest number of votes in each precinct are the directors from that precinct. The person receiving the highest number of votes from the county at large is the director-at-large.

(d) Of the two persons elected from each commissioners precinct, the person who receives the highest number of votes in each precinct shall serve for two years and then until a successor is elected and has qualified and the person receiving the least number of votes in each precinct shall serve for one year and then until a successor is elected and has qualified. The person who is elected from the county at large shall serve for two years and then until a successor is elected and has qualified. At each annual election after the first annual election, a person who is elected director shall serve for two years and then until a successor is elected and has qualified.

(e) To be qualified to be elected a director from a commissioners precinct under the commissioners precinct method a person must

(1) be 21 years of age;

(2) be a citizen of the State of Texas; and

(3) own land subject to taxation in the commissioners precinct from which he is elected.

(f) To be qualified to be elected from the county at large under the commissioners precinct method, a person must possess the qualifications set forth in Section 36 of this Act.

(g) If the commissioners court provides for the commissioners precinct method, it may appoint two qualified directors from each commissioners precinct and one director from the county at large who shall serve until their successors are elected and have qualified. Except for the provisions of this Subsection, Section 20 of this Act applies to the appointment of the initial directors.

(h) Whenever any vacancy occurs in the office of a director elected by the commissioners precinct method, between regular elections, such vacancy shall be filled for the unexpired term at a special election in such director's precinct to be called by a majority of the remaining members of the board of directors of such district within eight days after such vacancy occurs and held within not more than 40 days after such vacancy occurs.

(i) All laws with reference to the election and qualification of directors of water control and improvement districts shall govern and control the election and qualification of directors selected by the commissioners precinct method, except as herein otherwise provided, whether such precinct elections be regular or special.

Added by Acts 1967, 60th Leg., p. 2007, ch. 741, § 1, emerg. eff. June 18, 1967.

Art. 7880—139. Investigation by State Board of Water Engineers

The Texas Water Rights Commission shall be and is constituted a commission to investigate and report upon the organization and feasi-

For Annotations and Historical Notes, see V.A.T.S.

bility of all districts which shall issue bonds under the provisions hereof. All such districts desiring to issue bonds for any purpose shall submit in writing to the commission an application for investigation, together with a copy of the engineer's report and a copy of data, profiles, maps, plans, and specifications prepared in connection therewith. The commission or its designated agents shall examine same and shall visit the project and carefully inspect the same and may ask for and shall be supplied with additional data and information requisite to a reasonable and careful investigation of the project and proposed improvements. They shall file in their office in writing their suggestions for changes and improvement and furnish a copy thereof to the board of directors of such district. If the commission shall finally approve or refuse to approve such project, or the issuance of bonds for such improvements, they shall make a full written report thereon, file same in their office and furnish a copy of same to the board of directors of said district. During the course of construction of such project and improvements, no substantial alterations shall be made in the plans and specifications without the approval of the commission. The commission or its designated agent shall have full authority to inspect the works of improvement at any time during construction to determine if the project is being constructed in accordance with the plans and specifications approved by the commission. In the event the commission finds that the project is not being constructed in accordance with the approved plans and specifications, then the commission immediately shall notify in writing by certified mail each member of the board of directors of such water district and its manager, if there be one. If, within 10 days after the notice is mailed, the directors of the district do not take steps to insure that the project is being constructed in accordance with the approved plans and specifications, the commission shall give written notice of that fact to the attorney general. When the attorney general receives this notice, he may bring an action for injunctive relief, or he may bring quo warranto proceedings against the directors. Venue for either of these actions is exclusively in the District Court of Travis County. "Designated agent," as used in this section shall mean any licensed engineer selected by the commission to perform the functions as specified herein.

Amended by Acts 1961, 57th Leg., p. 711, ch. 336, § 3, eff. Aug. 28, 1961; Acts 1967, 60th Leg., p. 1380, ch. 600, § 1, eff. Aug. 28, 1967.

Art. 8028. Repealed. Acts 1967, 60th Leg., p. 1291, ch. 573, § 4. Emerg. eff. June 17, 1967

See, now, article 8280—9, § 21(m). 2 and 3 of the act are savings and severability clauses and are set out as notes under article 8280—9.
Acts 1967, 60th Leg., p. 1290, ch. 573, § 1 amended article 8280—9, § 21; sections

III. DRAINAGE

CHAPTER SEVEN—DRAINAGE DISTRICTS

1. ESTABLISHMENT

Art. 8119a. Election by place of commissioners in certain drainage districts [New].

1. ESTABLISHMENT

Art. 8119a. Election by place of commissioners in certain drainage districts

(a) In counties having a population of more than 75,000 and less than 90,000 inhabitants according to the last preceding Federal Census

and having one or more drainage districts therein and having an assessed valuation for county tax purposes of \$295,000,000 or more and whether such drainage district has been converted into a conservation and reclamation district or not, under the provisions of Section 59, Article 16 of the Texas Constitution, each candidate for election to the office of drainage commissioner shall designate the place for which he desires to become a candidate as place number 1, 2, or 3 on the official ballot.

(b) Incumbent commissioners elected under this Article may only file for reelection to the place which they occupy.

(c) A candidate for the office of drainage commissioner in a drainage district referred to in Subdivision (a) of this Article may file for place 1, 2, or 3 regardless of where he resides in the District.

(d) Elections of drainage commissioners in drainage districts referred to in Subdivision (a) of this Article shall be held in accordance with the provisions of the Texas Election Code of 1951, as amended.

(e) Article 8119 applies to the election of drainage commissioners under this Article except to the extent that it conflicts with this Article.

Added by Acts 1967, 60th Leg., p. 1338, ch. 584, § 1, eff. Aug. 28, 1967.

Section 2 of the act of 1967 provided: "Sec. 2. If any word, phrase, clause, sentence, paragraph, Section, or other part of this Act or the application thereof to any person or circumstance, shall ever be held by a court of competent jurisdiction to be invalid or unconstitutional, the remainder of this Act and the application of such word, phrase, clause, sentence, paragraph, Section or other part of this Act to other persons or circumstances shall not be affected thereby."

Art. 8176b—1. Annexation of territory to certain drainage districts

Section 1. Any drainage district in this State heretofore or hereafter organized under the provisions of Section 52, Article III, Constitution of Texas, which district shall not have theretofore been converted into a conservation and reclamation district under Section 59, Article XVI, Constitution of Texas, and which district lies wholly within one county and has no outstanding bonds, may have defined areas of territory contiguous to the district and lying wholly within the same county but outside of any other drainage district and outside of any incorporated city, town or village added to said district in the following manner:

(1) A petition praying for the annexation of such territory shall first be presented to the Commissioners Court of said County, which petition shall describe the territory proposed to be annexed by metes and bounds, and which petition shall be signed by twenty-five (25) or a majority, whichever is the lesser, of the freehold resident taxpayers in the territory proposed to be annexed and by twenty-five (25) or a majority, whichever is the lesser, of the freehold resident taxpayers in the drainage district as it then exists. If no one resides in the territory proposed to be annexed, however, then a petition signed by twenty-five (25) or a majority, whichever is the lesser, of the freehold resident taxpayers in the drainage district as it then exists and by twenty-five (25) or a majority, whichever is the lesser, of the freehold taxpayers of the territory proposed to be annexed, complies with the requirements of this subsection.

Sec. 1, subsec. 1 amended by Acts 1967, 60th Leg., p. 1532, ch. 622, § 1, eff. Aug. 28, 1967.

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IV. CONSERVATION AND RECLAMATION

CHAPTER EIGHT—CREATION OF DISTRICTS

Art. 8197g. Repealed. Acts 1967, 60th Leg., p. 186, ch. 97, § 17. Eff. April 28, 1967

Article 8197g, derived from Acts 1965, 59th Leg., p. 507, ch. 263, related to facilities for disposal of sewage and industrial waste. See, now, art. 7621g.

V. NAVIGATION

CHAPTER NINE—NAVIGATION DISTRICTS

3. GENERAL PROVISIONS

Art. 8263e. Creating self-liquidating and supporting districts; bond issues; authorizing loans from Reconstruction Finance Corporation

* * * * *

Powers of districts

Sec. 41. Such Districts shall have the right, power and authority to acquire, purchase, own, construct, enlarge, extend, repair, maintain, operate, develop and regulate lands, waterways and all improvements thereon and thereto, facilities or aids incident to or necessary in the proper operation and development of ports or waterways within such Districts, including but not limited to wharves, docks, warehouses, commercial and industrial buildings, grain elevators, bunkering facilities, belt railroads, floating plants and facilities, lightering facilities, towing facilities and everything appurtenant thereto; with the right, power and authority to hire, rent, convey, lease and otherwise make the same available to any individual or corporation for purposes consistent with such proper operation and development of such ports or waterways, charging therefor reasonable tolls, fees or other charges, using such proceeds both for the maintenance and operation of the business of such Districts and for the purpose of making themselves self-supporting and financially solvent and returning the acquisition and construction cost of their improvements within a reasonable period; and to borrow money from any department or agency of the United States, or from any other source, necessary in the exercise of the powers herein granted and in evidence thereof to issue their bonds, notes, warrants, certificates of indebtedness or other form of obligation of such Districts, payable solely out of the revenues to be derived from said improvements and facilities, and to pledge such revenues to the payment of the interest on and principal of such bonds, notes, warrants, certificates of indebtedness or other obligations, in the manner prescribed by Acts 1933, Forty-third Legislature, First Called Session, Chapter 111, as amended (Article 8247a, Vernon's Texas Civil Statutes).

Sec. 41 amended by Acts 1967, 60th Leg., p. 1573, ch. 630, § 1, emerg. eff. June 16, 1967.

* * * * *

Acts 1967, 60th Leg., p. 1573, ch. 630, § 1 amended section 41 of this article; sections 2 and 3 thereof provided:

"Sec. 2. This Act shall be construed as cumulative authority for the accomplishment of the purposes herein mentioned and

is not to be construed to repeal any existing laws on the same subject matter.

"Sec. 3. Proof of publication of the constitutional notice required in the enactment hereof under the provisions of Paragraph (d) of Section 59 of Article XVI of the

Texas Constitution has been made in the manner provided therein and a copy of said notice and the bill as originally introduced have been delivered to the Governor of the State of Texas as required in such constitu-

tional provision and such notice and delivery are hereby found and declared to be proper and sufficient to satisfy such requirements."

CHAPTER TEN—PILOTS

Art. 8274. [6309], [3800] Pilotage

The rate of pilotage which may be fixed under Articles 8267 and 8269 on any class of vessel shall not, in any port of this state (except as hereinafter provided) exceed \$6.50 for each foot of water which the vessel at the time of piloting draws, and such rate shall not, in the ports and/or terminals located above the junction of the Neches River with the Sabine-Neches Canal, exceed \$7.50 for each foot of water which the vessel at the time of piloting draws; and whenever a vessel, except of the classes below excepted, shall decline the services of a pilot offered outside the bar, and shall enter the port without the aid of one, she shall be liable to the first pilot whose services she so declined for the payment of half pilotage; and any vessel which, after being brought in by the pilot, shall go out without employing one, shall be liable to the payment of half pilotage to the pilot who brought her in, or if she has come in without the aid of a pilot, though offered outside, she shall on so going out be liable for the payment of half pilotage to the pilot who had first offered his services before she came in; but if she has come in without the aid of a pilot, or the offer of one outside, she shall not, in case of going out without a pilot, be liable to half pilotage. At any port where vessels shall receive or discharge their cargoes at an anchorage outside of the bar, such vessel shall be liable to pilotage at the above rate to such anchorage, but shall not be liable for or compelled to pay pilotage from such anchorage to the open sea; and if any vessel bound from open sea to such anchorage, while under way, shall decline the services of a pilot, and shall afterward receive or discharge any portion of her cargo at such anchorage on the lighters or otherwise, she shall be liable for the payment of half pilotage, at the above rate, to such anchorage to the first pilot whose services shall have been tendered to and declined by her, but not liable for any pilotage from such anchorage to the open sea; and when a pilot takes charge of a vessel 20 miles outside of the bar, and brings her to it, he shall be entitled to one-fourth pilotage for such offshore service, in addition to what he is entitled to recover for bringing her in; but if such offshore service be declined, no portion of said compensation shall be recovered.

Amended by Acts 1955, 54th Leg., p. 648, ch. 224, § 1; Acts 1959, 56th Leg., p. 33, ch. 21, § 1; Acts 1961, 57 Leg., 1st C.S., p. 36, ch. 14, § 1; Acts 1963, 58th Leg., p. 1173, ch. 459, § 1, eff. Aug. 23, 1963; Acts 1967, 60th Leg., p. 4, ch. 4, § 1, emerg. eff. Feb. 22, 1967.

VI. GENERAL PROVISIONS

CHAPTER ELEVEN—IN GENERAL

Art.

8280—12. Weather Modification Act [New].

Art. 8280—7. Water-related districts; filing copies of acts or orders creating or altering boundaries; lists of officers and directors; audits; filing systems; penalties

Section 1. Every river authority, water conservation and reclamation district, water control and improvement district, water improve-

For Annotations and Historical Notes, see V.A.T.S.

ment district, water control and preservation district, fresh water supply district, levee improvement district, drainage district, navigation district, irrigation district, and any type of water district, created pursuant to Section 59 of Article XVI or Section 52 of Article III of the Constitution of the State of Texas, shall file within 60 days after its creation with the Texas Water Rights Commission a certified copy of the Act, with amendments, creating the district or authority, or if authorized to be created by the Texas Water Rights Commission or any county commissioners court, a certified copy of the order creating or authorizing the creation of the district. If the boundaries of any district have been altered or are altered by inclusions or exclusions of land, the district shall file within 60 days after the alteration with the Texas Water Rights Commission a certified copy of the order of the district's governing body altering the boundaries.

Sec. 2. Every such district or authority shall file within 60 days in the office of the Texas Water Rights Commission a list of the names and addresses of the officers and members of the board of directors or other governing body of the district, which list shall set forth the date that the term of office of each director or member of the governing body shall expire. Thereafter, the district shall notify the commission immediately of any changes in membership due to resignation or death, giving the name of the newly elected or appointed member. After any election or selection of a director or member, the district shall notify the commission within 30 days of the election of the name of the director or member chosen, together with the date that each term of office shall expire.

Sec. 3. Every such district or authority shall file a copy of any audit made of its affairs with the county clerk of the county in which the district's headquarters are located and with the Texas Water Rights Commission within 15 days after the audit is completed.

Sec. 4. The Texas Water Rights Commission shall adopt a system for the filing of the information required by the provisions of this Act, which file shall be open for inspection by the public during the office hours of the commission.

Sec. 5. Failure on the part of any district to comply fully with the provisions of this Act shall subject the district to a civil penalty of not more than \$50 and a further civil penalty of not more than \$2 per day for each day of failure to comply with the provisions and the state may recover the penalty by suit therefor, provided, however, the maximum penalty shall not exceed \$300.

Acts 1955, 54th Leg., p. 236, c. 62, eff. Sept. 6, 1955; amended by Acts 1967, 60th Leg., p. 1378, ch. 598, § 1, eff. Aug. 28, 1967.

Art. 8280—9. Texas Water Development Board

* * * * *

Purchase of bonds of political subdivision by board; bond requirements; sale

Sec. 15. After the Board has examined an application of a political subdivision for financial assistance from the Fund and determined by resolution that same should be approved, the Board may give financial assistance to the political subdivision by the purchase with moneys out of the Texas Water Development Fund of bonds or other securities issued by the political subdivision for the purpose of providing funds to finance a project. The Board is hereby empowered to purchase such political subdivision bonds or other securities even though such bonds or other securities be secondary, or subordinate to other bonds or other securities issued by the political subdivision to finance the same project for which assistance from the Fund is sought; the Board may use proceeds of the Texas Water Development Fund to purchase outstanding prior lien

bonds previously issued by the political subdivision whenever such purchase of outstanding prior lien bonds will avoid or reduce the necessity for issuing junior lien bonds for subsequent sale to the Board, provided, however, that the security for both prior lien and junior lien bonds shall be pledged from substantially the same sources of revenue. The Board shall never purchase bonds or other securities which have a maturity date in excess of forty (40) years from date of issuance. The Board shall never purchase bonds or other securities of a political subdivision in excess of Fifteen Million Dollars (\$15,000,000). Such bonds and other securities purchased from moneys in the Fund by the Board shall bear the weighted average effective interest rate on all state bonds theretofore sold under the provisions of this Act plus one-half ($\frac{1}{2}$) of one percent (1%). The bonds shall bear coupons evidencing interest at such a rate or combination of rates as shall approximate the effective rate as nearly as the Board shall deem practicable, and the effective rate shall be arrived at by the payment of premiums or the deduction of discounts as necessary. Before purchasing any bonds or other securities of a political subdivision, the Board shall be assured that such bonds or other securities have been approved by the Attorney General and registered by the Comptroller of Public Accounts and after such approval and registration and sale at not less than par and accrued interest, said bonds shall be valid, binding and incontestable. The Board is fully empowered and authorized to sell or dispose of political subdivision bonds purchased with moneys out of the Fund, provided that such bonds are sold at not less than par and accrued interest. The proceeds from such sale shall be deposited to the credit of the Fund and used in the same manner as other funds deposited therein, except accrued interest shall be deposited in the Interest and Sinking Fund. Should the Board determine to sell such political subdivision bonds, competitive bids therefor shall be received and notice of such sale shall be given and the sale conducted in the same manner as in the case of a sale of the state bonds authorized by this Act; provided, however, that the Board shall first have offered said bonds at their par value plus accrued interest to the issuing political subdivision at least thirty (30) days prior to the date of requesting competitive bids; and provided such political subdivision shall have failed within such thirty (30) day period to give notice to said Board of its desire to acquire such bonds at par and accrued interest.

Sec. 15 amended by Acts 1961, 57th Leg., p. 14, ch. 8, § 2, eff. Feb. 23, 1961; Acts 1967, 60th Leg., p. 1293, ch. 575, § 1, eff. Aug. 28, 1967.

* * * * *

Meetings of board; seal; Executive Director; Development Fund Manager; salaries; duties of Executive Director; centralized data bank; travel expenses of employees; transfer of functions; plans for construction of levees

Sec. 21. The Board shall meet once each month on a day and at a place selected by it, subject to recesses at the discretion of the Board. The Chairman of the Board may call a special meeting of same at any time he thinks necessary, by giving the other members notice thereof.

The Board shall procure and adopt a seal bearing the words "Texas Water Development Board" encircling the oak and olive branches common to other official seals.

The Board shall employ an Executive Director to serve at the pleasure of the Board. The Executive Director shall, under the policies of the Board, manage the administrative affairs of the Board, serve as the chief administrative officer for the Board, and appoint such employees and assistants and other personnel as are necessary. The Executive Director shall select a Development Fund Manager with the approval of the Board who shall perform all duties required by this Act and said

For Annotations and Historical Notes, see V.A.T.S.

Board. The Executive Director, Chief Engineer and the Development Fund Manager shall receive necessary travel expenses in the same manner as a member of the Board. From any funds appropriated to the Texas Water Development Board for the biennium beginning September 1, 1965, the Executive Director shall receive an annual salary of \$17,500.00, the Chief Engineer \$16,000.00, the Assistant Chief Engineer \$12,500.00, and the Development Fund Manager \$12,500.00; thereafter each shall receive such annual salary as may be set by the Legislature in the General Appropriations Act.

The Executive Director shall be responsible to the Board for the performance by the staff of the following in addition to any other duties or assignments made under the policies of the Board:

* * * * *

(j) The Executive Director, under the direction and with the approval of the Board shall cause to be created a centralized data bank incorporating all hydrological data collected by the several agencies of the State of Texas.

(k) The General Counsel of the Texas Water Development Board shall receive necessary travel expense in the same manner as provided for the Chief Engineer and the Development Fund Manager.

(l) All those powers and duties relating to reclamation engineering formally vested by law in the State Board of Water Engineers and its successor, the Texas Water Commission under the provisions of Chapters 5 and 6, Title 128, Revised Civil Statutes of Texas, 1925, as amended, are transferred and vested in the Texas Water Development Board. And all such powers and duties shall hereafter be executed and performed by the Texas Water Development Board or its authorized agents and employees. All of the books, papers, records, and property used or acquired by the Texas Water Commission in the exercise of the authority of the former State Reclamation Engineer shall be transferred to and become the responsibility of the Texas Water Development Board.

(m) From and after the taking effect of this Act it shall be unlawful for any person, corporation or levee improvement district, without first obtaining the approval of plans for the same by the Texas Water Development Board, to construct, attempt to construct, cause to be constructed, maintain or cause to be maintained, any levee or other such improvement on, along or near any stream of this state which is subject to floods, freshets or overflows, so as to control, regulate or otherwise change, the flood waters of such stream; and any person, corporation or district violating this Section of this Act shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not exceeding One Hundred Dollars. And in the event any such structure is about to be constructed, is constructed, or maintained by any person or corporation without approval of the plans by the Texas Water Development Board, it shall be the duty of the Attorney General, on the request of the Texas Water Development Board, to file suit in one of the district courts of Travis County, in which the venue of such suits is hereby fixed, to enjoin the construction or maintenance of such structure, provided, however, that provisions of the subsection shall not apply to structures authorized by the Texas Water Rights Commission.

Sec. 21, subsecs. (a)–(i) amended by Acts 1965, 59th Leg., p. 587, ch. 297, § 8, eff. Aug. 30, 1965. Sec. 21, subsecs. (j)–(m) added by Acts 1967, 60th Leg., pp. 1290, 1291, ch. 573, § 1, eff. June 17, 1967.

* * * * *

Cooperation with federal agencies; designation as cooperating local sponsor of project; application

Sec. 24. (a) The Board shall be the state agency to cooperate with the Corps of Engineers of the United States Army and the Bureau of

Reclamation of the United States Department of the Interior in the planning of water resource development projects in this state.

(b) When a project is proposed for planning or development by the Texas Water Development Board, the Corps of Engineers of the United States Army, or the Bureau of Reclamation of the United States Department of the Interior, any political subdivision of Texas government may make application to the Commission for designation as the cooperating local sponsor of the project.

The application shall describe the purposes of the project, state the reasons for the application, the contemplated use of any water supplies the applicant might derive from the project in the event a valid permit for such use is subsequently granted by the Commission, and cite the contributions which the applicant is prepared to make to the planning or development of the project.

The Commission shall prescribe the form to be used in applications for designation as cooperating local sponsor. Before accepting the application for designation, the Commission may require that the applicant complete the prescribed forms. Before making any designation of local sponsorship, the Commission shall set the application for hearing and give public notice of such hearing. Any interested party may appear and be heard for or against the designation of the applicant as project sponsor at the hearing.

More than one cooperating local sponsor may be designated for each project, but each applicant must comply with the provisions stated herein. No application for designation as local sponsor shall cover more than one proposed project.

After a public hearing, the Commission shall designate a local sponsor in accordance with the application or reject the application in a formal order stating the reasons for acceptance or rejection. The Commission may set a reasonable time period for any sponsorship designation.

The Commission, in granting any future permit for the beneficial use of water supplies stored in a project for which it has designated a local sponsor, shall give full cognizance to that sponsor's contributions to the planning and development of the project.

(c) To the extent that no local cooperator is prepared to undertake local sponsorship of a federal project in whole or in part, or in the event the Texas Water Development Board has interest in such project, the Board may be designated as sponsor of the project, or as an additional cooperating sponsor.

Acts 1957, 55th Leg., p. 1268, ch. 425, eff. Aug. 22, 1957. Sec. 24 added by Acts 1965, 59th Leg., p. 587, ch. 297, § 11, eff. Aug. 30, 1965, amended by Acts 1967, 60th Leg., p. 1292, ch. 574, § 1, eff. Aug. 28, 1967.

Acts 1967, 60th Leg., p. 1290, ch. 573, which, in section 1 thereof, amended section 21 of this article, provided in sections 2-4:

"Sec. 2. The repeal of any law by this Act shall not affect or impair any act done or right, obligation or penalty existing or accrued under the authority of the law repealed; and such law shall be treated as still remaining in force for the purpose of sustaining any proper action concerning any such act, right, obligation or penalty.

"Sec. 3. If any provisions of this Act or

the application thereof to any person or circumstance is held invalid, this invalidity shall not affect other provisions or application of the Act which can be given effect without the invalid provisions or application and to this end the provisions of this Act are declared severable.

"Sec. 4. Article 8028 Revised Civil Statutes of Texas, 1925, is hereby repealed. All laws and parts of laws in conflict herewith are repealed to the extent of the conflict only."

Art. 8280—12. Weather Modification Act

Short Title

Section 1. This Act may be cited as the Weather Modification Act.

Definitions

Sec. 2. As used in this Act, unless the context requires otherwise:

1. "Board" means the Texas Water Development Board.
2. "Operation" means the performance of weather modification and control activities pursuant to a single contract entered into for the purpose of producing, or attempting to produce, a certain modifying effect within one geographical area over one continuing time interval not exceeding 1 year, or, if the performance of weather modification and control activities is to be undertaken individually or jointly by a person or persons to be benefited and not undertaken pursuant to a contract, "operation" means the performance of weather modification and control activities entered into for the purpose of producing, or attempting to produce, a certain modifying effect within one geographical area over one continuing time interval not exceeding 1 year.
3. "Research and development" means theoretical analysis, exploration and experimentation and the extension of investigative findings and theories of a scientific or technical nature into practical application for experimental and demonstration purposes including the experimental production and testing of models, devices, equipment, materials and processes.
4. "Weather modification and control" means changing or controlling, or attempting to change or control, by artificial methods the natural development of any or all atmospheric cloud forms or precipitation forms which occur in the troposphere.

Powers of board

Sec. 3. In the performance of the functions authorized herein, the Board may, in addition to any other Acts authorized by law:

1. Establish advisory committees to advise with and make recommendations to the Board concerning legislation, policies, administration, research and other matters.
2. Establish by regulation or order such standards and instructions to govern the carrying out of research or projects in weather modification and control as the Board may deem necessary or desirable to minimize danger to health or property, and make such regulations as are necessary in the performance of its powers and duties.
3. Make such studies, investigations, obtain such information and hold such hearings as the Board may deem necessary or proper to assist it in exercising its authority or in the administration or enforcement of this Act or any regulations or orders issued thereunder.
4. Appoint and fix the compensation of such personnel, in compliance with the provisions of the General Appropriations Bill including specialists and consultants, as are necessary to perform its duties and functions hereunder.
5. Acquire, in the manner provided by law, such materials, equipment and facilities as are necessary to perform its duties and functions hereunder.
6. Cooperate with public or private agencies in the performance of the Board's functions or duties and in furtherance of the purposes of this Act.
7. Represent the state in any and all matters pertaining to plans, procedures or negotiations for interstate compacts relating to weather modification and control.

8. Enter into cooperative agreements with the United States Government or any of its agencies, or with the various counties and cities of this state or with any private or public agencies for conducting weather modification or cloud seeding operations.

9. Act for and represent the state and the counties, cities and private or public agencies in contracting with private concerns for the performance of weather modifications or cloud seeding operations.

Exercise of powers; research and development activities

Sec. 4. The Board shall exercise its powers in such manner as to promote the continued conduct of research and development activities in the fields specified below by private or public institutions or persons and to assist in the acquisition of an expanding fund of theoretical and practical knowledge in such fields. To this end the Board may conduct, and make arrangements including contracts and agreements for the conduct of, research and development activities relating to:

1. The theory and development of methods of weather modification and control, including processes, materials and devices related thereto.

2. Utilization of weather modification and control for agricultural, industrial, commercial and other purposes.

3. The protection of life and property during research and operational activities.

Hearings; record of proceedings; oaths; witnesses

Sec. 5. In the case of hearings held pursuant to Section 17 of this Act, the Board shall, and in other cases may, cause a record of all proceedings to be taken and filed with the Board together with its findings and conclusions. For any hearing, the Board or a representative designated by it is authorized to administer oaths and affirmations, examine witnesses and issue, in the name of the Board, notice of the hearing or subpoenas requiring any person to appear and testify or to appear and produce documents, or both, at any designated place.

Funds; gifts and donations; deposit of fees

Sec. 6.

1. The Board may, subject to any limitations otherwise imposed by law, receive and accept for and in the name of the state any funds which may be offered or become available from federal grants or appropriations, private gifts, donations or bequests, or from any other source, and may expend such funds, unless their use is restricted and subject to any limitations otherwise provided by law, for the administration of this Act and for the encouragement of research and development by a state or public or private agency, either by direct grant, by contract or other cooperative means.

2. All license and permit fees paid to the Board shall be deposited in the General Revenue Fund of the State Treasury.

Licenses and permits

Sec. 7. Except as provided in Section 9 of this Act, no person shall engage in activities for weather modification and control except under and in accordance with a license and a permit issued by the Board authorizing such activities.

Exemptions from license and permit requirements

Sec. 8. The Board, to the extent it deems practical, shall provide by regulation for exempting from the license and permit requirements of this chapter:

1. Research and development and experiments by state and federal agencies, institutions of higher learning and bona fide nonprofit research organizations.

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2. Laboratory research and experiments.
3. Activities of an emergent character for protection against fire, frost, sleet or fog.
4. Activities normally engaged in for purposes other than those of inducing, increasing, decreasing or preventing precipitation or hail.

Applicants for license; competence in meteorology;
issuance of license; license fee

Sec. 9.

1. Licenses to engage in activities for weather modification and control shall be issued to applicants therefor who pay the license fee required and who demonstrate, to the satisfaction of the Board, competence in the field of meteorology reasonably necessary to engage in activities for weather modification and control. If the applicant is an organization, these requirements shall be met by the individual or individuals who are to be in control and in charge of the operation for the applicant.

2. The Board shall issue licenses in accordance with such procedures and subject to such conditions as it may by regulation establish to effectuate the provisions of this chapter. Each license shall be issued for a period to expire at the end of the state fiscal year in which it is issued and, if the licensee possesses the qualifications necessary for the issuance of a new license, such license shall upon application be renewed at the expiration of such period. A license shall be issued or renewed only upon the payment to the Board of \$50.00 for the license or renewal thereof.

Conditions for issuance of license

Sec. 10. The Board shall issue permits in accordance with such procedures and subject to such conditions as it may by regulation establish to effectuate the provisions of this Act only:

1. If the applicant is licensed pursuant to this chapter.
2. If a sufficient notice of intention is published and proof of publication is filed as required by Section 13 of this Act.
3. If the fee for a permit is paid as required by Section 15 of this Act.

Separate permits; notice of intention to engage in weather modification activities; area of activities; terms of permit

Sec. 11. A separate permit shall be issued for each operation. Prior to undertaking any weather modification and control activities the licensee shall file with the Board and also cause to be published a notice of intention. The licensee, if a permit is issued, shall confine his activities for the permitted operation substantially within the time and area limits set forth in the notice of intention, unless modified by the Board, and his activities shall also conform to any conditions imposed by the Board upon the issuance of the permit or to the terms of the permit as modified after issuance.

Contents of notice of intention to engage in weather modification activities

Sec. 12. The notice of intention shall set forth at least all of the following:

1. The name and address of the licensee.
2. The nature and object of the intended operation and the person or organization on whose behalf it is to be conducted.
3. The area in which and the approximate time during which the operation will be conducted.
4. The area which is intended to be affected by the operation.
5. The materials and methods to be used in conducting the operation.

Publication of notice; proof of publication

Sec. 13.

1. The applicant shall cause the notice of intention, or that portion thereof including the items specified in Section 12 of this Act, to be published at least once a week for 3 consecutive weeks in a newspaper having a general circulation and published within any county in which the operation is to be conducted and in which the affected area is located, or, if the operation is to be conducted in more than one county or if the affected area is located in more than one county or is located in a county other than the one in which the operation is to be conducted, then in a newspaper having a general circulation and published within each of such counties. In case there is no newspaper published within the appropriate county, publication shall be made in a newspaper having a general circulation within the county.

2. Proof of publication together with publisher's affidavit, shall be filed by the licensee with the Board within 15 days from the date of the last publication of the notice.

Proof of financial responsibility

Sec. 14. Proof of financial responsibility may be furnished by an applicant by his showing, to the satisfaction of the director, his ability to respond in damages for liability which might reasonably be attached to or result from his weather modification and control activities in connection with the operation for which he seeks a permit.

Permit fee

Sec. 15. The fee to be paid by each applicant for a permit shall not exceed \$25.00.

Records and reports

Sec. 16.

1. Each licensee shall keep and maintain a record of all operations conducted by him pursuant to his license and each permit, showing the method employed, the type of equipment used, materials and amounts thereof used, the times and places of operation of the equipment, the name and post office address of each individual participating or assisting in the operation other than the licensee, and such other general information as may be required by the Board, and shall report the same to the Board at the time and in the manner required by the Board.

2. The Board shall require written reports, but not inconsistent with the provisions of this Act, covering each operation for which a permit is issued. The Board shall also require written reports from such organizations as are exempt from the license, permit and liability provisions of Section 8.

3. All information on an operation shall be submitted to the Board before any information on such operation may be released to the public.

4. The reports and records in the custody of the Board shall be open for public examination as public documents.

Suspension or revocation of license; modification of terms of permit

Sec. 17.

1. The Board may suspend or revoke any license or permit issued if it appears that the licensee no longer possesses the qualifications necessary for the issuance of a new license or permit. The Board may suspend or revoke any license or permit if it appears that the licensee has violated any of the provisions of this Act. Such suspension or revocation shall occur only after notice to the licensee and a reasonable opportunity granted such licensee to be heard respecting the grounds for the proposed suspension or revocation. The Board may refuse to renew the license of,

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or to issue another permit to, any applicant who has failed to comply with any provisions of this Act.

2. The Board may modify the terms of a permit after issuance thereof if the licensee is first given notice and a reasonable opportunity for a hearing respecting the grounds for the proposed modification and if it appears to the Board that it is necessary for the protection of the health or the property of any person to make the modification proposed.

**Liability of state; liabilities between private persons;
evidence in legal proceedings**

Sec. 18. Nothing in this Act shall be construed to impose or accept any liability or responsibility on the part of the state or any state officials or employees for any weather modification and control activities of any private person or group, or to affect in any way any contractual, tortious or other legal rights, duties or liabilities between any private persons or groups, provided, however, that any operation conducted pursuant to the license and permit requirements of this Act shall not constitute "an ultra-hazardous activity" such as to subject the participants therein to liability without fault. However, the fact that any private person or group of persons, corporation, organization, or any other entity has secured a license or permit or otherwise complied with this Act, or the rules and regulations promulgated pursuant to this Act, shall not be admissible evidence in any legal proceeding brought against such private person or group.

Violations and punishment

Sec. 19. Any person violating any of the provisions of this chapter or any lawful regulation or order issued pursuant thereto shall be guilty of a misdemeanor and a continuing violation punishable as a separate offense for each day during which it occurs, and upon conviction shall be imprisoned in the county jail for not more than 10 days or by a fine of not less than \$100.00 nor more than \$1,000.00, or by both, for each such separate offense.

Acts 1967, 60th Leg., p. 1295, ch. 576, eff. Aug. 28, 1967.

Section 20 of the act of 1967 provided:
"Severability Clause. If any provisions of this act or the application thereof to any person or circumstance is held invalid, this invalidity shall not affect other provisions

or applications of the Act which can be given effect without the invalid provisions or application, and to this end the provisions of this Act are declared severable."

VII. PARTICULAR WATER SUPPLY AND CONTROL DISTRICTS

CHAPTER TWELVE—CREATION, POWERS AND OBLIGATIONS

Art.	Art.
8280—288a. Addition of land to Harris County Water Control and Improvement District—Fondren Road [New].	8280—348. Dolphin Beach Municipal Utility District [New].
8280—316a. Comanche Hills Utility District [New].	8280—349. League Land Municipal Utility District [New].
8280—342. Spewick Place Municipal Utility District [New].	8280—350. West End Municipal Utility District [New].
8280—343. Bayou Vista Municipal Utility District [New].	8280—351. Staffordshire Municipal Utility District [New].
8280—344. Highland Municipal Utility District [New].	8280—352. Galveston Island Ranches Municipal Utility District [New].
8280—345. East Port Bolivar Municipal Utility District [New].	8280—353. Sweetwater Lake Municipal Utility District [New].
8280—346. Sunmeadow Municipal Utility District [New].	8280—354. Spanish Grant Municipal Utility District [New].
8280—347. Jack County Water Control and Improvement District No. 1 [New].	8280—355. Consta Industrial Water Authority [New].
	8280—356. Westheimer Road Municipal Utility District [New].

Art.		Art.	
8280—357.	Deer Municipal Utility District [New].	8280—375.	Willowisp Municipal Utility District [New].
8280—358.	Tidwell Timbers Municipal Utility District [New].	8280—376.	Yupson Cove Municipal Utility District [New].
8280—359.	North Forest Municipal Utility District [New].	8280—377.	Indian Hill No. 1 Municipal Utility District [New].
8280—360.	Westchester Municipal Utility District [New].	8280—378.	Old Snake River Municipal Utility District [New].
8280—361.	Parkglen Municipal Utility District [New].	8280—379.	Blue Ridge West Municipal Utility District [New].
8280—362.	Norchester Municipal Utility District [New].	8280—380.	City of Cities Municipal Utility District [New].
8280—363.	White Oak Municipal Utility District [New].	8280—381.	College View Municipal Utility District [New].
8280—364.	Chaparral Municipal Utility District [New].	8280—382.	Little York Municipal Utility District [New].
8280—365.	Blue Ridge Municipal Utility District [New].	8280—383.	Briar Ridge Municipal Utility District [New].
8280—366.	Enchanted Oaks Municipal Utility District [New].	8280—384.	Willow Creek Water Control District [New].
8280—367.	Royal Forest Municipal Utility District [New].	8280—385.	Holiday Lakes Estates Municipal Utility District [New].
8280—368.	Oak Ridge Municipal Utility District [New].	8280—386.	Colonia-Chaparral Municipal Utility District [New].
8280—369.	River Club Estates Municipal District [New].	8280—387.	Elm Creek Water Control District [New].
8280—370.	Nugent's Cove Municipal Utility District [New].	8280—388.	Timberlakes Estates Municipal Utility District [New].
8280—371.	Crescent Shores Municipal Utility District [New].	8280—389.	Rio Grande Valley Pollution Control Authority [New].
8280—372.	River Oaks Municipal Utility District [New].	8280—390.	Point Lookout Estates Municipal Utility District [New].
8280—373.	Indian Hill Estates Municipal Utility District [New].	8280—391.	Windfern Municipal Utility District [New].
8280—374.	Indian Hill No. 2 Municipal Utility District [New].	8280—392.	Lamar County Water Supply District [New].

Art. 8280—107. Lower Colorado River Authority

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Sec. 10. The District shall have the power and is hereby authorized to issue bonds from time to time as authorized by this Act, provided that the aggregate principal amount of such bonds outstanding at any one time shall not exceed One Hundred Twenty Million Dollars (\$120,000,000.00). Provided, however, that in the event that any outstanding bonds shall be paid at maturity, other than through the application of the proceeds of other bonds or through the issuance of other bonds in exchange therefor; or shall be retired prior to the stated maturity thereof by operation of any sinking fund provided for the bonds so retired and in the proceedings authorizing the same, or from the proceeds of the sale of property, the aggregate principal amounts of bonds herein authorized to be outstanding at any one time shall be reduced by the principal amount of the bonds so paid or retired. Any additional amount of bonds must be authorized by an Act of the Legislature. Such bonds (1) shall be sold for cash at public sale to the highest and best bidder, as determined by the Board of Directors with the advice and approval of the Attorney General of Texas, provided, however, that the interest cost of the money received therefor, computed to maturity in accordance with standard bond tables in general use by banks and insurance companies, shall not exceed five per centum (5%) per annum, or (2) may be issued in exchange for like principal amounts of other obligations of the District, matured or unmatured, or (3) may be sold to the United States of America, or to any agency or corporation created or designated by the United States of America, in exchange for cash equal in amount to the principal amount of the bonds so sold, provided, however, that the interest cost of the money received therefor, computed to maturity in accordance with standard bond tables in general use by banks and insurance companies, shall not exceed five

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per centum (5%) per annum. The proceeds of the sale of such bonds shall be deposited in such bank or banks or trust company or trust companies and shall be paid out pursuant to such terms and conditions, not in conflict with the provisions of this Act, as may be agreed upon between the District and the purchasers of such bonds. The proceeds of such bonds and any net operating revenues, derived from the sale of electric power or water, which may be available after paying the interest on outstanding bonds and the principal amount of such bonds, and setting aside sufficient funds for working capital, including a reasonable sum for contingencies and setting aside funds for reserves to secure payment of principal of and interest on outstanding bonds, shall be used (1) to build and construct dams within the District, on the Colorado River and its tributaries for the impounding and storage of flood and surface water; (2) to purchase and install in the dams on the Colorado River hydroelectric generators and other related facilities for the generation of hydroelectric power; and (3) for the construction of such additional lines and the purchase and installation of such additional equipment as the Board of Directors of the District may deem necessary or expedient to enable the District to continue to meet the demand for electric power in the area now served by its transmission lines and distribution systems, provided that no steam generating capacity shall be installed by the District, except that the District may acquire, install, construct, and enlarge and make additions to, and operate one or more steam generating plants, the sum of whose aggregate capacity shall not be more than 1,130,000 kilowatts, to be located within the boundaries of either one or more of Colorado, Fayette, Bastrop, Travis, Blanco, Burnet, Llano or San Saba Counties, and to be utilized for the sole purpose of serving the area served by the District's transmission lines and distribution systems on January 1, 1962; and (4) for the purpose of building levees or such other flood control structures between the City of Austin and the mouth of the Colorado River as may be deemed necessary and desirable by the Board of Directors and installing such facilities as may be necessary to supply water for irrigation and other useful purposes within the counties composing the Colorado River District; and (5) in aid of any soil conservation or soil reclamation projects within the District which the Board of Directors may deem to be in the public interest, provided, however, that any such soil conservation or soil reclamation project shall be approved by the Extension Department of Texas A&M University, providing that nothing herein shall be construed as establishing priorities as to the uses of water contrary to the present General Laws of this State or those hereinafter enacted with reference thereto. Any proceeds of bonds sold by the District to the extent not required by an outstanding trust indenture to be used to redeem outstanding bonds, and any net operating revenues not needed to carry out the projects set out in phrases (1), (2) and (3) of the preceding sentence shall be placed in a separate fund to be designated "The Irrigation, Conservation and Reclamation Fund of the District" and used only for carrying out the projects and purposes authorized in phrases (4), and (5), of the preceding sentence, unless and until otherwise directed by the Legislature of the State of Texas. Such dams as may be built on the tributaries of the Colorado River shall be used for the purpose of impounding and storing flood and surface waters to be used during emergencies created by subnormal rainfall in the drainage basin of the Colorado River watershed. All such bonds shall be authorized by resolution or resolutions of the Board of Directors concurred in by at least six (6) of the members thereof, and shall bear such date or dates, mature at such time or times, bear interest at such rates (not exceeding five per centum (5%) per annum) payable annually or semi-annually, be in such denominations, be in such form either coupon or registered, carry such registration privileges as to principal only or as to both principal and interest, and as to exchange of coupon bonds for registered bonds or vice versa, and exchange of bonds

of one denomination for bonds of other denominations, be executed in such manner and be payable at such place or places within or without the State of Texas, as such resolution or resolutions may provide. Any resolution or resolutions authorizing any bonds may contain provisions, which shall be part of the contract between the District and the holder thereof from time to time (a) reserving the right to redeem such bonds at such time or times, in such amounts and at such prices, not exceeding one hundred and five per centum (105%) of the principal amount thereof, plus accrued interest, as may be provided; (b) providing for the setting aside of sinking funds or reserve funds and the regulation and disposition thereof; (c) pledging to secure the payment of the principal of, and interest on such bonds and of the sinking fund or reserve fund payments agreed to be made in respect of such bonds, all or any part of the gross or net revenues thereafter received by the District in respect of the property, real, personal or mixed, to be acquired and/or constructed with such bonds or the proceeds thereof, or all or any part of the gross or net revenues theretofore or thereafter received by the District from whatever source derived; (d) prescribing the purposes to which such bonds or any bonds thereafter to be applied; (e) agreeing to fix and collect rates and charges sufficient to produce revenues adequate to pay the items specified in subdivisions (a), (b), (c), and (d), of Section 8 hereof, and prescribing the use and disposition of all revenues; (f) prescribing limitations upon the issuance of additional bonds and upon the agreements which may be made with the purchasers and successive holders thereof; (g) with regard to the construction, extension, improvement, reconstruction, operation, maintenance, and repair of the properties of the District and carrying of insurance upon all or any part of said properties covering loss or damage or loss of use and occupancy resulting from specified risks; (h) fixing the procedure, if any, by which, if the District shall so desire, the terms of any contract with the holders of such bonds may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given; (i) for the execution and delivery by the District to a bank or trust company authorized by law to accept trusts, of indentures and agreements for the benefit of the holders of such bonds setting forth any or all of the agreements herein authorized to be made with or for the benefit of the holders of such bonds and such other provisions as may be customary in such indentures or agreements; and (j) such other provisions, not inconsistent with the provisions of this Act, as the Board may approve, provided that no agreement, contract or commitment shall ever be made which, under any contingency, could or would result in the Government of the United States or any of its agencies or bureaus claiming the right or privilege of controlling or managing the properties and facilities of the District or the control or disposition of the water of the Colorado River or its tributaries; provided nothing herein shall be construed as limiting or restricting the rights or powers as set out hereinbelow in the event of any default on the part of the District. Nothing herein provided is intended to prohibit compliance with existing Federal Regulations, provided compliance therewith is done upon the advice and approval of the Attorney General of the State of Texas.

Any such resolution and any indenture or agreement entered into pursuant thereto may provide that in the event that:

(a) default shall be made in the payment of the interest on any or all bonds when and as the same shall become due and payable; or

(b) default shall be made in the payment of the principal of any or all bonds when and as the same shall become due and payable, whether at the maturity thereof, by call for redemption or otherwise; or

(c) default shall be made in the performance of any agreement made with the purchasers or successive holders of any bonds, and such default shall have continued such period, if any, as may be prescribed

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by said resolution in respect thereof, the trustee under the indenture or indentures entered into in respect of the bonds authorized thereby, or, if there shall be no such indenture, a trustee appointed in the manner provided in such resolution or resolutions by the holders of twenty-five per centum (25%) in aggregate principal amount of the bonds authorized by such resolution or resolutions at the time outstanding, shall, in his or its own name, but for the equal and proportionate benefit of the holders of all such bonds; and with or without having possession thereof;

(1) by mandamus or other suit, action or proceeding at law or in equity, enforce all rights of the holders of such bonds;

(2) bring suit upon such bonds and/or the appurtenant coupons;

(3) by action or suit in equity, require the District to account as if it were the trustee of an express trust for the bondholders;

(4) by action or suit in equity, enjoin any acts or things which may be unlawful or in violation of the rights of the holders of such bonds, and/or;

(5) after such notice to the District as such resolution may provide, declare the principal of all of such bonds due and payable, and if all defaults shall have been made good, then with the written consent of the holders of twenty-five per centum (25%) in aggregate principal amount of such bonds at the time outstanding, annul such declaration and its consequences; provided, however, that the holders of more than a majority in principal amounts of the bonds authorized thereby and at the time outstanding, shall by instrument or instruments in writing, delivered to such trustee, have the right to direct and control any and all action taken or to be taken by such trustee under this paragraph. Any such resolution, indenture, or agreement may provide that in any such suit, action or proceeding, any such trustee, whether or not all of such bonds shall have been declared due and payable, and with or without possession of any thereof, shall be entitled as of right to the appointment of a receiver who may enter and take possession of all or any part of the properties of the District and operate and maintain the same and fix, collect and receive rates and charges sufficient to provide revenues adequate to pay the items set forth in subparagraphs (a), (b), (c), and (d), of Section 8 hereof and the costs and disbursements of such suit, action or proceeding, and to apply such revenues in conformity with the provisions of this Act and the resolution or resolutions authorizing such bonds. In any suit, action or proceeding by any such trustee, the reasonable fees, counsel fees and expenses of such trustee or the receiver or receivers, if any, shall constitute taxable disbursements and all costs and disbursements allowed by the Court shall be a first charge upon any revenues pledged to secure the payment of such bonds. Subject to the provisions of the Constitution of the State of Texas, the Courts of the County of Travis shall have jurisdiction of any suit, action or proceeding by any such trustee on behalf of the bondholders and of all property involved therein. In addition to the powers hereinabove specifically provided for, each such trustee shall have and possess all powers necessary or appropriate for the exercise of any thereof, or incident to the general representation of the bondholders in the enforcement of their rights.

Before any bonds shall be sold by the District, a certified copy of the proceedings for the issuance thereof, including the form of such bonds, together with any other information which the Attorney General of the State of Texas may require shall be submitted to the Attorney General, and if he shall find that such bonds have been issued in accordance with law he shall approve such bonds and he shall execute a certificate to the effect which shall be filed in the office of the Comptroller of the State of Texas and be recorded in a record kept for that purpose. No bond shall be issued until the same shall have been registered by the Comptroller, who shall so register the same if the Attorney

General shall have filed with the Comptroller his certificate approving the bonds and the proceedings for the issuance thereof as hereinabove provided.

All bonds approved by the Attorney General as aforesaid, and registered by the Comptroller as aforesaid and issued in accordance with the proceedings so approved shall be valid and binding obligations on the revenues of the District and shall be incontestable for any cause from and after the time of such registration.

Annually hereafter the State Auditor shall audit the books and accounts of the District in such manner as to enable him to report to the Legislature as to the manner and purpose of the expenditure of all funds of the District. Such audit shall cover the fiscal year from July the first to June the thirtieth, and a report thereof shall be made before the first day of January of each year, a copy of which shall be filed with the Governor of Texas, the Attorney General of Texas, the Lieutenant Governor of Texas and the Speaker of the House of Representatives. The State Auditor, after completing such report, shall prepare a detailed statement showing the actual cost of such audit and certifying such account to the Governor of the State of Texas for his approval, and when approved by the Governor, the State Auditor shall deliver an official copy thereof to the Manager of the District, and the District shall forthwith deposit such sum of money with the State Treasurer, which sum shall be placed in the General Fund of the State of Texas. Nothing herein contained shall prohibit an independent audit as required under any bond indenture.

It is hereby declared to be the policy of this State that the District shall so manage and use its facilities, the water impounded by its dams on the Colorado River or its tributaries and the net operating revenues which may be available, to accomplish as nearly as possible, such of the purposes included in Section 59a, Article XVI of the Constitution of the State of Texas as are enumerated in the provisions of this Act, and the District shall market such electric power (as in the opinion of the Board will not be immediately needed by the District) under such contracts and on such conditions as will best enable the District to pay its operating expenses, meet its outstanding financial obligations as they mature, supply the increasing demand for electric power in the area now dependent upon its transmission lines and distribution systems for electric service and assure, as nearly as possible, an adequate supply of water for irrigation and other useful purposes, when and as it may be needed in the various counties comprising the District.

Sec. 10 amended by Acts 1955, 54th Leg., p. 532, ch. 165; Acts 1959, 56th Leg., p. 708, ch. 327, § 1; Acts 1962, 57th Leg., 3rd C.S., p. 27, ch. 11, § 1; Acts 1965, 59th Leg., p. 287, ch. 124, § 1, emerg. eff. May 6, 1965; Acts 1967, 60th Leg., p. 1711, ch. 655, § 1, emerg. eff. June 16, 1967.

Sec. 10a. Notwithstanding the provisions of Section 10 of this Act, the District shall have the power and is hereby authorized to issue bonds from time to time as authorized by this Act, provided that the aggregate principal amount of such bonds outstanding at any one time shall not exceed Two Hundred Million Dollars (\$200,000,000.00). All other provisions of Section 10 of this Act apply to the issuance of bonds under this Section.

Sec. 10a added by Acts 1967, 60th Leg., p. 1783, ch. 678, § 1, eff. Aug. 28, 1967.

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 Acts 1967, 60th Leg., p. 1711, ch. 655, § 2, provided: "In the event any clause, sentence, paragraph, section, or part of this Act shall be declared unconstitutional or invalid by any court of competent jurisdiction, the remainder of this Act shall nevertheless remain in full force and effect."

For Annotations and Historical Notes, see V.A.T.S.

Art. 8280—120. Harris County Flood Control District

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Sec. 7. Form, Issuance and Eligibility of Bonds. All bonds issued under the provisions of this Act shall be issued in the name of the Harris County Flood Control District of Harris County, Texas, and shall be signed by the County Judge, attested by the County Clerk, and the seal of the Commissioners Court of Harris County shall be affixed to each of them. Said bonds shall be registered with the County Treasurer and his Certificate of Registration shall be endorsed on said bonds. The governing body of the Harris County Flood Control District, in the issuance of bonds voted by the qualified taxpaying voters of said District, or in the issuance of refunding bonds of said District, may issue such bonds in any denomination it deems beneficial to the said District, as determined in the order authorizing their issuance. The said bonds shall bear interest at a rate not to exceed five (5) percentum per annum, which interest shall be evidenced by attached coupons which shall bear the facsimile signatures of the County Judge and of the County Clerk. Said interest shall be payable annually or semi-annually as determined by the governing body of the Harris County Flood Control District. The bonds shall mature serially or otherwise in such number of years as may be determined by the Commissioners Court not to exceed thirty (30) years.

Payment of principal and interest may be made at such places as may be determined by the governing body of such District in the Order authorizing the issuance of such bonds.

All bonds of the Harris County Flood Control District shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, trustees and sinking funds of cities, towns and villages, counties, school districts, or other political subdivisions of the State of Texas, and for all public funds of the State of Texas or its agencies, including the State Permanent School Fund. Such bonds shall be eligible to secure deposit of any and all public funds of the State of Texas, and any and all public funds of cities, towns, villages, counties, school districts or other political subdivisions or corporations of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their value, when accompanied by all unmatured coupons appurtenant thereto.

Sec. 7 amended by Acts 1967, 60th Leg., p. 1574, ch. 631, § 1, emerg. eff. June 16, 1967.

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Art. 8280—121. San Jacinto River Authority

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Sec. 3. The San Jacinto River Authority, in addition to all powers expressly or impliedly granted by other Sections of this Act, by complying where applicable with the provisions of Chapter 1, Title 128, Vernon's Texas Civil Statutes, as amended, is hereby empowered as follows:

(i) to store, control and conserve the storm and flood waters of the watershed of the San Jacinto River and its tributaries, and to prevent the escape of any such waters through every practical means; so as to prevent the devastation of lands from recurrent overflows, and to protect life and property;

(ii) to provide through every practical means for the control, utilization and coordination of regulation of the waters of the San Jacinto River and its tributaries;

(iii) to appropriate the waters of the San Jacinto River and its tributaries, to construct dams and other facilities for the impoundment, conservation, diversion and utilization of such waters, and to devote such

waters to municipal, domestic, agricultural, commercial, industrial, mining, and other beneficial uses, within and without the watershed of said River;

(iv) to provide waters for the irrigation of lands where irrigation is required for agricultural purposes or may be deemed helpful to more profitable agricultural production;

(v) to provide water for domestic, municipal, commercial, industrial and mining purposes within and without the watershed of said River, including water supplies for cities, towns and industries, and in connection therewith to construct or otherwise acquire water transportation, treatment and distribution facilities and supplemental sources of supply;

(vi) to encourage and develop drainage systems and provisions for drainage of lands in the valleys of the San Jacinto River and its tributary streams needing drainage for profitable agricultural production; and drainage for other lands in the watershed area of the Authority requiring drainage for the most advantageous use;

(vii) to encourage through practical and legal means the conservation of soils against destructive erosion and thereby preventing the increased flood menace incident thereto;

(viii) to forest and reforest and to aid in the foresting and reforesting of the watershed area of the San Jacinto River and its tributaries and to prevent and aid in the prevention of soil erosion and floods in, on, and upon all lands situated within the boundaries of said Authority;

(ix) to control, store, and employ the waters of the San Jacinto River and its tributaries in the development and distribution of hydroelectric powers, where such use may be economically coordinated with other and superior uses, and subordinated to the uses declared by law to be superior;

(x) to encourage, aid, and protect navigation and harbor improvements;

(xi) to acquire land adjacent to or in the vicinity of any waters impounded by the Authority or adjacent to or in the vicinity of the San Jacinto River or any of its tributaries for park and recreation purposes and to acquire or construct park and recreation facilities thereon. Except as may otherwise be provided by the general law, the acquisition or construction of any recreation and park facilities by the Authority shall be subject to the approval of the Texas State Parks and Wildlife Commission and to such conditions as the Commission may prescribe;

(xii) to acquire or construct facilities for the gathering, transporting, treating and disposing of sewage and industrial waste and effluent;

(xiii) to control, store and employ all or any of such waters for each and every purpose for which the same when controlled and conserved may be utilized in the performance of a useful service as contemplated and authorized by the provisions of the Constitution and the public policy therein declared;

(xiv) to construct and otherwise acquire and to repair, improve, extend, operate and maintain all works, plants and other facilities necessary or useful in the furtherance of any power granted by law to the Authority, including, but not limited to, water storage reservoirs, dams, canals, waterways, and water transportation facilities of all kinds, water treatment facilities, hydroelectric facilities, municipal water supply facilities, facilities for the treatment of sewage and industrial waste and effluent, parks and recreation facilities, and all other necessary and useful structures, facilities and equipment;

(xv) to enter into any and all necessary and proper contracts with other Federal or State agencies, districts and bodies politic and corporate, and others, to make and enter into such cooperative and coordinative contracts with such agencies, districts and bodies politic and corporate, and others, necessary or useful in the furtherance of any power granted by

law to the Authority, including the power to pledge its funds and its other assets or any part thereof;

(xvi) to acquire any properties necessary for any of its corporate purposes by purchase, by condemnation as elsewhere provided in this Act, or by gift, and to acquire property by lease or other contract, upon such terms as may be accepted by the Authority's Board of Directors;

(xvii) to operate the water and sewage properties and facilities of other public bodies or political subdivisions upon such terms as the Authority may agree in connection with the supplying by the Authority of any water or sewage or waste disposal or other services to public bodies;

(xviii) to enter into such contracts, upon such terms and for such periods of time as the Board of the Authority might approve, with municipalities or other corporate bodies or persons, public or private, for the purpose of establishing and collecting, and by resolution or order to otherwise establish and collect, rates and other charges for the sale or use of water, water transmission, treatment or connection facilities, sewage or industrial or other waste disposal services and facilities of all types, park or recreation facilities, power, electric energy, and any other services sold, furnished, or supplied by the Authority, which fees and charges shall be sufficient to produce revenue adequate—

(1) to pay expenses necessary to the operation and maintenance of the properties and facilities of the Authority;

(2) to pay the interest on or the principal of any bonds or other obligations issued by the Authority when and as same become due and payable and to fulfill any reserve or other fund obligations of the Authority in connection with such bonds; and

(3) to pay such other expenses as the Board of Directors shall deem necessary and proper for any purpose in the corporate operations and functions of the Authority; and

(xix) to authorize by its contracts any other districts, agencies, and bodies politic and corporate and individuals to participate in the joint construction, operation, and maintenance of all of said water storage reservoirs, dams, canals, waterways, and water lines and all other structure, facilities, and equipment in connection therewith; or in connection with sewage or waste facilities of all types, and all necessary facilities for the manufacture, sale, and transportation of such hydroelectric power, along with said Authority, and said Authority may by such contracts allow such other agencies, districts, and bodies politic and corporate, and others to receive such portion of the revenues derived from the sale of water and hydroelectric power or furnishing sewage and waste facilities and services, as the Board of Directors shall deem just, equitable, and proper.

Sec. 3 amended by Acts 1967, 60th Leg., p. 1212, ch. 547, § 1, emerg. eff. June 14, 1967.

Sec. 4. The powers and duties herein developed upon the San Jacinto River Authority are recognized to be taken subject to all legislative declarations of public policy in the maximum utilization of the storm, flood and unappropriated flow waters of the State for the purpose for which the Authority is created, as expressed and indicated in this Act, as amended, and subject to the continuing rights of supervision by the State which shall be exercised through the Texas Water Rights Commission, which agency shall be charged with the authority and duty to approve, or to refuse to approve, the adequacy of any plan or plans (devised in the exercise of any power granted under this Act) which contemplate improvements or facilities, the plans pertaining to which are required to be supervised or approved by said agency under the provisions of the General Law. If any such plans contemplate the installation, construction or other acquisition of parks and recreation facilities or of facilities for the gathering, transporting or disposal of

sewage, or industrial wastes and effluent, said Commission shall not approve such plans until it finds that the Texas State Parks and Wildlife Commission or the Texas Water Pollution Control Board, as the case may be, has issued such approvals or permits relating to such matters as may be required by this Act or the General Law.

Sec. 4 amended by Acts 1967, 60th Leg., p. 1214, ch. 547, § 2, emerg. eff. June 14, 1967.

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Sec. 7. (a) The Board of Directors shall have all powers, both express and implied, to do and perform any and all acts for any on behalf of the Authority which are authorized by the Constitution and laws of the United States of America and the State of Texas for the purpose of the achievement of the plans and purposes intended in the creation of the Authority and in the exercise of all powers elsewhere herein granted to the Authority; and said Board of Directors shall have full and complete authority to do any and all acts necessary or convenient to the exercise of the powers, privileges, and functions conferred upon said Authority and its Board of Directors by this Act or any other Act or law.

(b) The Board of Directors is hereby authorized and directed to make or cause to be made surveys and engineering investigations for the information of the Authority and to determine the plans necessary to the accomplishment of the purposes for which the Authority is created, and may employ engineers, attorneys, and all other technical and non-technical assistants or employees and fix and provide the amount and manner of their compensation for the making of such surveys, the preparation of plans, and the collection of data essential to the determination of the character, extent, and cost of all improvements essential in the exercise of any power granted herein or in any other law applicable to the Authority, and for expenditures found essential in the maintenance and administration of the Authority. The members of the Board of Directors shall receive a per diem of not more than Twenty-five (\$25.00) Dollars per day for the period served, together with traveling and other necessary expenses. Any director may perform any service required by the Board, but in such case may not receive the per diem and other compensation at the same time.

(c) All bonds issued by the Authority shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, insurance companies, fiduciaries and trustees, and for any sinking funds of cities, towns, villages, counties, school districts and other political corporations and subdivisions of the State of Texas. Such bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas and any and all public funds of cities, towns, villages, counties, school districts and other political corporations or sub-divisions of the State of Texas, and such bonds shall be lawful and sufficient security for said deposits at their market value when accompanied by all unmatured coupons appurtenant thereto.

(d) Money in any fund of the Authority or any fund established by the Board of Directors in connection with the authorization of its bonds, including but not limited to proceeds from the sale of bonds, and which funds are not needed to satisfy their particular purpose for any period of time may be invested or reinvested from time to time in direct obligations of or obligations the principal and interest of which are guaranteed by the United States of America or invested in direct obligations of or participation certificates guaranteed by the Federal Intermediate Credit Banks, Federal Land Banks, Federal National Mortgage Association, Federal Home Loan Banks, Banks for Cooperatives, and in certificates of deposit of any bank or trust company the deposits

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of which are fully secured by a pledge of securities of any of the kind hereinabove specified. The type and maturity of investments made hereunder shall be determined by the Board which, in the case of funds established in connection with the authorization of bonds, shall provide appropriate recitals with regard thereto in the resolutions relating to the issuance of such bonds. Income and profits on such investments shall be applied as provided in any such resolution, and, absent such provision, shall be applied to the uses hereinabove specified for bond proceeds.

Sec. 7 amended by Acts 1967, 60th Leg., p. 1215, ch. 547, § 3, emerg. eff. June 14, 1967.

* * * * *

Sec. 10b. The Authority shall have the authority and is hereby authorized to issue from time to time its negotiable revenue bonds for the purpose of making investigations and assembling data; for the purposes of purchasing, acquiring, and/or condemning lands, easements, rights-of-way and other properties; and for the purpose of constructing, repairing, improving and extending any structures, dams, reservoirs, transmission facilities, water treatment, water supply, sewage and other waste gathering, transmission, treatment and disposal facilities, for developing park and recreation facilities; and for the purposes of acquiring, constructing, improving, repairing and extending any other properties and facilities deemed appropriate by the Board of Directors of the Authority in the exercise of powers granted the Authority in Section 3 and elsewhere in this Act. Any one or more or a combination of the foregoing purposes may be combined into a single issue of bonds. Such bonds shall be issued in accordance with, and may be secured by and payable from any or all the revenues of the Authority permitted by, Section 10c hereof, including, but not limited to, the proceeds of any one or more contracts between the Authority and any persons, firms, corporations, cities and political subdivisions.

If and when the Legislature remits the ad valorem tax in the counties for a certain period of years, the Directors may in their discretion if necessary with approval of the Commissioners Court of the county in the watershed use part or all of the taxes remitted to said counties for the purpose of paying back to the United States of America or any of its agencies or others the money borrowed by the Authority for the purposes herein mentioned.

Sec. 10b amended by Acts 1967, 60th Leg., p. 1216, ch. 547, § 4, emerg. eff. June 14, 1967.

* * * * *

Sec. 10d. The Authority shall be authorized to enter into oil and gas leases with respect to its properties upon such terms as the Board of Directors may consider appropriate in the production of revenues to the Authority. The Authority shall be additionally authorized to sell or otherwise dispose of its properties if its Board of Directors shall have first determined that the property or interest to be disposed of is not necessary to the business of the Authority and shall have approved the terms of any such sale. All property of the Authority, however, shall be at all times exempted from forced sale under any judgment, suit or proceeding of any nature or kind.

Sec. 10d amended by Acts 1967, 60th Leg., p. 1216, ch. 547, § 5, emerg. eff. June 14, 1967.

Sec. 10e.

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That if in the exercise of the power of eminent domain, the relocation or change of grade of any railroad facilities are required, the same shall be accomplished under the provisions of Article 7880—123a, Revised Civil Statutes of Texas, 1925.

Sec. 10e, par. 4 added by Acts 1967, 60th Leg., p. 1216, ch. 547, § 5A, emerg. eff. June 14, 1967.

* * * * *

Sec. 13. Nothing in this Act, as amended, shall be construed to violate any provision of the Federal or State Constitutions, and all acts done under this Act shall be in such manner as will conform thereto, whether expressly provided or not. Where any procedure hereunder may be held by any court to be violative of either of such Constitutions, the Authority shall have the power by resolution to provide an alternative procedure conformable with such Constitutions. If any provision of this Act should be invalid, such fact shall not affect the validity of any other provisions of this Act, and the Legislature hereby declares that it would have enacted the valid provisions of this Act notwithstanding the invalidity of any other provision or provisions hereof.

Sec. 13 amended by Acts 1967, 60th Leg., p. 1217, ch. 547, § 6, emerg. eff. June 14, 1967.

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Section 7 of the amendatory act of 1967 provided: "Proof of Publication of the Constitutional notice required in the enactment hereof under the provisions of Paragraph (d) of Section 59 of Article XVI of the Texas Constitution has been made in the manner provided therein and a copy of said no-

tice and the bill as originally introduced have been delivered to the Governor of the State of Texas as required in such constitutional provision and such notice and delivery are hereby found and declared to be proper and sufficient to satisfy such requirements."

Art. 8280—188. Trinity River Authority of Texas

* * * * *

Sec. 5. The Authority is hereby invested with all of the powers of the State under Article XVI, Section 59 of the Constitution to effectuate flood control and the conservation and use, for all beneficial purposes, of storm and flood waters and unappropriated flow waters in the Trinity watershed, subject only to: (i) declarations of policy by the Legislature as to use of water; (ii) continuing supervision and control by the State Board of Water Engineers and any board or agency which may thereafter succeed to its duties; (iii) the provisions of Article 7471 prescribing the priorities of uses for water, and (iv) the rights heretofore or hereafter legally acquired in water by municipalities and other users. The Authority is hereby further invested with all of the powers of the State under Article XVI, Section 59 of the Constitution to encourage, promote and provide for the navigation of inland and coastal waters within the Trinity River Watershed, including the power to cooperate with the Chambers-Liberty Counties Navigation District in the development and construction of navigation canals and facilities or harbor and terminal facilities within the boundaries of the Chambers-Liberty Counties Navigation District. It shall be the duty of the Authority to exercise for the greatest practicable measure of the conservation and beneficial utilization of storm, flood and unappropriated flow waters of the Trinity River Watershed in the manner and for the particular purposes specified hereinafter in this Section and elsewhere in this Act, powers, including those:

(a) To store and conserve to the greatest beneficial use such waters, so as to prevent escape of any water without maximum beneficial use either within or outside of Authority.

(b) For the conservation of water for uses within and without the watershed, including providing water supply for cities and towns, and the right to sell water and standby service to any person, firm, or corporation, including cities and towns and other public agencies, within and outside the watershed of the Trinity River, provided, however, that the purchasers of conservation storage water for domestic, industrial, or

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irrigation uses shall not be required to pay any part of the cost of benefits accruing for flood control purposes.

(c) For the conservation of soils and other surface resources against destructive erosion, thereby preventing the increased flood menace incident thereto, and for the prevention of sedimentation and siltation of lands, channels, reservoirs, and coastal waters, including the right to aid and supplement the work of upstream soil and water conservation and flood prevention projects authorized by State or Federal Agencies in conjunction with Soil Conservation Districts, in furtherance of the "Master Plan" as defined in Section 11.

(d) To provide water for the irrigation of lands within and outside of the watershed.

(e) To provide water for the development of commercial and industrial enterprises, inside and outside the watershed.

(f) Power to execute contracts with municipalities and others involving the construction of reservoirs, dams, water supply lines, water purification and pumping facilities, and the furnishing of water supply service substantially in the manner prescribed by Chapter 342, Acts of the Regular Session of the 51st Legislature for Districts organized and created pursuant to Article XVI, Section 59 of the Constitution, extended so as to permit such contracts with individuals, partnerships, and all classes of corporations, and to permit the inclusion in the authorized contracts of provisions for operation and ownership of such properties.

(g) When, in the judgment of the Authority necessary for the interest of conservation, and subject to the approval of the State Board of Water Engineers, to bring water into the boundaries of the Authority for beneficial uses.

(h) For encouragement and development of recreational facilities and preservation of fish and wildlife, the Board of Directors shall have the power and duty to acquire sufficient additional land adjoining any lakes constructed on the Trinity River for purpose of developing recreational facilities and for the purpose of acquiring roads for ingress and egress of the public to said lakes. The Board shall use its discretion in determining the amount of such additional land required for a suitable recreational park, but shall secure approximately twenty percent (20%) of the adjoining lake front, such twenty percent (20%) being intended merely as a guide and not to be construed as a maximum or minimum limitation.

(i) To acquire, purchase, take over, construct, maintain, operate, develop and regulate canals, locks, wharves, docks, warehouse, grain elevators, bunkering facilities, belt railroads, floating plants, lighterage, lands, towing facilities, and all other facilities or aids incident to or necessary to the operation or development of ports or waterways, within the Trinity River Watershed and extending to the Gulf of Mexico, for the purposes added by this amendment, the Authority is authorized to issue bonds as provided in the Act hereby amended. The Authority is also authorized to borrow funds for current expenses, and to evidence the same by negotiable notes or warrants payable not later than the close of any calendar year for which loans are made. Any actions under this subsection within the boundaries of the Chambers-Liberty Counties Navigation District may be in cooperation with said District.

(j) Power to adopt through action of the Board of Directors, any powers permitted under Title 128, Revised Civil Statutes of the State of Texas.

(k) As a necessary aid to the conservation, control, preservation, and distribution of such water for beneficial use, the Authority shall have the power to construct, own and operate sewage gathering, transmission and disposal services, to charge for such service, and to make contracts in reference thereto with municipalities and others.

(1) To adopt all reasonable rules and regulations designed to facilitate the exercise of its rights and the performance of its duties, and to adopt and amend its bylaws.

Sec. 5 amended by Acts 1967, 60th Leg., p. 603, ch. 273, § 1, emerg. eff. May 23, 1967.

Sec. 6. Subject to the limitation as to the maximum rate of tax as prescribed in this Section, the Authority may levy and collect such ad valorem taxes as are voted at an election or elections, called by the Board for the purpose and conducted throughout the territory of the Authority. The maximum rate of tax which can be levied and collected for any year shall be Fifteen Cents (15¢) on the One Hundred Dollars (\$100) of taxable property based on its assessed valuation. Only qualified electors, owning taxable property within the boundaries of the Authority and who have duly rendered their property for taxation shall be entitled to vote in any such election. An elector otherwise qualified must vote in the County and precinct of his residence. The resolution calling any such election shall state the maximum rate or rates of taxes which are to be authorized. Such notice shall be published at least once in each of four (4) weeks on the same day of each week in a newspaper published in, or having general circulation in, each county within the Authority, the date of the first publication being at least thirty (30) days prior to the date of the election. The resolution calling the election shall specify the voting places in each of the several counties. The notice of election will be sufficient as to any county within the Authority if it states that the election is to be held throughout the territory comprising the Authority and if it specifies the voting places in such county. But it shall not be necessary to publish such details except in the county to which they are applicable. Returns of the election shall be made to the Board. If, and only if, a majority vote of the qualified voters voting in at least a majority of the counties which are wholly or partially within the Authority, together with a majority vote of the qualified voters voting in the entire Authority, shall be in favor of the levy of the tax, the Board may levy taxes within the maximum rate thus voted. The rate of tax shall be uniform throughout the territory comprising the Authority, and shall be certified by the President and Secretary of the Authority to the Tax Assessor and the Tax Collector of each included county. After an election has resulted favorably to the levy of a tax, the Board of Directors may borrow money payable therefrom, and may evidence such loan by a negotiable note given in the name of the Authority, and such loans may be for the purpose of providing funds for preliminary surveying and engineering and work in formulating the Master Plan.

Sec. 6 amended by Acts 1967, 60th Leg., p. 604, ch. 273, § 2, emerg. eff. May 23, 1967.

Sec. 6A. (1) Notwithstanding the provisions of Section 2 or any other section of the Act establishing the Trinity River Authority (Article 8280—188, Vernon's Texas Civil Statutes), it is hereby expressly found and determined that none of the lands and property owned or controlled by any railroad company or motor carrier regulated by the Texas Railroad Commission within this Authority are benefited by the exercise of any powers conferred by this Act, and such lands and property are expressly excluded from the Authority; nor shall any of the lands or property of such railroad companies or motor carriers regulated by the Texas Railroad Commission be subjected to any of the specific or general provisions hereof, and such finding and determination shall be considered paramount and shall supersede the provisions of the aforementioned section and any other sections of the Act.

(2) The taxing power and authority provided in this Act shall not extend to nor apply to the lands and property of any railroad company

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or motor carrier regulated by the Texas Railroad Commission required by law to pay a tax upon intangible assets and no tax assessor, collector or any other public official shall have any powers relating to taxation or otherwise over such properties.

(3) In the event that any tax assessor or collector of any county wholly or partly within the authority undertaking any official act for the authority exercises or attempts to exercise any act which could be construed by the railroad company or motor carrier regulated by the Texas Railroad Commission as extending any taxing power or authority over the lands and property of the railroad company or motor carrier regulated by the Texas Railroad Commission, then such railroad company or motor carrier regulated by the Texas Railroad Commission is expressly authorized or empowered to withhold payment to the county for which such tax assessor or collector normally performs his official duty for the reason that the lands and properties of said companies are:

(a) Not benefited by the exercise of any powers contained herein, nor

(b) Required to pay any taxes to this Authority because required by law to pay a tax upon intangible assets; and provided further that any court of competent jurisdiction within the State of Texas is hereby authorized and empowered and shall enforce the provisions of this section through injunction, mandatory injunction, writ of prohibition, or any other process entered or promulgated to effectuate the sense and purposes of this section.

(4) At any election called by the Authority or any authorized public official for the purpose of levying any tax provided by this Act, the notice of said election shall confine the property subject to taxation to that which is benefited by submitting to the voters the proposition substantially as follows:

Shall Trinity River Authority of Texas be authorized to levy a tax upon all taxable property in the Authority at a rate not to exceed 15¢ on the one hundred (\$100) dollars of assessed valuation?

and the ballot shall conform to such notice.

(5) If any word, clause, sentence, part, or provision of this section or its subsections or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of this section and of this Act shall nevertheless be valid, and the Legislature hereby declares that this section and this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, part or provision.

Sec. 6A added by Acts 1967, 60th Leg., p. 605, ch. 273, § 3, emerg. eff. May 23, 1967.

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Sec. 16. (a) The Authority may make contracts with the United States, its agencies, the State of Texas, its agencies, all municipal corporations, political subdivisions and districts, and with private persons. It may obtain loans from and accept grants from the United States and its agencies, and from the State of Texas, and its agencies, and it shall have the right to participate in and be the beneficiary of any plan which may be evolved by the State or Federal Government for guaranteeing or otherwise subsidizing the obligations of the Authority; provided, however, that no contract shall be entered into between the Authority and the Federal Government for navigation purposes to any point on the Trinity River north of Ellis County, unless such contract provides for construction and operation of the navigation facilities to a point in Tarrant County.

Sec. 16, subsec. (a) amended by Acts 1967, 60th Leg., p. 606, ch. 273, § 4, emerg. eff. May 23, 1967.

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Section 5 of the amendatory act of 1967 provided: "It is hereby found that notice of intention to introduce this bill has been published at least thirty (30) days and not more than ninety (90) days prior to its introduction in newspapers having general circulation in counties in which said Authority is situated and in the manner pro-

vided by Article XVI, Section 59(d) of the Constitution, that a copy of said notice and of this bill as introduced were delivered to the Governor, and the time, form and manner of giving said notice is hereby approved and ratified. The evidence of the foregoing was exhibited in the Legislature before the passage of this Act."

Art. 8280—200. Elm Creek Watershed Authority

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Sec. 4. (a) The Authority herein created shall be and it is hereby empowered to control, store and distribute the water and floodwaters within the Authority for the conservation, preservation, reclamation and improvement of the soil and lands or in aid thereof within the Authority; to carry out flood prevention measures to prevent or aid in the prevention of damage to land and soil and the fertility thereof; to engage in land treatment measures to prevent deterioration, erosion and loss of land and soil; to carry out preventive and control measures within the Authority; to construct, acquire, improve, carry out, maintain, repair and operate dams, structures, projects and works of improvement for flood prevention (including structural and land treatment measures) and for agricultural and land treatment measures and for agricultural phases of the conservation, development, utilization and disposal of water within the Authority and to purchase or acquire other facilities and equipment necessary in connection therewith and to engage in activities necessary to carry out these functions; to obtain options upon and to acquire, by purchase, exchange, lease, gift, grant, bequest, devise, or otherwise, any property, real or personal, or rights or interest therein within the Authority necessary to carry out the purposes of this Act and to maintain, administer, and improve any properties acquired; to purchase or acquire land, easements or rights-of-way within the Authority necessary to carry out the purposes of this Act; to cooperate with other conservation districts, county officials, conservation officials and personnel of the county, State and Federal Government, State Soil Conservation Board, State Agricultural Department, Secretary of Agriculture of the United States, and other county, State and Federal agencies and departments in order to carry out the purposes of this Act. Without limiting the generality of the foregoing the Authority shall be and it is hereby empowered to cooperate with the State and Federal Government, their agencies, departments and representatives in getting assistance, aid, benefits, grants, credit and money as provided in Public Law 566, Eighty-third Congress, Chapter 656, Second Session H.R. 6788, and amendments thereto, and as may now or hereafter be provided by any laws of the State of Texas, it being the intention of the Legislature that the Authority herein created shall have all the power and authority necessary to fully qualify and gain the full benefits of any and all such laws which are in any wise helpful in carrying out the purposes for which the Authority is created and the provisions of all such laws of which the Authority may lawfully avail itself are hereby adopted by this reference and made applicable to the Authority.

(b) Should the Directors of the Authority propose to carry out any program or plan of improvements relating to flood prevention measures, prevention of damage to land and soil and the fertility thereof, stream channel improvements or any works or activity related to any of such for the benefit of a particular area or areas within the Authority, in cooperation with the Soil Conservation Service of the United States Department of Agriculture (hereinafter referred to as a "program of improvements") the Board of Directors is hereby empowered to designate such area or

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areas as "improvement districts" (referred to in this law as "improvement districts" or "subordinate districts"), identifying them separately by number, and by entering in its minutes a resolution to such effect (1) defining the improvement district by metes and bounds, (2) adopting a proposed program of improvements, and (3) determining that the proposed program of improvements are of direct local benefit in nature but not of direct benefit to any other area of the Authority. In the entry of the resolution mentioned the Directors shall provide for a public hearing on the question of whether the proposed program of improvements should be adopted as submitted or altered or modified and whether such, including any alteration or modification, would be of benefit to all the area of the improvement district and whether taxes for the payment of bonds to provide the program of improvements should be levied and assessed on the basis of specific benefits to land in the improvement district or on the basis of assessment of benefits at an equal sum per acre upon the lands within the improvement district. Notice of such hearing shall be given by publication stating the time, place and purpose thereof and advising all property owners within the proposed improvement district and other interested parties of their right to appear for or protest against the final adoption of the program of improvements as altered or modified as a result of the hearing. Such notice shall be published in a newspaper of general circulation within the area of the Authority, including that of the improvement district, one time at least fifteen (15) days prior to the date set for the hearing. All property owners and interested persons may appear in support of or in opposition to the proposed improvement district, the proposed plan of improvements or the proposed plan of taxation, and after all persons desiring to be heard have been heard the hearing shall be closed, and the Board of Directors may enter such resolution or order as is appropriate with regard to designating the area of the improvement district, approving the program of improvements considered necessary for the benefit thereof and adopting a plan of taxation for the improvement district which in the Board's judgment under the evidence before it most equitably distributes the tax burden and conserves the public welfare but such resolution or order shall not become final until approved at an election at which a proposition for the designation of the improvement district, the authorization of the issuance of bonds and adoption of a method or plan of taxation shall be submitted as hereinafter provided.

(c) Before improvement district bonds are issued and sold, the Board of Directors shall apportion and assess benefits in accordance with the adopted plan of taxation, i. e., assessments in proportion to the respective individual benefits as the same may be specifically appraised or assessments of benefits at an equal sum on each acre of land benefited. The amounts assessed in either event shall not exceed the benefits accruing and to accrue to the property from the improvements to be constructed within or for the benefit of the improvement district but shall be sufficient to fully meet and discharge the requirements of the bonds issued to provide such improvements. The Board of Directors shall cause rolls and records reflecting the property assessments to be compiled and thereupon shall cause notice to be mailed (first class, prepaid) to each property owner at his last known address as shown on the tax roll of the Authority, advising the amount of the benefit taxes to be levied against such property and fixing a date and place where such owners may appear to contest the correctness and equitableness of such tax. After such hearing, the Directors may sustain, reduce or increase the same as in their judgment shall be just and equitable, and the decision of such Board shall be final, being subject to judicial review only by reason of fraud, palpable error or arbitrary and confiscatory abuse of discretion.

(d) Nothing herein shall be construed as prohibiting the holding of simultaneous public hearings on the matters mentioned in Sections 4(b) and 4(c) if the Directors determine the same would be in the best interest

of the inhabitants of the improvement district. In the event the hearings are to be held simultaneously, the notice required in Section 4(c) shall state the amount of tax proposed to be assessed if the program of improvements is adopted under either proposed plan of taxation, unless the directors have tentatively adopted a plan of taxation prior to the public hearing. If a plan is tentatively adopted, only the amount proposed to be assessed under such plan must be included in such mailed notice, and such tentatively adopted plan may be changed or revised by the Directors as a result of the public hearing without the necessity of another hearing.

(e) The Authority's Board of Directors shall have the power to issue bonds against the faith and credit of an improvement district for the construction of an approved program of improvements provided such bonds are authorized at an election as hereinafter set forth. At such election and as a part of the proposition for the issuance of such bonds there shall also be submitted the question of the designation of the improvement district and the question of the adoption of the proposed plan of taxation. Only resident qualified electors of the improvement district (against which the bonds are to be issued) who own taxable property therein which has been duly rendered for taxation shall be permitted to vote. Notice of election shall be given by publication of a substantial copy of the resolution or order calling same in a newspaper or newspapers having general circulation in the area of the Authority and in the improvement district, such notice to be published once a week for two consecutive weeks, the date of the first publication to be at least fourteen (14) days prior to the date set for the election. The election shall be held not less than fifteen (15) nor more than thirty (30) days from the date it is ordered. The improvement district involved shall constitute a single election precinct but the Board of Directors may make provision for as many polling places as they shall determine to be reasonably required in the conduct of the election; otherwise, where not in conflict herewith, the provisions of general law relating to calling and conducting bond elections in water control and improvement districts shall be applicable. The ballots for such elections held under the provisions of this Section shall have printed thereon substantially the following:

"FOR DESIGNATION OF IMPROVEMENT DISTRICT NO. _____,
THE ISSUANCE OF BONDS AND THE LEVY OF A TAX THEREFOR
ON THE _____ BASIS."

"AGAINST DESIGNATION OF IMPROVEMENT DISTRICT NO.
_____, THE ISSUANCE OF BONDS AND THE LEVY OF A TAX
THEREFOR ON THE _____ BASIS."

In the event the proposition aforementioned is sustained by a majority vote participating in the election, the Board of Directors shall enter its resolution or order confirming creation of the improvement district, setting forth the metes and bounds thereof, and confirming the method of taxation to be employed in meeting principal and interest requirements of the bonds to be issued on behalf of the improvement district. A certified copy of such resolution or order shall be filed for record in the office of the county clerk of the county or counties in which same is situated and shall be recorded in the deed records.

The Board of Directors may thereafter issue and sell bonds for and on behalf of and on the faith and credit of the improvement district upon such terms and conditions and in such denominations as the Board may deem to be in the best interests of the Authority and the improvement district. The bonds may be registrable as to principal and interest, either or both.

All maintenance taxes levied under the provisions of Section 8 of this Act, as amended, and all taxes to pay bonds issued by the Authority at large, except those which may be issued and supported by assessments of

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benefits in the manner herein provided for improvement districts, shall be assessed and levied on the ad valorem basis.

Sec. 4 amended by Acts 1967, 60th Leg., p. 1623, ch. 639, § 1, emerg. eff. June 16, 1967.

Sec. 5. In performing the functions for which the Authority is created, its Board of Directors is hereby granted all such powers and privileges as it may choose to exercise from among those conferred upon boards of directors of water control and improvement districts created pursuant to general law and, without limitation on the generality of the foregoing, may exercise all powers bestowed upon water control and improvement districts under general law relating to provisions for a board of directors; the purposes for and methods by which bonds may be issued and sold; the levy, assessment and collection of taxes; and powers of eminent domain, but to the extent that such general laws may be inconsistent or in conflict herewith the provisions of this Act shall prevail. In the event the Authority, in the exercise of the power of eminent domain or power of relocation, or any other power granted it pursuant to the provisions hereof, makes necessary the taking of any property or the relocation, raising, rerouting, or changing the grade or altering the construction of any highway, railway, electric transmission line, telephone or telegraph properties and facilities, or pipeline, all such necessary taking, relocation, raising, rerouting, changing of grade or alteration of construction shall be accomplished at the expense of the Authority. It is provided, however, that the expense of the Authority shall be strictly confined to that amount which is equal to the actual cost of the property taken or work or in providing comparable replacement required without enhancement thereof and after deducting the salvage value that may be derived from any property taken.

Sec. 5 amended by Acts 1967, 60th Leg., p. 1626, ch. 639, § 2, emerg. eff. June 16, 1967.

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Sec. 7. From and after the effective date of this Act, it shall be necessary for the Authority to have a hearing for exclusions of land and for the confirmation of its organization.

The Authority from and after the effective date of this Act shall be required to hold a hearing for the adoption of a plan of taxation.

From and after the effective date of this Act the provisions of Article 7880—77b, Vernon's Texas Civil Statutes, or any other General Law pertaining to the calling of a hearing for the determination of the dissolution of a District or an authority where a bond election has failed shall be applicable to this Authority.

Sec. 7 amended by Acts 1967, 60th Leg., p. 1627, ch. 639, § 3, emerg. eff. June 16, 1967.

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Sections 4-6 of the amendatory act of 1967 provided: "Sec. 4. To the extent that the provisions of any general laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail.

"Sec. 5. Nothing in this Act shall be construed to violate any provision of the Federal or State Constitutions and all acts done hereunder shall be done in such manner as may conform thereto whether herein expressly provided or not. Where any procedure hereunder may be held by any court to be violative of either of such Constitutions, the Authority shall have the power by resolution to provide an alternative procedure conformable to such Constitutions. If any provision of the Act shall

be invalid, such fact shall not affect the validity of any other provision of this Act, and the Legislature hereby declares that it would have enacted the valid provisions of this Act notwithstanding the invalidity of any other provision or provisions hereof.

"Sec. 6. It is hereby found and determined that in conformity with Article XVI, Section 59, of the Constitution of Texas (as amended in 1964), notice of the intention to introduce this bill setting forth the general substance of this contemplated bill and law has been published at least thirty (30) days and not more than ninety (90) days prior to the introduction of this bill in the Legislature in a newspaper or newspapers having general circulation in McLennan, Bell, Falls and Millam Counties

and by delivering a copy of such notice and such bill to the Governor, who has submitted such notice and bill to the Texas Water Commission, which has filed its recommendations as to such bill with the Governor, Lieutenant Governor and Speaker of the House of Representatives within thirty (30) days from date notice was received by the Texas Water Commission. The evi-

dence of the foregoing was exhibited in the Legislature before the passage of this Act. The time, form and manner of giving said notices and the performance of said acts as required by the Constitution are hereby found to be sufficient to comply with the Constitution and such notices and all acts in relation thereto are hereby approved and ratified."

Art. 8280—212. Eclecto Creek Watershed District

* * * * *

Sec. 2. The District shall contain the territory described as follows: Situated, lying and being in the State of Texas, Counties of Karnes, De Witt and Wilson:

Beginning at the mouth of the Eclecto Creek where it empties into the San Antonio River at a point which is in a westerly direction from Runge, Texas, and being approximately 10,400 feet from the city limits of the town of Runge, Texas, and being a portion of the Victoriano Zepeda (A-13) original grant in Karnes County, Texas; also being a common corner between said Victoriano Zepeda grant and the Ramon Musquiz (A-7) original grant and said corner being the common corner between the Tom Dromgoole 744.05 acre tract and the K. L. Handy 58.05 acre tract;

THENCE, North 24° 27 min. West 3363.4 feet with the meanders of the San Antonio River and with the West boundary line of the said Tom Dromgoole tract to a corner within the Tom Dromgoole 744.05 acre tract;

THENCE, South 55° 20 min. West 5660.1 feet with the meanders of the San Antonio River and with the West boundary line of the said Tom Dromgoole tract to a corner within the Tom Dromgoole 744.05 acre tract;

THENCE, North 3° 35 min. West 1434.5 feet with the meanders of the San Antonio River and with the West boundary line of the said Tom Dromgoole tract to a corner within the Tom Dromgoole 744.05 acre tract;

THENCE, North 47° 20 min. East 2176.3 feet with the meanders of the San Antonio River and the West boundary line of the Tom Dromgoole 744.05 acre tract to a corner;

THENCE, North 14° 5 min. West 1187.1 feet with the meanders of the San Antonio River and with the West boundary line of the Tom Dromgoole 744.05 acre tract to a corner in the common boundary line between the said Tom Dromgoole tract and the J. D. Pace Estate 557 acre tract;

THENCE, North 63° 45 min. West 2176.4 feet with the meanders of the San Antonio River and with the West boundary line of the J. D. Pace Estate 557 acre tract to a corner within the J. D. Pace Estate 557 acre tract;

THENCE, South 84° 20 min. West 2830.7 feet along the meanders of the San Antonio River and with the West boundary line of the J. D. Pace Estate tract to a corner within the J. D. Pace Estate 557 acre tract;

THENCE, North 35° 50 min. West 3363.5 feet along the meanders of the San Antonio River and the West boundary line of the said J. D. Pace Estate tract, cross a county road to the South line of the Roy Foster 33.3 acre tract and along the West line of the said Roy Foster tract, Carrie Yeary 66.6 acre tract and John Yanta 209.3 acre tract and with the meanders of the San Antonio River to a corner within the John Yanta 209.3 acre tract;

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THENCE, North 14° 35 min. East 3561.4 feet with the meanders of the San Antonio River and the West line of the said John Yanta tract to a corner in the common line between the said John Yanta tract and the Wash. Bailey 93.5 acre tract;

THENCE, North 72° 10 min. West 2135.8 feet with the meanders of the San Antonio River and the West boundary line of the said Wash. Bailey tract to a corner in the common boundary line between the said Wash. Bailey tract and the Hester Ruckman 788 acre tract;

THENCE, North 45° East 7518.6 feet with the common line between said Wash. Bailey tract and the Hester Ruckman tract, cross a county road and with the common line of the county road, Paul Koenig tract and Lewis Menn tract to a corner in the East ROW line of State Highway 81;

THENCE, North 70° West 1582.6 feet with the East ROW line of State Highway 81 to a corner;

THENCE, North 51° West 14,048 feet with the East ROW line of State Highway No. 81 to a common corner between the C. H. Robuck 689.48 acre tract and the T. E. Puckett 211.49 acre tract;

THENCE, North 44° East 1830.3 feet with the common line of the Robuck and Puckett tracts to a common corner of said tracts;

THENCE, North 46° West 296.8 feet with the common boundary of said Robuck and Puckett tracts to a common corner between the Robuck, Puckett and R. E. Nickell 19.8 acre tract;

THENCE, North 44° East 1385 feet with the said Nickell and Robuck common boundary line to a common corner between the said Nickell, Robuck and Wm. B. Smolik 88.7 acre tracts;

THENCE, South 46° East 909.8 feet with the common line between the said Smolik and Robuck tracts to a common corner of said two tracts;

THENCE, North 44° East 1385 feet with said Smolik and Robuck tracts common boundary line to a common corner between these two tracts and the J. Leal 92 acre tract;

THENCE, North 46° West 2344.6 feet with the common boundary line of said Smolik and Leal tracts to a corner in the South ROW line of a county road;

THENCE, North 45° East 1088.2 feet with the South ROW line of said county road to a corner;

THENCE, North 45° West 5639 feet, cross said county road and with the East boundary line of the H. B. Ruckmann tract pass the corner of R. E. Nickell 120 acre tract, L. B. Andrews Estate 239 acre tract and Elmer Lee 151.5 acre tract to a corner in the South side of another county road ROW line for a common corner between said Lee tract and Mrs. H. R. Neal 70.45 acre tract;

THENCE, North 47° 25 min. West 2473.3 feet, cross said county road and with the West line of the Guy S. Combs, Jr. et al. 662.6 acre tract to a corner in the South line of the Fan Brown 103.41 acre tract for a common corner of the said Combs and Brown tracts;

THENCE, South 40° West 1404.3 feet with South boundary line of the Fan Brown tract to a corner in the East ROW line of a county road;

THENCE, North 50° West 9002.7 feet with the East ROW line of said county road, pass the corners of the Fan Brown and C. D. Winerich, and C. D. Winerich and Blanche Bell, and Blanche Bell and T. H. Kraweitz tracts of land to the West corner of the Blanche Bell tract of land which is a common corner with the Josephine Wilson 329 acre tract, in the South line of said county road;

THENCE, North 36° East 2572.3 feet with the South ROW line of the County road to a common corner between the Blanche Bell and Josephine Wilson tract and the Theo. Labus 443.34 acre tract;

THENCE, North 37° West 5342.3 feet with said right of way line of said county road pass the John Browne SW corner, pass the said John Browne NW corner in the West line of Mary Mika 57.2 acre tract;

THENCE, North 30° West 5540.1 feet with the East ROW line of said county road pass the Ramon Musquiz (A-7) survey NW boundary line at 1750 feet and with the Mary Mika 80 acre tract to the NW corner of said tract;

THENCE, South 60° West 1780.8 feet across said right of way line and with the NW line of W. R. Jones (A-165) original survey to a point in said NW line being the SW corner of the Jesus Hernandez (A-140) original grant;

THENCE, North 30° West 3957.1 feet with said Hernandez line to a West corner of said tract;

THENCE, North 60° East 643 feet with said Hernandez survey to an interior corner of said survey;

THENCE, North 30° West 4105.5 feet with said Hernandez West line to a NW corner of said Hernandez survey;

THENCE, North 60° East 5400 feet with said Hernandez survey to a point in said North boundary to a common corner between the Wm. Twomey (A-281) original survey and Jos. Curtis (A-81) original survey;

THENCE, North 30° West 7667.1 feet with said Twomey and Curtis common line to the NW corner, being the common corner between the two grants and in the South line of the Fernando Carillo (A-64) grant;

THENCE, South 60° West 3841 feet with said Carillo South line to a corner in said line;

THENCE, North 30° West 7123 feet across said Carillo grant with the ROW line of a county road, said line being the East line to the North boundary of said Carillo grant, to a point for corner;

THENCE, North 60° East 4946.6 feet with said Carillo line to a corner for the SE corner of the Maria I. Leal (A-180) grant;

THENCE, North 30° West 3017.3 feet with said Leal grant to a corner in the South line of the Jos. Curtis (A-80) grant;

THENCE, South 60° West 3032.4 feet with said Leal and Curtis South boundary line to a corner for the SW corner of said Curtis survey;

THENCE, North 30° West 3957.1 feet with said Curtis grant to the NW corner of said grant;

THENCE, North 60° East 3363.6 feet with said Curtis North line to the NE corner of said Curtis grant;

THENCE, North 30° West 1978.6 feet across the Canutillo Ditch Company (A-380) original survey to the North line of said survey pass the Karnes County-Wilson County common line to a point for corner;

THENCE, North 60° East 1582.8 feet with said Canutillo Ditch Company survey to the SW corner of the A. Vaughan (A-457) grant;

THENCE, North 30° West 5223.5 feet with said Vaughan West line to the NW corner of said survey;

THENCE, North 60° East 10,140.4 feet with said Vaughan survey pass the common corner between the Vaughan and N. H. Morris (A-456) grant to a point in the Morris North line and the common corner between the Sam S. Sanders (A-304) and D. Pennington (A-420) grants;

THENCE, North 60° East 4050.0 feet along the South boundary of the D. Pennington grant, also being the South boundary of the Ben Jarzombek Estate land and the North ROW line of a county road and across another county road to a point in the East line of the latter county road said point being opposite the SE corner of said Ben Jarzombek tract;

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THENCE, North 30° West 5025.3 feet with the East line of said county road parallel to said Ben Jarzombek Estate 131 acre tract and parallel to the Coates 67 acre tract to a corner in said county road opposite said Coates tract;

THENCE, North 45° 55 min. East with the East line of said county road 256.2 feet to a corner in said county road in the H & TC (A-100) grant;

THENCE, North 36° 45 min. West with the East line of said county road 1349.0 feet to an intersection of this road and another county road being opposite the Dryzmalla tract on its North and the M. Danysh tract on the West;

THENCE, South 73° 45 min. East along the South line of said county road a distance of 1342.7 feet to a point in said road opposite the SW corner of the Sanders Grant and Dryzmalla tract;

THENCE, North 30° West across said county road and along the East line of the Dryzmalla tract also being the East boundary line of the S. Sanders grant 5661.2 feet to a point being the NE corner of the Dryzmalla 379 acre tract;

THENCE, South 60° West with the S. Sanders grant North line a distance of 1227.2 feet to a point being the SE corner of Melvin Bohmann 128 acre tract;

THENCE, North 30° West along the East line of the Melvin Bohmann 128 acre tract and across a county road to a point in said county road North line opposite the NE corner of the Melvin Bohmann tract;

THENCE, South 60° West with the North line of said county road 2388.0 feet, parallel with the Melvin Bohmann 128 acre tract past his NW corner and parallel to the Charles Bohmann 130 acre tract to a point of intersection of this county road with another county road;

THENCE, North 30° West 2613.0 feet with the East line of a county road and being parallel with the East boundary line of the Helmuth Stahl 100 acre tract to a point of intersection of this county road with another county road being opposite an interior corner of the Helmuth Stahl tracts;

THENCE, North 60° East 1060.2 feet with the South line of said county road to a point in the South line of the county road opposite the SE corner of the Helmuth Stahl 35 acre tract;

THENCE, North 30° West across said county road along the East boundary of the Helmuth Stahl 35 acre tract past his NE corner and along the East boundary of the Ed Hassmann 130 acre tract a distance of 4120.3 feet to a point being the NE corner of the Ed Hassmann tract;

THENCE, South 60° West along the North boundary of the Ed Hassmann tract 1227.2 feet to a point;

THENCE, North 30° West 4352.9 feet with the common line between A. H. Haverlah tract and L. Stenken tract to a corner in the North line of the Huizar grant;

THENCE, North 60° East 2968 feet with said Huizar North line to a common corner in said line between J. Curtis (A-80) grant and E. T. Cope grant;

THENCE, North 30° West 14,740.5 feet with the two said grant lines pass their common corner, said corner being the common corner between the J. Curtis and C. Losoya (A-195) grants to a corner within the Losoya grant, said corner being the NW corner of the W. F. Cotter 163 acre tract;

THENCE, North 60° East 2077.6 feet with the common line between said Cotter tract, J. H. Hemby tract and the Annie Lucker 294 acre tract to the SE corner of said Lucker tract;

THENCE, North 30° West 6727.3 feet with said Lucker East line pass the corner between Lucker tract and First State Bank of Stockdale tract

to a corner in the North line of C. Losoya (A-195) grant, being the NW corner of J. Cotter 100 acre tract;

THENCE, North 60° East 1038.8 feet with said Losoya North line pass the NE corner of said J. Cotter tract to a corner in the Losoya line, being a common corner for J. S. Hall (A-152) and C. Zepeda (A-363) original grants;

THENCE, North 30° West 18,698.4 feet with said Zepeda and Hall grants pass corners for James Bradley (A-38) and C. W. Parrott (A-248) grants to the NW corner of said Parrott grant;

THENCE, North 30° East 3363.6 feet with said Parrott survey to the North corner of said survey;

THENCE, North 60° West 1582.8 feet with the James Bradley (A-37) SW boundary line to the SW corner of said Bradley survey;

THENCE, North 30° East 7914.4 feet with said Bradley survey to a corner in the said Bradley survey NW line being a common corner for the Alex Farshage 247 acre and the Springs 227 acre tract;

THENCE, North 60° West 12,415.8 feet with said Farshage and Springs tracts to a corner in the NW boundary line of the Sam Pharr (A-252) original grant;

THENCE, South 30° West 3133.5 feet with said Pharr survey and the common line of the TFL Parrott (A-253) original survey to a South corner of said Parrott survey;

THENCE, North 30° West 9299.4 feet with said Parrott survey and the B. Phillips (A-247) original survey to a corner in the B. Phillips survey, said corner being the NW corner of the Parrott survey;

THENCE, North 60° East 1830.2 feet with said Parrott survey to a point for a corner in the NW boundary line of said Parrott survey;

THENCE, North 30° West 4946.6 feet with the common line between the H. & T.C. survey and the H. & T.C. RR Company survey to a common corner of the two said surveys;

THENCE, North 60° East 643.0 feet with said H. & T.C. RR Company survey to a point for corner;

THENCE, North 30° West 4390.3 feet with the H. & T.C. RR Company survey and the H. and M.E.A. Stone (A-472) original survey to a corner on the common boundary line between Wilson County and Guadalupe County;

THENCE, South 87° East 35,197.3 feet along the common boundary line between Wilson and Guadalupe Counties to a point for corner in the common boundary line between the R. Hobbs (A-426) original survey and the Thomas J. Smith (A-301) survey;

THENCE, South 30° West 4024.9 feet with said Thomas J. Smith survey and the R. Hobbs survey pass the Hobbs South corner to the Thomas J. Smith SW corner;

THENCE, South 60° East 2729.2 feet with said Smith survey to the South corner of said survey;

THENCE, South 30° West 1111.9 feet with the J. D. Fly survey to a corner in the Fly East line being a NW corner of the Noel F. Roberts (A-185) survey;

THENCE, South 60° East 3409.30 feet with said Roberts NE line to the NW corner of Mrs. Katherine Clark tract;

THENCE, South 30° West 2958.9 feet with the W. line of the Mrs. Katherine Clark 101 acre tract pass the NW corner of the Roy Leasman 100 acre tract to the SW corner of said Roy Leasman tract;

THENCE, South 60° East 2958.9 feet with the SW line of the Roy Leasman 101 acre tract pass the SW corner of the Elgin Adcock, Jr. 1 acre tract to the SE corner of the Elgin Adcock, Jr. 1 acre tract;

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“THENCE, South 30° West 9,473.6 feet with said Noel F. Roberts survey pass the SE corner of said Roberts survey, pass the R. W. Hobbs SE corner and with the Jos. Hobbs (A-145) survey to a corner in said Hobbs line being the point at which the Otho King South line crosses the Hobbs original grant line;

THENCE, South 60° East 3638.8 feet with said King line pass the R. H. Milner tract, pass the E. A. Smith tract, to an interior corner of the O. Henry 90 acre tract;

THENCE, South 30° West 1516.1 feet with said O. Henry tract to a corner for the SW corner of said Henry tract;

THENCE, South 60° East 1738.6 feet with said O. Henry tract to the SE corner of said tract;

THENCE, South 30° West 4144.2 feet with the O. Henry 157 acre tract pass and across a county road and with the J. T. Lynn tract to the SW corner of Lynn tract;

THENCE, South 60° East 3032.4 feet with said Lynn tract to a corner in the Daniel Bird (A-41) NW line;

THENCE, North 30° East 395.7 feet with said Lynn tract to a corner for the NW corner of the Mrs. J. Bird tract;

THENCE, South 60° East 2830.2 feet with said Bird tract to the NE corner of said Bird tract and in the West line of the J. White 150 acre tract;

THENCE, South 30° West 1111.9 feet with the common line between the said Bird and White tracts to the SW corner of said White tract;

THENCE, South 60° East 8693.0 feet with said White tract pass the NW corner of the L. L. Holstein 207 acre tract and pass the J. A. Bird and F. Bird tracts to the NE corner of the said Birds' 36 acre tract;

THENCE, South 30° West 1364.5 feet with said Birds' 36 acre tract to a corner for the North corner of E. B. Deason 200 acre tract;

THENCE, South 60° East 3133.6 feet with said Deason tract to the East corner of said tract;

THENCE, South 30° West 5812.0 feet with said Deason tract to corner for the SW corner of the Alamo Lumber Company 394 acre tract and being the Eastern most corner of the Maria De La Garza (A-111) original survey;

THENCE, South 60° East 6064.8 feet with the said Alamo Lumber Company tract to the East corner of tract;

THENCE, South 30° West 3638.8 feet with the C. Sikes Estate pass Pandora to a corner in the Jesse Mapping (A-209) SW line;

THENCE, South 60° East 8895.2 feet with said Mapping original survey to the South corner of said Mapping survey;

THENCE, South 60° West 5357.4 feet with the San Antonio V. & D. Company (A-381) to a corner in the South line of the said San Antonio V. and D. Company survey being the common corner between the H. Homan (A-146) and the Carmen Ross (A-142) original surveys;

THENCE, South 30° East 11,017.5 feet with the said Homan and Ross common line pass the Homan (A-147) and the L. Wells (A-345) original surveys to the common corner between the two said Homan and Wells surveys (Southern corner);

THENCE, South 60° West 1364.6 feet with said Homan South line to a corner in said Homan line for the NE corner of the D. Bird survey;

THENCE, South 30° East 2476.5 feet with said Bird survey to a South corner of said survey;

THENCE, South 28° 30 min. West 2729.2 feet with said Bird survey to a South corner of said survey and being the West corner of the V. Bennett survey;

THENCE, South 60° West 1314.0 feet with said Bird survey to an interior corner of said survey and being the NW corner of the T. Toby survey;

THENCE, South 30° East 8187.4 feet with said Toby survey pass the North common corner between the two W. H. Kirk (A-189) and (A-190) to a corner for the South common corner between the two said surveys;

THENCE, North 60° East 3561.4 feet with said Kirk (A-190) survey to the SE corner of said survey;

THENCE, South 30° East 11,421.8 feet with the East line of a tract of land owned by George H. Coates (320 acres) pass the NW corner of the E. Cox (A-73) original survey, pass the NE corner of the T. K. Wheeler (A-295) pass the SW corner of the said Cox survey to the SE corner of said Wheeler survey;

THENCE, East 5000.0 feet with the Wm. Hunter (A-137) to a corner in the North line of said Hunter survey;

THENCE, South 2628.1 feet with the O. G. Copeland 101.5 acre tract and W. S. Cochran 883.7 acre tract to a common corner between the said Copeland and Cochran tracts;

THENCE, East 6255.7 feet with said W. S. Cochran tract with the South line of said tract to the interior corner of said tract;

THENCE, South 5003.8 feet with said Cochran tract and M. A. Zint 200 acre tract to a common corner between the two said tracts;

THENCE, East 3209.8 feet with said Cochran tract to a corner in the East line of the Wm. Hunter survey;

THENCE, South 3740.0 feet with said Wm. Hunter survey East line pass the W. P. Smith (A-274) NW corner to a corner for the SW corner of said Smith survey;

THENCE, East 4131.7 feet with said Smith South line to a common corner between Smith and the James E. Pierpont (A-232);

THENCE, South 4750.8 feet with said Smith and Pierpont common line, pass said Pierpont SE corner to a corner in the P. Ripley (A-243) North line and the East corner of the J. A. King (A-415) original survey;

THENCE, South 70° West 1415.1 feet with said Ripley and King North line to an interior corner of said King survey;

THENCE, South 20° East 4597.8 feet with said King and Ripley common line to a common corner between the two said surveys, being in the North line of the David Austin (A-17) original survey;

THENCE, North 70° East 16,223.6 feet with said Austin survey pass the NE corner of said Austin survey; with the Creed Taylor (A-279) to the NE corner of said Taylor survey;

THENCE, South 20° East 7176.8 feet with said Taylor (A-279) survey to the SE corner of said survey;

THENCE, South 70° West 8894.8 feet with Taylor survey and the John Adriaance (A-15) North line to the common corner between the two surveys;

THENCE, South 20° East 8288.7 feet with said Adriaance survey and Austin (A-17) East line to the common corner between the two surveys;

THENCE, South 70° West 2173.3 feet with said Austin survey to a common corner between Harrell (A-368) and the H. H. Gorham (A-134) surveys in the Austin South line;

THENCE, South 1920.6 feet with said Harrell and Gorham surveys to a common corner between the two surveys in the North line of the A. J. Harris (A-461) survey;

THENCE, East 2620.0 feet with said Harris North line to the NE corner of said Harris survey;

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THENCE, South 8086.0 feet with said Harris East line to the SE corner of said Harris survey;

THENCE, East 1750.0 feet with said W. L. Lytle survey (A-303) to a NE corner of P. Nuncio 117.75 acre tract;

THENCE, South 4447.6 feet with said Nuncio tract pass the SE corner of said tract to a common South corner between M. Kolodzey 101.59 acre and A. F. Tam 100 acre tracts;

THENCE, West 312.9 feet with said M. Kolodzey tract to a NE corner of A. Tam 50 acre tract;

THENCE, South 4590.2 feet with said Tam tract pass the SE corner of said tract to a common corner between the E. L. Chrode 20 acre tract and the A. Belitz 125 acre tract, said corner being in the North line of E. L. Chrode 200 acre tract;

THENCE, East 2721.7 feet with the common line between the Belitz tract and the Chrode 200 acre tract to the NE corner of said Chrode tract;

THENCE, South 5306.8 feet with the common line between the Belitz 125 acre tract and the said Chrode 200 acre tract pass the Belitz SW corner, pass the Chrode SE corner to a corner in the Wm. L. Lytle South line, being a common corner between the R. B. Kirk 97.5 acre and the A. Belitz 149.4 acre tracts;

THENCE, West 3390.0 feet with the Wm. L. Lytle survey to a common corner between the John Riley (A-721) and E. Butler (A-723);

THENCE, South 3386.2 feet with the common line between the said Riley and Butler surveys pass the South common corners of the two said surveys to the SE corner of the A. B. Barrier (A-642);

THENCE, West 2610.0 feet with the common line between the said Barrier survey and the J. W. Stoddert (A-542) survey to the NW corner of said Stoddert survey and the NE corner of the Jas. Keeland (A-652);

THENCE, South 43° West 1162.5 feet with the common line between the said Stoddert survey and Jas. Keeland survey to an interior corner of said Keeland survey;

THENCE, South 47° East 3517.2 feet with the common line between the said Stoddert and Keeland surveys to a common corner between the two said surveys;

THENCE, South 5913.3 feet with the said Keeland East line to a common corner between the said Keeland and the Francisco Leal (A-304) survey;

THENCE, West 3360.0 feet with the common line between the said Keeland and Leal surveys pass the Leal corner to a corner for the NE corner of the A. Barrier survey;

THENCE, South 5963.8 feet with said Barrier survey to an interior corner of said Barrier (A-37) survey;

THENCE, South 57° East 707.4 feet with the Cuadrilla Irr. Company (A-306) survey line to the interior corner of said survey;

THENCE, South 33° West 1010.9 feet with said Barrier (A-37) survey and the Cuadrilla Irr. Company survey (A-306) common line to a common corner of the two said surveys in the NE line of the Wm. G. McKinney (A-206);

THENCE, South 57° East 1920.4 feet with the common line between the two surveys (A-306) and (A-206) to a common corner between the two said surveys and in the North line of a survey for F. Leal (A-185);

THENCE, North 33° East 1286.1 feet with the common line between the Barrier (A-306) and the F. Leal (A-185) to the corner in the Barrier line being the common corner between the Barrier survey and the Karnes County line;

THENCE, South 39° East 4346.1 feet with the Karnes County line to a corner in the North line of the J. H. McDougal 186.6 acre tract;

THENCE, North 34° East 1187.2 feet with the McDougal North line to the NE corner of the said tract;

THENCE, South 60° East 2122.8 feet with the McDougal East line to the SE corner of the said tract;

THENCE, South 40° West 6873.5 feet with the F. Leal South line pass the NE corner of the Cuadrilla Irr. Company (A-307) to the common corner between the said Leal survey and the Cuadrilla Irr. Company;

THENCE, West 990.0 feet with the common line between the Leal and the Cuadrilla Irr. Company to the NW corner of Rosebud Preddy (A-108) in the SW line of said Leal survey;

THENCE, South 15° East 1415.1 feet with the said Preddy tract and the H. H. Steves common line to the common corner of the two tracts in the FR and M (A-422) North line;

THENCE, North 75° West 2671.0 feet with the said FR and M survey North line to the NW corner of the W. H. Newman 146 acre tract;

THENCE, South 15° East 2223.8 feet with the said Newman tract West line across the FR and M survey, pass the South line of said survey to the West corner of said Newman tract;

THENCE, North 75° West 3561.2 feet with the common line between the G. W. Kauch 113 acre tract and the T. I. Ryan 175.8 acre tract to the common corner between the two tracts;

THENCE, South 15° East 1819.4 feet with the common line between the said Ryan tract and the E. A. Korth 139 acre tract to the common corner;

THENCE, South 37° 30 min. West 5660.7 feet with the said Korth tract and the City Limits of Runge, Texas, to a common corner R. O. Timm 63.5 acre tract and the City Limits of Runge;

THENCE, South 15° East 1263.6 feet with the City Limits of Runge to the SE corner Amanda Janecek 75 acre tract;

THENCE, North 75° West 1137.5 feet with said Janecek tract and a county road to a SW corner of the Janecek tract;

THENCE, South 15° East 2628.0 feet across said county road with the City Limits of Runge to a corner in the Southern Pacific Railroad ROW;

THENCE, South 60° 25 min. West 404.3 feet with said ROW to a point for corner;

THENCE, South 86° 30 min. West 1212.1 feet with said Railroad ROW to a point for corner;

THENCE, South 61° 30 min. West 1011.0 feet with said Railroad ROW to a point for corner;

THENCE, South 47° 30 min. West 1718.3 feet with said Railroad ROW to a point for corner;

THENCE, South 65° 30 min. West 3437.0 feet with said Railroad ROW to a point for corner;

THENCE, North 15° West 1879.6 feet with the Tom Dromgoole 400 acre tract and the K. L. Handy 198 acre tract to a common corner between the two tracts;

THENCE, North 75° West 3017.2 feet with the said Dromgoole and Handy common lines the common corner at the San Antonio River;

THENCE, North 32° West 791.5 feet with meanders of the San Antonio River to a point for corner;

THENCE, North 23° 40 min. East 643.0 feet with meanders of the San Antonio River to a point for corner;

THENCE, South 76° 20 min. West 1111.9 feet with meanders of the San Antonio River to a point for corner;

For Annotations and Historical Notes, see V.A.T.S.

THENCE, North 10° East 197.9 feet across the Ecleto Creek to the place of beginning, containing within the foregoing metes and bounds the following leagues and/or surveys, including the following Original Land Grants listed by county:

KARNES COUNTY: Ramon Musquiz, A-7; Victoriano Zepeda, A-13; David Austin, A-17; W. H. Austin, A-21; William Bell, A-25; Humphrey Best, A-26; W. C. Bullock, A-31; Abraham B. Barrier, A-37; C. A. Ballard, A-45; Simon Briggs, A-46; Thos. H. Bell, A-51; W. Boatwright, A-52; R. Bowen, A-53; Wm. D. Burnett, A-60; I. Clover, A-62; Fernando Carillo, A-64; John Clark, A-65; C. Calliot, A-74; Ezra Cobb, A-75; J. B. Crawford, A-76; Ezre Cobb, A-78; Jos. Curtis, A-80; Cuadrilla Irr. Company, A-82; Colden Denman, A-89; Wesley Delaney, A-94; James G. Dunn, A-96; Wm. G. Evans, A-100; Jos. Edgar, A-109; Ray I. Foster, A-112; I. Gray, A-124; Edward Gallaher, A-126; John Greenlow, A-128; F. J. Haskins, A-136; Wm. Hunter, A-137; H. P. Hamond, A-138; Neil McClane, A-139; Jesus Hernandez, A-140; Wm. E. Howth, A-143; S. G. Hardaway, A-145; Thos. Harmon, A-150; David W. Isbell, A-163; Robert Kleberg, A-172; Francisco Leal, A-185; John F. Miller, A-192; Luscardo Martinez, A-197; Edward W. Matthews, A-199; J. McCaull, A-200; Wm. G. McKenny, A-206; Thos. McClure, A-211; Dan Nicoden, A-217; John Nesbit, A-219; Alexander Orr, A-223; Charles O'Hara, A-224; John J. Pickett, A-227; C. W. Parrott, A-236; W. H. Portwood, A-241; Mrs. John Randon, A-247; George Rounds, A-248; Nathaniel Rudder, A-254; J. W. Simpson, A-269; Wm. P. Smith, A-275; Sampson & Hendricks, A-276; G. W. Smith, A-277; Creed Taylor, A-279; Wm. Twomey, A-281; Calvin Turner, A-282; Wm. Twomey, A-283; George Voss, A-286; J. M. White, A-288; N. Whitehead, A-284; Tobias K. Wheeler, A-295; Julian Jnojosa, A-300; Cuadrilla Irr. Company, A-307; F. M. Hackney, A-308; I. & G. N. Railroad Company, A-310; S. D. LeGrand, A-315; W. J. Massengale, A-317; Valentine Memes, A-318; W. L. Moore, A-319; Joseph Moore, A-320; Presido Irr. Company, A-322; John A. Redin, A-324; Wm. D. Burnett, A-327; Robert Stuts, A-328; Charles Angermiller, A-330; Edward Harris, A-337; Cuadrilla Irr. Company, A-346; John G. Cooper, A-347; A. C. Holmes, A-350; L. Massengale, A-356; Sidney Sherman, A-361; J. M. Sullivan, A-362; W. C. Harrell, A-368; J. B. Jones, A-373, Canutillo Ditch Company, A-380; Colin Campbell, A-395; Colin Campbell, A-396; Wagonshein, A-400; Anderson Meyers, A-406; Coley Meyers, A-407; John A. King, A-415; John A. King, A-416; F. R. & M., A-422; James Caller, A-434; Presido Irr. Company, A-435; Wm. H. Leckie, A-436; Presido Irr. Company, A-452; Newton Morris, A-456; A. J. Harris, A-461.

DEWITT COUNTY: Wm. L. Lytle, A-303; A. B. Barrier, A-642; H. H. Davis, A-645; J. R. Foster, A-647; James Keeland, A-652; James Powell, A-658; O. A. Strickland, A-663; J. Strickland, A-664; A. Strickland, A-665; John Riley, A-721; A. J. Whitton, A-727.

WILSON COUNTY: James Bradley, A-37; James Bradley, A-38; S. Brown, A-53; J. Curtis, A-80; J. Curtis, A-81; Maria De La Garza, A-111, D. Garrett, A-125; Edward Harcourt, A-130; D. Z. Huizar, A-133; R. H. Hobbs, A-140; Carmen Ross, A-142; Joseph Hobbs, A-145; H. Homan, A-147; R. W. Hobbs, A-156; R. W. Hobbs, A-157; H. & T. C., A-160; D. L. Kokernot, A-181; Noel F. Roberts, A-185; P. Kirk, A-188; W. N. Kirk, A-189; W. N. Kirk, A-190; C. Losoya, A-195; D. Lawrence, A-199; Morris May, A-204; Jesse Mapping, A-209; N. Navarro, A-238; A. Nunly, A-240; C. W. Parrott, A-248; Sam Pharr, A-252; T. F. L. Parrott, A-253; C. W. Parrott, A-258; Jose F. Rodriguez, A-263; M. Reinhart, A-271; John Smith, A-287; Sam S. Sander, A-308; Joseph Wilder, A-344; M. C. Wing, A-347; J. Welch, A-350; C. Zepeda, A-363; C. Zepeda, A-362; D. Pennington, A-420; A. Vaughan, A-457; T. Toby, A-321; J. Robins, A-265; D. Bird, A-41; C. Maurer, A-545; J. D. Fly, A-110;

H. & T. C. RR Company, A-168; W. Carter, A-480; W. Howard, A-182." Sec. 2 amended by Acts 1967, 60th Leg., p. 1665, ch. 646, § 1, emerg. eff. June 16, 1967.

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Art. 8280—218. Lavaca County Flood Control District No. 3

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Sec. 5. Qualification of Directors named by Governor. To be qualified for appointment to the Board of Directors a person must be a qualified property tax-paying voter in the District, and not be a member of the governing body of the City of Hallettsville nor an officer of Lavaca County nor an employee of either. Each appointed Director shall subscribe to the Constitutional oath of office for appointed officers and give bond for the faithful performance of his duties in the amount of One Thousand Dollars (\$1,000). The Treasurer of the District shall give bond for the faithful performance of his duties in the amount of Two Thousand Five Hundred Dollars (\$2,500).

Sec. 5 amended by Acts 1967, 60th Leg., p. 1359, ch. 591, § 1, eff. Aug. 28, 1967.

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Art. 8280—228. Red River Authority of Texas

* * * * *

Sec. 14a.

(1) In addition to other purposes heretofore authorized by law, the Authority shall have and is vested with all the powers of the State of Texas, under Section 59, Article XVI, Constitution of the State of Texas, and shall, likewise, have and is vested with all powers, rights, privileges, and functions conferred upon navigation districts by General Law. Without limitation of the generality of the foregoing, the Authority shall have and is hereby authorized to exercise the following powers, rights and privileges, and functions;

(2) to promote, construct, maintain and operate or aid and encourage, the construction, maintenance and operation of navigable canals or waterways and all navigational systems or facilities auxiliary thereto using the natural bed and banks of the Red River, where practicable and thence traversing such route as may be found by the Authority to be more feasible and practicable to connect Red River in Texas with any new navigation canals to be constructed in the lower reaches of Red River or to connect Red River with the intercoastal canal. The Authority is empowered to construct or cause to be constructed a system of artificial waterways and canals, together with all locks and other works, structures and artificial facilities as may be necessary and convenient for the construction, maintenance and operation of navigation canals or waterways and all navigational systems and facilities auxiliary thereto;

(3) the right, power, and authority to acquire, purchase, improve, extend, take over, construct, maintain, repair, operate, develop and regulate ports, levees, wharves, docks, locks, warehouses, grain elevators, dumping facilities, belt railways, lands, and all other facilities or aids to navigation or aids necessary to the operation or development of ports, or waterways within the Red River Basin in Texas. None of the provisions of this Act shall be construed to grant to the Red River Authority the right to exercise any powers outside of the counties expressly named and included as part of said Authority;

(4) to acquire by gift or purchase any and all properties of any kind, including lighters, tugs, barges and other floating equipment of any nature, real, personal or mixed, or any interest therein within or out-

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side of the boundaries of the Authority necessary to the exercise of the powers, rights, privileges and functions conferred upon it by this Act and by condemnation in the manner provided in Section 18 of the Act creating the Authority, provided that the Authority shall not be required to give bond for appeal or bond for costs in any judicial proceedings;

(5) to control, develop, store and use the natural flow and floodwaters of the Red River and its tributaries for the purpose of operating and maintaining said navigable canals or waterways and all navigational systems or facilities auxiliary thereto, provided, however, that such navigational use shall be subordinate to consumptive use of water, and navigation shall be incidental thereto;

(6) to effectuate the construction, maintenance and operation of bank stabilization facilities, channel rectification or alignment, to prevent and aid in preventing devastation of lands from recurrent overflows and the protection of life and property in the Red River in Texas or any tributaries thereof within the Authority from uncontrolled flood waters; to store and conserve to the greatest beneficial use the storm, flood and unappropriated waters of the Red River in Texas or any tributaries thereof within the Authority, so as to prevent the escape of any water without maximum beneficial use either within or without the boundaries of the Authority;

(7) in the event the construction or maintenance and operation of navigable canals or waterways and all navigational systems or facilities auxiliary thereto on the Red River in Texas is taken over or performed by the Federal Government or any agency of the Federal Government, then and in such event the Authority shall be fully authorized to make and enter into any such contracts as may be lawfully required by the Federal Government, including such assignments and transfers of property and rights of property and easements and privileges and any and all other lawful things and acts may be necessary and required in order to meet the requirements of the Federal Government or any agency of the Federal Government in taking over the construction or maintenance and operation of said navigable canals or waterways and all navigational systems or facilities auxiliary thereto;

(8) the Authority shall have the power to acquire additional land adjacent to any permanent improvement heretofore or hereafter constructed within the Authority for the purpose of developing public parks and recreational facilities; the power to acquire necessary right-of-way for public ingress and egress to such areas. The Authority may provide recreational facilities and services, and may enter into contracts and agreements with the Federal Government or any agency thereof; the Parks and Wildlife Department of the State of Texas, any county, municipality, municipal corporation, person, firm, or nonprofit organization for the construction, operation and maintenance of such park or recreational facility. It is legislative intent that the Authority will coordinate the development of any public parks and recreational facilities with the Parks and Wildlife Department for conformity with the "State Comprehensive Outdoor Recreation Plan." The Authority may perform all functions necessary to qualify for state or federal recreational grants and loans;

(9) in addition to other purposes heretofore authorized by law and as a necessary aid to the conservation, control, preservation, and distribution of such water for beneficial use, the Authority is authorized to purchase, construct, improve, repair, operate and maintain works and facilities necessary for the collection, transportation, treatment and disposal of sewage and industrial waste and effluent and to issue negotiable bonds for such purposes, and the Authority may make contracts with cities and others under which the Authority will collect, transport, treat and dispose of sewage from such cities or other entities. The Authority

may also make contracts with any city for the use of any collection, transportation, treatment or disposal facilities owned by such city or by the Authority;

(10) the bonds which may be issued under this Section, shall be payable from revenues under any contract or contracts described herein or from other income of the Authority. Such bonds shall be in the form and shall be issued in the manner prescribed by law for other revenue bonds and as provided in Sections 26, 27, 28 and 29, Article 8280—228.

Sec. 14a added by Acts 1967, 60th Leg., p. 1279, ch. 570, § 1, eff. Aug. 28, 1967.

* * * * *

Section 2 of the amendatory act of 1967 provided: "If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application and to this end the provisions of this Act are declared to be severable."

Art. 8280—242. Repealed. Acts 1967, 60th Leg., p. 433, ch. 197, § 1. Eff. May 15, 1967

Art. 8280—249. Brookshire-Katy Drainage District

* * * * *

Sec. 5. Taxes shall be levied and collected under the provisions of the General Laws applicable to fresh water districts, and when an election is required by the General Laws, before taxes may be levied, the District must hold an election. The total amount of taxes levied by the District for all purposes shall never in any one (1) year exceed seventy-five cents (75¢) on the one hundred dollar valuation of taxable property within the District. No such tax shall be levied, however, until authorized at an election called for that purpose by the Board of Supervisors, at which a majority of the qualified voters voting at such election vote in favor of the levy and collection of such tax. For his services rendered to the District in assessing and collecting taxes for the District, the Assessor and Collector shall be entitled to deduct from all taxes thus collected on the current year's tax rolls a sum as agreed upon by the Board of Supervisors, not to exceed the amount provided by the General Laws relative to the assessment, levy and collection of ad valorem taxes, and for the collection of delinquent taxes compensation in like manner to that which he receives in collecting delinquent State and County taxes, provided that no duplicated charge shall be made for costs of suit where a charge is made in reference to enforcement of State and County taxes.

Sec. 5 amended by Acts 1967, 60th Leg., p. 513, ch. 220, § 1, emerg. eff. May 19, 1967.

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Art. 8280—259. Repealed. Acts 1967, 60th Leg., p. 1339, ch. 585, § 2. Emerg. eff. June 16, 1967

Acts 1967, 60th Leg., p. 1339, ch. 585, § 1. Legislature, Regular Session, 1961 (Article 8280—259, Vernon's Texas Civil Statutes), provided: "The Lomax Municipal District, created by Chapter 438, Acts of the 57th is abolished."

Art. 8280—271. Memorial Villages Water Authority

* * * * *

Sec. 10. Authority authorized to enter into water supply contracts The Authority is authorized to enter into contracts with cities and others for supplying water and sewer services to them, and cities and others are authorized to enter into contracts with the Authority for supplying water and sewer services to the Authority. The Authority may

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also contract with any city for the rental or leasing, or for the operation of such city's water production, water supply, water filtration, or purification and water supply facilities or sewerage system or facilities, and any city may contract with the Authority for the rental or leasing, or for the operation of the Authority's water production, water supply, water filtration, or purification and water supply facilities or sewerage system or facilities. Any such contract may be upon such terms and for such consideration as the parties may agree, and may be for any period of time not to exceed 50 years. No election shall be required of any city or town for approval of water, sewer, or water and sewer contracts, but such contracts may be entered into without the necessity of an election.

Sec. 10. amended by Acts 1967, 60th Leg., p. 1664, ch. 645, § 1, emerg. eff. June 16, 1967.

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Art. 8280—272. Repealed. Acts 1967, 60th Leg., p. 59, ch. 33, § 2. Eff. Aug. 28, 1967

Acts 1967, 60th Leg., p. 59, ch. 33, § 1 provided: "The McLennan County Water Control and Improvement District—Bosqueville Hills, created by Chapter 29, Acts of the 57th Legislature, 3rd Called Session, 1962 (Article 8280—272, Vernon's Texas Civil Statutes), is abolished."

Art. 8280—288a. Addition of land to Harris County Water Control and Improvement District—Fondren Road

Section 1. There is hereby added to and shall become a part of "Harris County Water Control and Improvement District-Fondren Road," hereinafter called "district," the following described land:

Situated wholly within Harris County, Texas, and being a 146.89 acre, more or less, tract of land comprising of parts of the H. A. Fitzhugh Survey, Abstract 1547, and the H. T. & B. R. R. Co. Survey, Abstract 396 and being more particularly described as follows:

Beginning at a point for the Southeast corner of the W. J. Fox Survey, A-1616, the Southwest corner of the James B. Murphy Survey, A-581, and the most Southerly Southeast corner of the original boundary of Harris County Water Control and Improvement District—Fondren Road;

THENCE, N 89° 53' 21" E 645.84 feet along the North line of said H. A. Fitzhugh Survey and the South line of said James B. Murphy Survey to a point for the Northeast corner of said H. A. Fitzhugh Survey and the Northwest corner of H. T. & B. R. R. Co. Survey, Abstract No. 395, and a corner of the tract herein described;

THENCE, S 00° 35' 14" E 971.67 feet along the East line of said H. A. Fitzhugh Survey and the West line of said H. T. & B. R. R. Co. Survey, to a point in the North right-of-way line of the T. & N. O. R. R. Co. right-of-way, based on 100.00 feet in width, for the Southeast corner of the tract herein described;

THENCE, S 66° 36' 40" W 1,330.92 feet along the North right-of-way line of said T. & N. O. R. R. Co. right-of-way to a point in the centerline of Haralson Road and in the Northeasterly line of the B. B. B. & C. R. R. Co. Survey, Abstract No. 184, for the most Southerly corner of the tract herein described;

THENCE, N 45° 20' 35" W 3,683.80 feet along the Centerline of said Haralson Road and the Northeast lines of said B. B. B. & C. R. R. Co. Survey, Abstract No. 184 and B. B. B. & C. R. R. Co., Survey, Abstract No. 183, to a point for the Southwest corner of the tract herein described;

THENCE, N 00° 18' 00" E 1,392.66 feet along the West line of South Main Gardens, according to the map recorded in Volume 30, page 55 of the Map Records of Harris County, Texas, to a point for the Northwest

corner of said South Main Gardens and the Northwest corner of the tract herein described;

THENCE, N 89° 48' 00" E 1,749.80 feet along the North line of said South Main Gardens to a point in the West line of the original boundary of Harris County Water Control and Improvement District—Fondren Road, for the Northeast corner of said South Main Gardens and the Northeast corner of the tract herein described;

THENCE, South 2,489.25 feet along the East line of said South Main Gardens, the West line of said W. J. Fox Survey, and the West line of the original boundary of Harris County Water Control and Improvement District—Fondren Road, to a point for the Southeast corner of the said South Main Gardens, the Southwest corner of said W. J. Fox Survey, the Southwest corner of the original boundary of Harris County Water Control and Improvement District—Fondren Road, and a corner of the tract herein described;

THENCE, East 1,431.10 feet along the South line of said W. J. Fox Survey, the South line of the original boundary of Harris County Water Control and Improvement District—Fondren Road, and the North line of said H. A. Fitzhugh Survey to the place of beginning of the tract of land herein described.

Containing 146.89 acres, more or less.

Sec. 2. It is expressly determined, and the Legislature hereby finds that the boundaries of said added land form a closure, and if any mistake is made in copying the field notes in the legislative process, or otherwise a mistake is found to have occurred in the field notes, it shall in no way or manner affect the existence or validity of said addition, nor shall it in any manner affect the right of the district to which it is added and of which it is henceforth a part, to issue bonds or refunding bonds, or to pay the principal and interest thereon, or the right to assess, levy and collect taxes, or in any other manner affect the legality or operation of the district as enlarged or its governing body.

Sec. 3. The area and boundary of the district, as same shall exist upon and immediately after the addition of land as provided in Section 1 hereof, are hereby redefined, declared, and described as follows:

Situated wholly within Harris County, Texas, and being a 349.69 acre, more or less, tract of land comprising all of the W. J. Fox Survey, Abstract No. 1616 and parts of the James B. Murphy Survey, Abstract No. 581, the H. A. Fitzhugh Survey, Abstract No. 1547, H. T. & B. R. R. Co. Survey, Abstract No. 396, and being more particularly described as follows:

Beginning at a point for the Southeast corner of said W. J. Fox Survey, the Southwest corner of said James B. Murphy Survey and the most Southerly Southeast corner of the original boundary of Harris County Water Control and Improvement District—Fondren Road.

THENCE, N 89° 53' 21" E 645.84 feet along the North line of said H. A. Fitzhugh Survey and the South line of said James B. Murphy survey to a point for the Northeast corner of said H. A. Fitzhugh Survey and the Northwest corner of H. T. & B. R. R. Co. Survey, Abstract 396, and a corner of the tract herein described.

THENCE, S 00° 35' 14" E 971.67 feet along the East line of said H. A. Fitzhugh Survey and the West line of said H. T. & B. R. R. Co. Survey, Abstract 396, to a point in the North right of way line of the T. & N. O. R. R. Co. right of way, based on 100.00 feet in width, for the most Southerly Southeast corner of the tract herein described.

THENCE, S 66° 36' 40" W 1,330.92 feet along the North right of way line of said T. & N. O. R. R. Co. right of way to a point in the centerline of Haralson Road and the Northeasterly line of the B. B. B. & C. R. R. Co. Survey, Abstract No. 184, for the most Southerly corner of the tract herein described.

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THENCE, N 45° 20' 35" W 3,683.80 feet along the centerline of said Haralson Road and the Northeast lines of said B. B. B. & C. R. R. Co. Survey, Abstract No. 184, and the B. B. B. & C. R. R. Co. Survey, Abstract No. 183, to a point for the Southwest corner of the tract herein described.

THENCE, N 00° 13' 00" E 1,392.66 feet along the West line of South Main Gardens, according to the map recorded in Volume 30, page 55 of the Map Records of Harris County, Texas, to a point for the Northwest corner of said South Main Gardens and the most Westerly Northwest corner of the tract herein described.

THENCE, N 89° 48' 00" E 1,749.80 feet along the North line of said South Main Gardens to a point in the West line of the original boundary of Harris County Water Control and Improvement District—Fondren Road, for the Northeast corner of said South Main Gardens and a corner of the tract herein described.

THENCE, North 1,244.05 feet along the West line of said W. J. Fox Survey and the West line of said original boundary of Harris County Water Control and Improvement District—Fondren Road, to a point for the Northwest corner of said W. J. Fox Survey and the Northwest corner of said original boundary of Harris County Water Control and Improvement District—Fondren Road and the Northwest corner of the tract herein described.

THENCE, East 1,431.10 feet along the North line of said W. J. Fox Survey and the most Northerly North line of said original boundary of Harris County Water Control and Improvement District—Fondren Road to a point for the Northeast corner of said W. J. Fox Survey, the Northwest corner of said James B. Murphy Survey, the Northeast corner of said original boundary of Harris County Water Control and Improvement District—Fondren Road and the Northeast corner of the tract herein described.

THENCE, South 1,898.10 feet along the East line of said W. J. Fox Survey, the West line of said James B. Murphy Survey, and the most Westerly East line of said original boundary of Harris County Water Control and Improvement District—Fondren Road, to a point for corner, said point also being the Northwest corner of an 80.00 acre tract of land conveyed to the Jesuit Fathers of Houston, Inc. by Eleanor O'Connell and Catherine O'Connell Shanahan by deed recorded in Volume 4567, Page 170, of the Deed Records of Harris County, Texas, and also being a corner of said original boundary of Harris County Water Control and Improvement District—Fondren Road.

THENCE, S 89° 40' 00" E 2,623.00 feet along the North line of said 80.00 acre tract and the most Southerly North line of said original boundary of Harris County Water Control and Improvement District—Fondren Road to a point in the West right of way line of Fondren Road, based on 60.00 feet in width, for the Northeast corner of said 80.00 acre tract, the most Easterly Northeast corner of said original boundary of Harris County Water Control and Improvement District—Fondren Road, and the most Easterly Northeast corner of the tract herein described.

THENCE, S 00° 15' 00" W 1,330.67 feet along the West right of way line of Fondren Road and the East line of said original boundary of Harris County Water Control and Improvement District—Fondren Road to a point for the Southeast corner of said 80.00 acre tract, the most Easterly Southeast corner of said original boundary of Harris County Water Control and Improvement District—Fondren Road and the most Easterly Southeast corner of the tract herein described.

THENCE, N 89° 45' 00" W 2,617.18 feet along the South line of said 80.00 acre tract and a South line of said original boundary of Harris County Water Control and Improvement District—Fondren Road to a point in the East line of said W. J. Fox Survey and the West line of said James B. Murphy Survey for the Southwest corner of said 80.00 acre tract, a

corner of said original boundary of Harris County Water Control and Improvement District—Fondren Road, and a corner of the tract herein described.

THENCE, South 500.70 feet along the East line of said W. J. Fox Survey and the West line of said James B. Murphy Survey to the Place of Beginning of the tract herein described.

Containing 349.69 acres, more or less.

Sec. 4. It is expressly determined, and the Legislature hereby finds that the boundaries of said district as redefined in Section 3 hereof form a closure, and if any mistake is made in copying the field notes in the legislative process, or otherwise a mistake is found to have occurred in the field notes, it shall in no way or manner affect the organization, existence or validity of said district as enlarged and redefined, or its right to issue bonds or refunding bonds, or to pay the principal and interest thereon, or the right to assess, levy and collect taxes, or in any other manner affect the legality or operation of the district or its governing body.

Sec. 5. It is determined and found that the land added herein to the district, the original area of the district, and all of the land and other property included within the area and boundaries of the district as herein enlarged will be benefited by the works and projects which are to be accomplished by the district pursuant to the powers conferred by the provisions of Article 16, Section 59, of the Constitution of Texas, and that said district was and is created to serve a public use and benefit.

Sec. 6. All proceedings and actions had and taken in the creation of the district and in the appointment or election of directors, all proceedings and actions had and taken by the board of directors of the district, all notices for all elections and hearings, and any and all proceedings or actions relating to any of the foregoing are hereby in all things and all respects ratified, confirmed, approved, and validated, notwithstanding that any of the aforementioned proceedings and actions may not in all respects have been had in accordance with law or statutory provisions.

Sec. 7. The organization of said district and all proceedings, elections and hearings relating thereto and the boundaries of said district, and all purposes for which said district was created, are hereby in all things and all respects ratified, confirmed, approved, and validated.

Sec. 8. When bonds of the district have been voted at an election held for and within the district, and the Attorney General has approved such bonds, and they have been registered by the Comptroller of Public Accounts of the State of Texas, and sold and delivered, such bonds shall be binding, legal, valid, and enforceable obligations of said district, and such bonds shall be incontestable for any cause.

Sec. 9. This Act shall not be construed as validating any proceeding, election or hearing, the validity of which is being contested or is under attack in any suit or litigation pending at the time this Act becomes effective, if such suit or litigation is ultimately determined against the validity thereof.

Sec. 10. It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published at least 30 days and not more than 90 days prior to the introduction of this Act in the Legislature of Texas, in a newspaper having general circulation in the county or counties in which this district or any part thereof is located; that a copy of such notice and a copy of this Act have been delivered to the Governor of Texas who has submitted such notice and Act to the Texas Water Rights Commission, and said Texas Water Rights Commission has filed its recommendation as to such Act with the Governor, Lieutenant Governor and Speaker of the House of Representatives of Texas within 30 days from the date such notice and Act were received by the Texas Water Rights Commission; and that all the requirements and provisions of Article 16, Section 59(d), of

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the Constitution of the State of Texas, have been fulfilled and accomplished as therein provided.

Sec. 11. All bonds and refunding bonds of the district shall be and are hereby declared to be legal, eligible and authorized investments for banks, savings and loan associations, insurance companies, fiduciaries, trustees, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds and refunding bonds shall be eligible to secure the deposit of any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their face value, when accompanied by all unmatured coupons appurtenant thereto.

Sec. 12. If any word, phrase, clause, paragraph, sentence, part, portion or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of this Act shall nevertheless be valid, and the Legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion or provision.

Acts 1967, 60th Leg., p. 1449, ch. 611, emerg. eff. June 16, 1967.

Title of Act:

An Act adding land to Harris County Water Control and Improvement District—Fondren Road, describing the boundaries of such added land; finding the field notes and boundaries of the added land form a closure, and related matters; redefining the boundary of the district as enlarged; finding the field notes and boundaries of the redefined district form a closure, and related matters; finding a benefit to all land and other property within the district as enlarged; ratifying and validating all proceedings and actions had and taken by the governing body of the district, the organization and boundaries of the district.

all notices and all proceedings relating thereto, and all elections and hearings; ratifying and validating all purposes for which district was created; providing a no-litigation clause; determining and finding the requirements of Article 16, Section 59(d), Constitution of the State of Texas, as to notice of intention to introduce this Act have been fulfilled and accomplished; providing the bonds and refunding bonds of this district shall be eligible investments; enacting other provisions relating to the aforementioned subjects; providing a saving clause; and declaring an emergency. Acts 1967, 60th Leg., p. 1449, ch. 611.

Art. 8280—297. Evergreen Underground Water Conservation District

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SUBCHAPTER B. ADMINISTRATION

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Area of District

Sec. 4. The District shall comprise all of the territory contained within Wilson and Atascosa counties and for all practical purposes the boundaries of said counties are coterminous with the boundaries of a subdivision of an underground water reservoir heretofore designated by the Board of Water Engineers, except area under which there is either no underground water or no underground water that can be brought to the surface at a cost that makes bringing it to the surface economically feasible, which the Board excludes under Section 36 of this Act.

Sec. 4 amended by Acts 1967, 60th Leg., p. 1676, ch. 647, § 1, emerg. eff. June 16, 1967.

* * * * *

Administrator and employees

Sec. 8. * * *

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(c) The administrator that the Board employs may be a member of the Board.

Sec. 8, subsec. (c) added by Acts 1967, 60th Leg., p. 1676, ch. 647, § 2, emerg. eff. June 16, 1967.

Board meetings and officers; expenses and per diem allowance

Sec. 9. * * *

* * * * *

(e) A director is entitled to receive \$25 for each day spent at Board meetings or on official business of the District and reimbursement for actual and necessary expenses incurred during attendance at Board meetings or on official business of the District. A director may not receive a per diem allowance for more than 120 days in one calendar year.

Sec. 9, subsec. (e) added by Acts 1967, 60th Leg., p. 1676, ch. 647, § 3, emerg. eff. June 16, 1967.

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SUBCHAPTER D. FINANCIAL PROVISIONS

Taxation

Sec. 21. (a) The Board may levy and collect property taxes levied on the property in the District that are necessary to enable the Board to perform the powers and functions given it in this Act.

(b) The Board may not levy or collect property taxes at a rate greater than 35 cents on the One Hundred Dollar valuation.

(c) The Board may contract with the County Tax Assessor-Collectors of Wilson and Atascosa Counties to assess and collect the property taxes for the district. The Board may not agree to pay more than two percent of the taxes collected as a fee for collecting the tax, nor more than 15% of the taxes collected through prosecution of suits to collect delinquent taxes.

(d) Except as provided in this section, the General Law on water control and improvement districts, relating to the levy and collection of taxes and to elections held on tax levies, applies to the levy and collection of taxes by the Board.

Sec. 21 amended by Acts 1967, 60th Leg., p. 1676, ch. 647, § 4, emerg. eff. June 16, 1967.

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SUBCHAPTER G. MISCELLANEOUS PROVISIONS

Excluding Land from the District

Sec. 36. (a) A person who owns land over which the Board is exercising authority or claiming jurisdiction may petition the Board for a hearing to determine whether or not the land is or should be excluded from the District under Section 4 of this Act.

(b) At the conclusion of the hearing, the land is a part of the District if the Board finds that the person has failed to establish with respect to land claimed to be excluded under Section 4 of this Act, that there is no underground water under the land or that the underground water cannot

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be brought to the surface at a cost that makes bringing it to the surface economically feasible.

(c) If the Board makes a contrary finding under Subsection (b) of this Section, the land is excluded from the District on the day the person filed the petition with the Board to determine whether or not the land should be excluded.

Sec. 36 amended by Acts 1967, 60th Leg., p. 1677, ch. 647, § 5, emerg. eff. June 16, 1967.

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Art. 8280—304. Turkey Creek Improvement District

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Sec. 18. Bonds of the District other than refunding bonds may be sold at a price and upon the terms determined by the Board of Directors of the District, but shall only be sold after the taking of public bids therefor, and none of such bonds, other than refunding bonds, shall be sold for less than 100% of their face value nor shall bear interest at a rate of more than 6% per annum. Refunding bonds shall be sold at a price and under the terms of the General Law applicable to water control and improvement districts. The District may exchange bonds or refunding bonds for property acquired by purchase, or in payment of the contract price of work done or materials furnished or services furnished for the use and benefit of the District, but such exchange of bonds or refunding bonds shall not be on a basis of less than 100% of the face value of the bonds or refunding bonds so exchanged or used for payment as herein specified; provided that no notice given pursuant to Article 7880-117, Revised Civil Statutes of Texas, 1925, as amended, shall be predicated upon or require the exchange of bonds or refunding bonds, and said Article shall otherwise be applicable to this District in all respects.

Sec. 18 amended by Acts 1967, 60th Leg., p. 169, ch. 89, § 1, emerg. eff. April 27, 1967.

* * * * *

Acts 1967, 60th Leg., p. 169, ch. 89, which amended section 18 of this article, provided in sections 2 and 3:

"Sec. 2. It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published at least thirty (30) days and not more than ninety (90) days prior to the introduction of this Act in the Legislature of Texas, in a newspaper having general circulation in Harris County, Texas; that a copy of such notice and a copy of this Act have been delivered to the Governor of Texas who has submitted such notice and Act to the Texas Water Rights Commission, and said Texas Water Rights Commission has filed its recommendation as to such Act with the Governor, Lieutenant Governor and Speaker of the House

of Representatives of Texas within thirty (30) days from the date such notice and Act were received by the Texas Water Rights Commission; and that all the requirements and provisions of Article 16, Section 59(d) of the Constitution of the State of Texas have been fulfilled and accomplished as therein provided.

"Sec. 3. If any word, phrase, clause, paragraph, sentence, part, portion, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act shall nevertheless be valid, and the Legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion, or provision."

Art. 8280—307. Gulf Freeway Municipal Utility District

* * * * *

Sec. 4. The management and control of the District is hereby vested in a Board of five (5) Directors which shall have all of the powers and authority and duties conferred and imposed upon boards of directors of water control and improvement districts organized under the provisions of Chapter 3A of Title 128, Revised Civil Statutes of Texas, 1925, together with all amendments thereof and additions thereto. The mem-

bers of the first Board of Directors shall be appointed as soon as practicable after this Act becomes effective, by the County Judge of Galveston County, Texas, and said first Board of Directors shall meet and organize as soon as practicable after their appointment and shall file their official bonds. All vacancies in the Board of Directors shall be filled by appointment by the County Judge of Galveston County, Texas. With the exception of the first Board of Directors and with the exception of appointment of Directors to vacancies on the Board, the Board of Directors shall be selected as provided by the General Laws for water control and improvement districts. The first election of Directors of such District shall be held on the second Tuesday in January, 1969, and in accordance with Article 7880—37, Revised Civil Statutes of Texas, 1925. Thereafter, Directors of the District shall be elected in accordance with the provisions of the General Laws relating to water control and improvement districts.

Sec. 4 amended by Acts 1967, 60th Leg., p. 1358, ch. 590, § 1, eff. Aug. 28, 1967.

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Art. 8280—309. Timberlake Improvement District

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Sec. 18. Bonds of the District other than refunding bonds may be sold at a price and upon the terms determined by the Board of Directors of the District, but shall only be sold after the taking of public bids therefor, and none of such bonds, other than refunding bonds, shall be sold for less than 100% of their face value nor shall bear interest at a rate of more than 6% per annum. Refunding bonds shall be sold at a price and under the terms of the General Law applicable to water control and improvement districts. The District may exchange bonds or refunding bonds for property acquired by purchase, or in payment of the contract price of work done or materials furnished or services furnished for the use and benefit of the District, but such exchange of bonds or refunding bonds shall not be on a basis of less than 100% of the face value of the bonds or refunding bonds so exchanged or used for payment as herein specified; provided that no notice given pursuant to Article 7880—117, Revised Civil Statutes of Texas, 1925, as amended, shall be predicated upon or require the exchange of bonds or refunding bonds, and said Article shall otherwise be applicable to this District in all respects.

Sec. 18 amended by Acts 1967, 60th Leg., p. 148, ch. 77, § 1, emerg. eff. April 24, 1967.

* * * * *

Sections 2 and 3 of the 1967 amendatory act provided:

"Sec. 2. It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published at least thirty (30) days and not more than ninety (90) days prior to the introduction of this Act in the Legislature of Texas, in a newspaper having general circulation in Harris County, Texas; that a copy of such notice and a copy of this Act have been delivered to the Governor of Texas who has submitted such notice and Act to the Texas Water Rights Commission, and said Texas Water Rights Commission has filed its recommendation as to such Act with the Governor, Lieutenant Governor and Speaker of the House

of Representatives of Texas within thirty (30) days from the date such notice and Act were received by the Texas Water Rights Commission; and that all the requirements and provisions of Article 16, Section 59(d) of the Constitution of the State of Texas have been fulfilled and accomplished as therein provided.

"Sec. 3. If any word, phrase, clause, paragraph, sentence, part, portion, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act shall nevertheless be valid, and the Legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion, or provision."

For Annotations and Historical Notes, see V.A.T.S.

Art. 8280—314. Folletts Island Water Supply District

* * * * *

Sec. 3. The District shall have and exercise and is hereby vested with, all of the rights, powers, privileges and duties conferred and imposed by the General Laws of the State of Texas now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Section 59 of Article XVI, Constitution of Texas, but to the extent that the provisions of such General Laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such General Laws are hereby incorporated by reference with the same effect as if incorporated in full in this Act. The District shall have the power to make, construct, or otherwise acquire improvements either within or without the boundaries thereof necessary to carry out the powers and authority granted by this Act and said General Laws; provided, however, that the exercise of the power of eminent domain shall be limited to Galveston and Brazoria Counties; and provided further, that the District shall not have any powers relating to the navigation of its coastal and inland waters, the reclamation and drainage of its overflowed lands or other lands needing drainage in the District, or any authority relating to sanitary sewer systems. Not by way of limitation, the District shall be authorized and empowered to conserve, store, transport, treat, and purify, distribute, sell and deliver water, both surface and underground, to persons, corporations, both public and private, political subdivisions of the state, and others, and may purchase, construct or lease all property, works and facilities, both within and without the District, necessary for such purposes. The District is expressly authorized to acquire water supplies from sources both within or without the boundaries of the District and to sell, transport and deliver water to customers situated within or without the District and to acquire all property and facilities necessary for such purposes, and for any or all of such purposes may enter into contracts with persons, corporations, both public and private, and political subdivisions of the state, for such periods of time, not exceeding forty years, and on such terms and conditions as its Board of Directors may deem desirable. In the event that the District in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, re-routing or changing the grade of, or altering, the construction of, any highway, railroad, electric transmission line, telephone or telegraph property and facilities, or pipelines, all such necessary relocation, raising, re-routing, change of grade or alteration of construction shall be accomplished at the sole expense of the District. The term 'sole expense' shall mean the actual cost of such relocation, raising, lowering, re-routing, or changing grade or alteration of construction and providing comparable replacement without enhancement of such facilities after deducting therefrom the net salvage value derived from the old facilities.

Sec. 3 amended by Acts 1967, 60th Leg., p. 1340, ch. 586, § 1, emerg. eff. June 16, 1967.

* * * * *

Sec. 5. Land may be added to or annexed to the District in the manner now provided by Chapter 3A, Title 128, Revised Civil Statutes of Texas, 1925, as amended, provided, however, that the Board of Directors may require the petitioners, if land is being added in the manner provided by Article 7880—75, Vernon's Texas Civil Statutes, to assume their pro-rata share of the voted but unissued bonds of the District and authorize the Board to levy a tax on their property in payment for such voted but unissued bonds when issued, or, if land is being annexed to the District in the manner provided by Article 7880—75b, Vernon's Tex-

as Civil Statutes, the Board may also submit a proposition to the property taxpaying voters of the annexed area on the question of the assumption by the annexed territory of its part of the tax or tax revenue bonds of the District theretofore voted but not yet issued or sold and the levy of an ad valorem tax on all taxable property within the annexed territory along with the tax in the rest of the District for the payment thereof. If petitioners consent or if the election results favorably, the District shall be authorized to issue its voted but unissued tax bonds or tax revenue bonds even though the boundaries of the District have been changed since the bonds were voted. Said District may be dissolved by its Board of Directors in accordance with the provisions of Section 77b, Chapter 25, General Laws, Acts of the 39th Legislature, Regular Session, 1925 (Article 7880—77b, Vernon's Texas Civil Statutes). Sec. 5 amended by Acts 1967, 60th Leg., p. 1341, ch. 586, § 2, emerg. eff. June 16, 1967.

* * * * *

<p>Section 3 of the amendatory act of 1967 provided:</p> <p>"It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published at least thirty (30) days and not more than ninety (90) days prior to the introduction of this Act in the Legislature of Texas, in a newspaper having general circulation in Brazoria County, Texas; that a copy of such notice and a copy of this Act have been delivered to the Governor of Texas who has submitted such notice and Act</p>	<p>to the Texas Water Rights Commission, and said Texas Water Rights Commission has filed its recommendation as to such Act with the Governor, Lieutenant Governor and Speaker of the House of Representatives of Texas within thirty (30) days from the date such notice and Act were received by the Texas Water Rights Commission; and that all the requirements and provisions of Article XVI, Section 59 (d), of the Constitution of the State of Texas have been fulfilled and accomplished as therein provided."</p>
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Art. 8280—316. Repealed. Acts 1967, 60th Leg., p. 1547, ch. 624, § 20. Emerg. eff. June 16, 1967

See, now, article 8280—316a.

Art. 8280—316a. Comanche Hills Utility District

Section 1. Under and pursuant to the provisions of Article 16, Section 59, Constitution of Texas, a conservation and reclamation district is hereby created and established in Bell County, Texas, to be known as "Comanche Hills Utility District," hereinafter called the "district," which shall be a governmental agency and a body politic and corporate. The creation and establishment of the district is hereby declared to be essential to the accomplishment of the purposes of Article 16, Section 59, Constitution of Texas.

Sec. 2. The district shall comprise all of the territory contained within the following described area:

A tract of approximately 2471.4 acres in Bell County, Texas, more particularly described as follows:

BEGINNING at a point in the northerly right-of-way line of R.M. 2410, said point being opposite Engineers Station 293+34;

THENCE, N. 72° 49' 40" W. 132.1 feet to a post;

THENCE, N. 20° 52' E. 995.7 feet to a post in the southerly boundary line of the Elizabeth Dawson Survey, Abstract No. 258;

THENCE, along a southerly boundary line of said Dawson Survey N. 69° 51' 40" W. 1336.6 feet to a post at the northeasterly corner of the William E. Hall Survey, Abstract No. 1085;

THENCE, along the easterly boundary line of said Hall Survey S. 18° 12' 40" W. 833.1 feet to a post at its southeasterly corner;

THENCE, along the southerly boundary line of said Hall Survey N. 71° 09' 40" W. 743.6 feet to a post;

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THENCE, N. 18° 41' 40" E. 2584.0 feet to a post on the southerly boundary line of the Isaac T. Bean Survey, Abstract No. 115;

THENCE, along the southerly boundary line of said Bean Survey, and the northerly boundary line of said Dawson Survey, N. 69° 41' 20" W. 519.7 feet to a live oak tree at the southwesterly corner of the said Bean Survey, being a point on the easterly boundary line of the Albert Gallatin Survey, Abstract No. 363;

THENCE, along the easterly boundary line of said Gallatin Survey to its southeasterly corner;

THENCE, along its southerly boundary line, N. 71° 00' W. 3300 feet;

THENCE, N. 19° 00' E., 2640 feet to a point on a southerly boundary line of Bell County W.C. & I.D. No. 4;

THENCE, along a southerly boundary line of said Bell County W.C. & I.D. No. 4, S. 71° 00' E., 3300 feet to a southeasterly corner of said Bell County W.C. & I.D. No. 4, being a point on the westerly boundary line of the Isaac T. Bean Survey, Abstract No. 115;

THENCE, along an easterly boundary line of said Bell County W.C. & I.D. No. 4, and the westerly boundary line of said Bean Survey, N. 19° 00' E., 1534 feet to an interior corner of said Bell County W.C. & I.D. No. 4, and the northwesterly corner of said Bean Survey;

THENCE, along the northerly boundary line of said Bean Survey S. 70° 04' 50" E., at 1757 feet the most easterly southeast corner of said Bell Co. W.C. & I.D. No. 4, in all 1859.2 feet;

THENCE, S. 18° 43' 10" W. 535.4 feet to a post;

THENCE, S. 71° 58' E. 846.2 feet to a post in the easterly boundary line of said Bean Survey and in the westerly boundary line of the H. B. Littlefield Survey, Abstract No. 511;

THENCE, along the easterly boundary line of said Bean Survey and the westerly boundary line of said Littlefield Survey S. 18° 16' 20" W. 2392.5 feet to a post;

THENCE, S. 71° 41' E. 1635.6 feet to a post in the west line of a country road;

THENCE, along said west line of a country road S. 19° 00' W. 2455 feet to the southeast corner of said Littlefield Survey;

THENCE, S. 16° 48' W. approximately 500 feet to a point on the southerly right-of-way of R.M. 2410;

THENCE, in a northwesterly direction along the southerly right-of-way of said R.M. 2410 to a point at the intersection of the easterly right-of-way of a county road called the Dooley Road and the said southerly right-of-way of R.M. 2410;

THENCE, in a southwesterly direction along the southeasterly right-of-way of the said Dooley Road to a point in the interior of the H. R. Morrell Survey, Abstract No. 579, said point bears N. 79° 00' W., 2517 feet from the northwest corner of the James I. Williamson Survey, Abstract No. 1003;

THENCE, S. 79° 00' E., 2517 feet to a point in the easterly boundary of the H. R. Morrell Survey said point also being the northwest corner of the James I. Williamson Survey;

THENCE, S. 71° 00' E., 1867 feet along the northerly boundary to the northeasterly corner of the said James I. Williamson Survey, said point also being a corner in the southerly boundary of the M. D. Odell Survey, Abstract No. 994;

THENCE, in a southwesterly direction along the east boundary of the James I. Williamson Survey to the most northwesterly corner of the D. R. Hughes Survey, Abstract No. 1032;

THENCE, S. 71° 00' E., 1375 feet along the northerly boundary of the said D. R. Hughes Survey to the most southeast corner of the said M. D. Odell Survey, Abstract No. 994;

THENCE, S. 19° 00' W., 597 feet along the easterly boundary of the said D. R. Hughes Survey to the southwest corner of the T. L. Odell Survey, Abstract No. 1043;

THENCE, S. 71° 00' E., along the common boundary of the said D. R. Hughes Survey and the T. L. Odell Survey, at 1293 feet a Government marker, at 1568 feet the most northeasterly corner of the said D. R. Hughes Survey and the southeast corner of the said T. L. Odell Survey;

THENCE, in a northeasterly direction along the common boundary between the said T. L. Odell Survey and the C. W. Bailey Survey, Abstract No. 1175 to the northwest corner of the said C. W. Bailey Survey;

THENCE, S. 71° 00' E., 1389 feet along the northerly boundary of the said C. W. Bailey Survey, Abstract No. 1175 to a point in the westerly boundary of the W. H. Russell Survey, Abstract No. 1049;

THENCE, in a northeasterly direction along the westerly boundary of the said W. H. Russell Survey to the northwest corner of said survey;

THENCE, S. 71° 00' E. along the northerly boundary of the W. H. Russell Survey, the J. P. Russell Survey, Abstract No. 1048, and the W. C. Bile Survey, Abstract No. 1564, a total distance of 4845 feet to the northeast corner of the said W. C. Bile Survey;

THENCE, S. 71° 00' W., along the common boundary of the said W. C. Bile Survey and the T. J. Nabors Survey, Abstract No. 631, a distance of 319 feet to a boundary corner;

THENCE, S. 19° 00' E. along the common boundary of the T. J. Nabors Survey, W. C. Bile Survey; and the Alfred Gee Survey, Abstract No. 1028 a distance of 2948 feet to a point;

THENCE, in a southeasterly direction along the easterly boundary of the said Alfred Gee Survey to a point in the south right-of-way line of a county road called the Nolanville-to-Union Grove Road;

THENCE, in a westerly direction along the meanders of the said Nolanville-to-Union Grove Road to a point at the intersection of the north boundary of the Gideon Brightman Survey, Abstract No. 60 and the south right-of-way of the Nolanville-to-Union Grove Road;

THENCE, in a southwesterly direction along the common boundary between the C. W. Bailey Survey, Abstract No. 1175 and the Gideon Brightman Survey to the intersection of a Government monumented line and the said common boundary;

THENCE, along the following 29 courses:

1. N. 0° 40' E., 580 feet to a Government marker;
2. N. 71° 30' W., 940 feet to a Government marker;
3. S. 56° 17' W., 956 feet to a Government marker;
4. N. 25° 15' W., 2515 feet to a point, said point being on a line that is 10 feet east of and parallel to the easterly boundary line of the T. L. Odell Survey;
5. S. 16° 09' W., 1060 feet along the parallel line that is 10 feet east of the easterly boundary of the T. L. Odell Survey to the point of intersection of the herein described line and a line that is 10 feet south of and parallel to the southerly boundary of the T. L. Odell Survey;
6. N. 71° 00' W., 270 feet along the parallel line that is 10 feet south of the southerly boundary of the T. L. Odell Survey to a point at the intersection of the herein described line and a government monumented line;
7. S. 18° 25' E., 1424 feet to a Government marker;

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8. N. 70° 53' W., 555 feet to a Government marker;
9. S. 15° 07' W., 460 feet to a Government marker;
10. S. 88° 47' W., 612 feet to a Government marker;
11. S. 42° 24' E., 2850 feet to a Government marker;
12. S. 45° 00' W., 220 feet to a Government marker;
13. N. 73° 55' W., 720 feet to a Government marker;
14. S. 46° 00' W., 480 feet to a Government marker;
15. N. 89° 30' W., 900 feet to a Government marker;
16. S. 18° 05' W., 1270 feet to a Government marker;
17. S. 46° 05' E., 1220 feet to a Government marker;
18. S. 11° 40' W., 970 feet to a Government marker;
19. N. 74° 35' W., 450 feet to a Government marker;
20. S. 56° 35' W., 540 feet to a Government marker;
21. N. 41° 50' W., 380 feet to a Government marker;
22. N. 10° 50' E., 765 feet to a Government marker;
23. N. 25° 30' W., 1270 feet to a Government marker;
24. S. 68° 10' W., 680 feet to a Government marker;
25. S. 10° 00' W., 230 feet to a Government marker;
26. S. 47° 15' E., 485 feet to a Government marker;
27. S. 14° 50' W., 900 feet to a Government marker;
28. S. 82° 30' W., 975 feet to a Government marker;
29. N. 21° 45' W., 1100 feet to a Government marker in the westerly boundary of the Peter Williamson Survey, Abstract No. 1089;

THENCE, in a northerly direction along the westerly boundary of the said Peter Williamson Survey to the northeast corner of the John Gosline Survey, Abstract No. 343;

THENCE, S. 71° 00' W. along the north boundary of the said John Gosline Survey a distance of 697 feet to a point;

THENCE, in a northwesterly direction across the interior of the said Peter Williamson Survey to a point which bears S. 71° 00' W., 2021 feet from the northwest corner of the Robert Y. Renick Survey, Abstract No. 722;

THENCE, S. 71° 00' W. approximately 1220 feet to a point in the westerly boundary of the said Peter Williamson Survey;

THENCE, N. 19° 00' W., 4667 feet to the northeast corner of the M. H. Renick Survey, Abstract No. 720;

THENCE, in a southwesterly direction along the north boundary of the said M. H. Renick Survey to the point of intersection of the said westerly right-of-way line of the Dooley Road and the northerly boundary of the M. H. Renick Survey;

THENCE, in a northerly direction along the westerly right-of-way line of Dooley Road to the point of intersection with the southerly right-of-way line of R.M. 2410;

THENCE, continuing in a northerly direction across the right-of-way of said R.M. 2410 to a point in the northerly right-of-way of said R.M. 2410;

THENCE, in a southeasterly direction along the north right-of-way of R.M. 2410 to the point of beginning opposite Engineers Station 293-34.

Sec. 3. It is determined and found that the boundaries and field notes of the district form a closure, and if any mistake is made in copying the field notes in the legislative process, or otherwise a mistake is made in the field notes, it shall in no way or manner affect the organization, existence and validity of the district, or the right of the district to issue any type or kind of bonds or refunding bonds for the purposes for which this district is created, or to pay the principal and interest thereon, or the right to assess, levy and collect taxes, or the legality or operation of the district or its governing body, which shall be a board of directors as hereinafter provided.

Sec. 4. It is determined and found that all of the land and other property included within the area and boundaries of the district will be benefited by the works and projects which are to be accomplished by the district pursuant to the powers conferred by the provisions of Article 16, Section 59, Constitution of Texas, and that said district was and is created to serve a public use and benefit.

Sec. 5. The district shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, authority and duties conferred and imposed by the general laws of this state now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Article 16, Section 59, of the Constitution; but to the extent that the provisions of any such general laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such general laws are hereby adopted and incorporated by reference with the same effect as if incorporated in full in this Act. The powers and duties herein granted to the district shall be subject to the continuing right of supervision of the state, to be exercised by and through the Texas Water Rights Commission.

Sec. 6. All powers of the district shall be exercised by a board of five (5) directors. Each director shall serve for his term of office as herein provided, and thereafter until his successor shall be elected or appointed and qualified. No person shall be appointed a director unless such person is twenty-one (21) years of age or over and a resident of the State of Texas. Such director shall not be required to reside within the boundaries of the district. Each director shall subscribe to the oath of office and shall give bond in the amount of Five Thousand Dollars (\$5,000) for the faithful performance of his duties, the cost of which shall be paid by the district. A majority of directors shall constitute a quorum. Immediately after this Act becomes effective, the following named persons, all of whom are twenty-one (21) years of age or over and residents of the State of Texas, shall be the directors of the district and shall constitute the board of directors of the district: V. C. Russell, Roland Fuller, P. R. Cox, Harry Jenkins and Barney Sisson. If any of the aforementioned persons shall fail or refuse to serve, die, become incapacitated or otherwise not be qualified to assume the duties of a director of the district under this Act, the remaining directors shall appoint a successor or successors. Succeeding directors shall be elected or appointed as provided for in this Act. The first two of the above-named directors shall serve until the second Tuesday in January 1968, or as herein provided; and the following three of the above-named directors shall serve until the second Tuesday in January 1969, or as herein provided. An election for directors shall be held on the second Tuesday in January of each year beginning in 1968, and two directors shall be elected in that year and in each even-numbered year thereafter, and three in each odd-numbered year thereafter. The annual elections shall be ordered by the board of directors. Any vacancy occurring in the board of directors shall be filled for the unexpired term by a majority of the remaining directors. The board of directors shall elect from its number a president, a vice-president and a secretary of the board of directors and of the district, and such other officers as in the judgment of the board are necessary. The president shall be the chief executive officer of the district and the presiding officer of the board, and shall have the same right to vote as any other director. The vice-president shall perform all duties and exercise all power conferred by this Act or the general law upon the president when the president is absent or fails or declines to act. The secretary shall keep and sign the minutes of the meetings of the board of directors; and in his absence at any board meeting, a secretary pro tem shall be named for that meeting who may

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exercise all the duties and powers of the secretary for such meeting, sign the minutes thereof, and attest all orders passed or other action taken at such meeting. The secretary shall be the custodian of all minutes and records of the district. The board shall appoint all necessary engineers, attorneys, auditors and other employees. The board shall adopt a seal for the district.

Sec. 7. Before issuing any construction bonds, the district shall submit plans and specifications therefor to the Texas Water Rights Commission for approval in the manner required by Article 7880—139, Revised Civil Statutes of Texas; and district's project and improvements during the course of construction shall be subject to inspection in the manner provided by said Article 7880—139.

Sec. 8. When any kind of bonds or refunding bonds have been approved by the Attorney General of Texas, registered by the Comptroller of Public Accounts of the State of Texas, and issued by the district, such bonds or refunding bonds shall be negotiable, legal, valid and binding obligations of the district and shall be incontestable for any cause.

Sec. 9. The power of eminent domain of the district shall be limited to Bell County, Texas. In the event that the district, in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, rerouting or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telegraph or telephone properties and facilities, or pipelines, all such necessary relocation, raising, rerouting, changing of grade or alteration of construction shall be accomplished at the sole expense of the district. The term "sole expense" shall mean the actual cost of such relocating, raising, lowering, rerouting, or change in grade or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

Sec. 10. This district is created notwithstanding any of the provisions of the Municipal Annexation Act, being Article 970a, Revised Civil Statutes of Texas, as amended, and said Article 970a shall have no application to this district to the extent of creation only.

Sec. 11. It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published at least thirty (30) days and not more than ninety (90) days prior to the introduction of this Act in the Legislature of Texas, in a newspaper having general circulation in Bell County, Texas; that a copy of such notice and a copy of this Act have been delivered to the Governor of Texas who has submitted such notice and Act to the Texas Water Rights Commission, and said Texas Water Rights Commission has filed its recommendation as to such Act with the Governor, Lieutenant Governor and Speaker of the House of Representatives of Texas within thirty (30) days from the date such notice and Act were received by the Texas Water Rights Commission; and that all the requirements and provisions of Article 16, Section 59(d), Constitution of the State of Texas, have been fulfilled and accomplished as therein provided.

Sec. 12. The board of directors of the district shall select any bank or trust company in the State of Texas to act as depository of the proceeds of the bonds or revenues derived from the operation of the facilities of the district, and said depository shall furnish such indemnity bonds or pledge such securities or meet such other requirements as determined by the board of directors of the district. The district may select one or more depositories.

Sec. 13. In no manner limiting the right, power or authority of the district, as heretofore granted, but specifically granting to the dis-

trict the right, power and authority to purchase and construct, or to purchase or construct, or otherwise to acquire waterworks systems, sanitary sewer systems, storm sewer systems and drainage facilities, or parts of such systems or facilities, and to make any and all necessary purchases, constructions, improvements, extensions, additions, and repairs thereto, and to purchase or acquire all necessary land, rights-of-way, easements, sites, equipment, buildings, plants, structures and facilities therefor and to operate and maintain same, and to sell water and other services. The district may exercise any of the rights, powers, and authorities granted in this Act within or without the boundaries of the district, but only within the boundaries of Bell County, Texas. In addition to the powers and purposes authorized by the general law pertaining to water control and improvement districts, the district may issue any kind of bonds or refunding bonds for any or all of such purposes herein provided and provide and make payment therefor and for necessary expenses in connection therewith.

Sec. 14. Any kind of bonds may be sold at a price and under terms determined by the board of directors of the district, and may be sold at a private or public sale, but none of said bonds shall be sold for less than 95 percent of their face value. The district may exchange bonds for property acquired by purchase or in payment of the contract price of work done or materials furnished, but such exchange of bonds for property acquired by purchase or in payment of the contract price for work done or materials furnished shall not be on a basis of less than 95 percent of the face value of the bonds so exchanged or used for payment as herein specified.

Sec. 15. Notice of all elections may be given under the hand of either the president or the secretary of the district.

Sec. 16. The returns of all elections may be canvassed by the board of directors of the district at any time within seven (7) days after the holding of an election, or as soon thereafter as reasonably practicable.

Sec. 17. The accomplishment of the purposes stated in this Act being for the benefit of the people of this state and for the improvement of their properties and industries, the district in carrying out the purpose of this Act will be performing an essential public function under the Constitution, and the district shall not be required to pay any tax or assessment on the project or any part thereof or on any purchases made by the district, and the bonds issued hereunder and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this state.

Sec. 18. All bonds and refunding bonds of the district shall be and are hereby declared to be legal, eligible and authorized investments for banks, savings and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds and refunding bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas, cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their face value, when accompanied by all unmatured coupons appurtenant thereto.

Sec. 19. If any word, phrase, clause, paragraph, sentence, part, portion, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act shall nevertheless be valid, and the Legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion, or provision.

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Sec. 20. Chapter 556, 59th Legislature, Regular Session, Acts of 1965 (cited as Article 8280—316, Vernon's Texas Civil Statutes), which originally created Comanche Hills Utility District is hereby in all things repealed.

Acts 1967, 60th Leg., p. 1540, ch. 624, emerg. eff. June 16, 1967.

Title of Act:

An Act creating and establishing a conservation and reclamation district under Article 16, Section 59, Constitution of Texas, known as "Comanche Hills Utility District," in Bell County; declaring district a governmental agency, body politic and corporate; defining the boundaries; finding the field notes and boundaries form a closure, and related matters; finding a benefit to all land and other property within the district; finding that district is created to serve a public use and benefit; conferring on district the rights, powers, privileges, authority and duties of the general laws of Texas applicable to water control and improvement districts created under Article 16, Section 59, Constitution of Texas, where not in conflict with this Act and adopting same by reference; providing for continuing supervision by the state through the Texas Water Rights Commission; providing for governing body of district; providing for qualifications and bonds of directors; naming first board of directors; providing for terms and election of directors and related matters; providing for directors to fill vacancies; providing for organization of board of directors; providing for a secretary pro tem; providing for employment of engineers, auditors, attorneys, and other employees; providing for approval of district's plans and specifications by the Texas Water Rights Commission and inspection during construction by said commission; providing for bonds and refunding bonds to be approved by the Attorney General of Texas and registered by the Comptroller of Public Accounts of Texas and providing for

negotiability, legality, validity, obligation, incontestability of the bonds and refunding bonds; providing the power of eminent domain shall be limited to Bell County; providing district shall bear expenses of relocating, raising or rerouting of any highway, railroad, or utility lines or pipelines made necessary by its exercise of the power of eminent domain; providing that the Municipal Annexation Act shall have no application to this district; determining and finding the requirements of Article 16, Section 59(d) as to notice of intention to introduce this Act have been fulfilled and accomplished; providing for the selection of a depository or depositories for the district, and related matters; providing additional powers of district within and without boundaries of district but limited to Bell County; providing for the sale of bonds of the district and the exchange of bonds for property and for the minimum price of bonds at such sale or exchange; providing that notice of all elections shall be under the hand of the president or secretary; providing for canvassing election returns; providing the bonds of this district and their transfer and income therefrom and profits thereon and purchases made by district shall be tax-free in this state; providing the bonds and refunding bonds of this district shall be eligible investments; enacting other provisions related to the aforementioned subjects; providing for a severability clause; repealing Chapter 556, Acts of the 59th Legislature, Regular Session, 1965, which originally created said district; and declaring an emergency. Acts 1967, 60th Leg., p. 1540, ch. 624.

Art. 8280—317. Harbor Improvement District of Galveston County

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Sec. 4. The management and control of the District is hereby vested in a Board of five (5) Directors which shall have all of the powers and authority and duties conferred and imposed upon boards of directors of water control and improvement districts organized under the provisions of Chapter 3A of Title 128, Revised Civil Statutes of Texas, 1925, together with all amendments thereof and additions thereto. The members of the first Board of Directors shall be appointed as soon as practicable after this Act becomes effective, by the County Judge of Galveston County, Texas, and said first Board of Directors shall meet and organize as soon as practicable after their appointment and shall file their official bonds. All vacancies in the Board of Directors shall be filled by appointment by the County Judge of Galveston County, Texas. With the exception of the first Board of Directors and with the exception of appointment of Directors to vacancies on the Board, the Board of Directors shall be selected as provided by the General Laws for water control and improvement districts. The first election of Directors of such District shall be held on the second Tuesday in January 1969, and in accordance with Article 7880—37, Revised Civil Statutes of Texas, 1925. Thereafter, Directors of the District shall be elected in accordance with the provisions

of the General Laws relating to water control and improvement districts.
Sec. 4 amended by Acts 1967, 60th Leg., p. 1349, ch. 588, § 1, eff. Aug. 28, 1967.

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Art. 8280—324. Clear Woods Improvement District

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Sec. 18. Bonds of the District other than refunding bonds may be sold at a price and upon the terms determined by the Board of Directors of the District, but shall only be sold after the taking of public bids therefor, and none of such bonds, other than refunding bonds, shall be sold for less than 100% of their face value nor shall bear interest at a rate of more than 6% per annum. Refunding bonds shall be sold at a price and under the terms of the General Law applicable to water control and improvement districts. The District may exchange bonds or refunding bonds for property acquired by purchase, or in payment of the contract price of work done or materials furnished or services furnished for the use and benefit of the District, but such exchange of bonds or refunding bonds shall not be on a basis of less than 100% of the face value of the bonds or refunding bonds so exchanged or used for payment as herein specified; provided that no notice given pursuant to Article 7880—117, Revised Civil Statutes of Texas, 1925, as amended, shall be predicated upon or require the exchange of bonds or refunding bonds, and said Article shall otherwise be applicable to this District in all respects.
Sec. 18 amended by Acts 1967, 60th Leg., p. 354, ch. 171, § 1, emerg. eff. May 12, 1967.

* * * * *

Acts 1967, 60th Leg., p. 354, ch. 171, which amended section 18 of this article, provides in sections 2 and 3:

"Sec. 2. It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published at least thirty (30) days and not more than ninety (90) days prior to the introduction of this Act in the Legislature of Texas, in a newspaper having general circulation in Harris County, Texas; that a copy of such notice and a copy of this Act have been delivered to the Governor of Texas who has submitted such notice and Act to the Texas Water Rights Commission, and said Texas Water Rights Commission has filed its recommendation as to such Act with the Governor, Lieutenant Governor and Speaker of the House

of Representatives of Texas within thirty (30) days from the date such notice and Act were received by the Texas Water Rights Commission; and that all the requirements and provisions of Article 16, Section 59(d) of the Constitution of the State of Texas have been fulfilled and accomplished as therein provided.

"Sec. 3. If any word, phrase, clause, paragraph, sentence, part, portion, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act shall nevertheless be valid, and the Legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion, or provision."

Art. 8280—325. Inverness Forest Improvement District

* * * * *

Sec. 18. Bonds of the District other than refunding bonds may be sold at a price and upon the terms determined by the Board of Directors of the District, but shall only be sold after the taking of public bids therefor, and none of such bonds, other than refunding bonds, shall be sold for less than 100% of their face value nor shall bear interest at a rate of more than 6% per annum. Refunding bonds shall be sold at a price and under the terms of the General Law applicable to water control and improvement districts. The District may exchange bonds or refunding bonds for property acquired by purchase, or in payment of the contract price of work done or materials furnished or services furnished for the use and benefit of the District, but such exchange of bonds or refunding bonds shall not be on a basis of less than 100% of the face value of the

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bonds or refunding bonds so exchanged or used for payment as herein specified; provided that no notice given pursuant to Article 7880—117, Revised Civil Statutes of Texas, 1925, as amended, shall be predicated upon or require the exchange of bonds or refunding bonds, and said Article shall otherwise be applicable to this District in all respects.

Sec. 18 amended by Acts 1967, 60th Leg., p. 190, ch. 101, § 1, emerg. eff. April 29, 1967.

* * * * *

Acts 1967, 60th Leg., p. 190, ch. 101, which amended section 18 of this article, provided in sections 2 and 3 thereof:

"Sec. 2. It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published at least thirty (30) days and not more than ninety (90) days prior to the introduction of this Act in the Legislature of Texas, in a newspaper having general circulation in Harris County, Texas; that a copy of such notice and a copy of this Act have been delivered to the Governor of Texas who has submitted such notice and Act to the Texas Water Rights Commission, and said Texas Water Rights Commission has filed its recommendation as to such Act with the Governor, Lieutenant Governor and Speaker of the House

of Representatives of Texas within thirty (30) days from the date such notice and Act were received by the Texas Water Rights Commission; and that all the requirements and provisions of Article 16, Section 59(d) of the Constitution of the State of Texas have been fulfilled and accomplished as therein provided.

"Sec. 3. If any word, phrase, clause, paragraph, sentence, part, portion, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act shall nevertheless be valid, and the Legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion, or provision."

Art. 8280—326. Sequoia Improvement District

* * * * *

Sec. 18. Bonds of the District other than refunding bonds may be sold at a price and upon the terms determined by the Board of Directors of the District, but shall only be sold after the taking of public bids therefor, and none of such bonds, other than refunding bonds, shall be sold for less than 100% of their face value nor shall bear interest at a rate of more than 6% per annum. Refunding bonds shall be sold at a price and under the terms of the General Law applicable to water control and improvement districts. The District may exchange bonds or refunding bonds for property acquired by purchase, or in payment of the contract price of work done or materials furnished or services furnished for the use and benefit of the District, but such exchange of bonds or refunding bonds shall not be on a basis of less than 100% of the face value of the bonds or refunding bonds so exchanged or used for payment as herein specified; provided that no notice given pursuant to Article 7880—117, Revised Civil Statutes of Texas, 1925, as amended, shall be predicated upon or require the exchange of bonds or refunding bonds, and said Article shall otherwise be applicable to this District in all respects.

Sec. 18 amended by Acts 1967, 60th Leg., p. 294, ch. 139, § 1, emerg. eff. May 8, 1967.

* * * * *

Acts 1967, 60th Leg., p. 294, ch. 139, which amended section 18 of this article, provided in sections 2 and 3 thereof:

"Sec. 2. It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published at least thirty (30) days and not more than ninety (90) days prior to the introduction of this Act in the Legislature of Texas, in a newspaper having general circulation in Harris County, Texas; that a copy of such notice and a copy of this Act have been delivered to the Governor

of Texas who has submitted such notice and Act to the Texas Water Rights Commission, and said Texas Water Rights Commission has filed its recommendation as to such Act with the Governor, Lieutenant Governor and Speaker of the House of Representatives of Texas within thirty (30) days from the date such notice and Act were received by the Texas Water Rights Commission; and that all the requirements and provisions of Article 16, Section 59(d) of the Constitution of the State of Texas have been fulfilled and accomplished as therein provided.

"Sec. 3. If any word, phrase, clause, paragraph, sentence, part, portion, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act shall nevertheless

be valid, and the Legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion, or provision."

Art. 8280—330. Wilcrest Improvement District

* * * * *

Sec. 18. Bonds of the District other than refunding bonds may be sold at a price and upon the terms determined by the Board of Directors of the District, but shall only be sold after the taking of public bids therefor, and none of such bonds, other than refunding bonds, shall be sold for less than 100% of their face value nor shall bear interest at a rate of more than 6% per annum. Refunding bonds shall be sold at a price and under the terms of the General Law applicable to water control and improvement districts. The District may exchange bonds or refunding bonds for property acquired by purchase, or in payment of the contract price of work done or materials furnished or services furnished for the use and benefit of the District, but such exchange of bonds or refunding bonds shall not be on a basis of less than 100% of the face value of the bonds or refunding bonds so exchanged or used for payment as herein specified; provided that no notice given pursuant to Article 7880—117, Revised Civil Statutes of Texas, 1925, as amended, shall be predicated upon or require the exchange of bonds or refunding bonds, and said Article shall otherwise be applicable to this District in all respects.

Sec. 18 amended by Acts 1967, 60th Leg., p. 188, ch. 99, § 1, emerg. eff. April 28, 1967.

* * * * *

The amendatory act of 1967, which amended section 18 of this article, provided in sections 2 and 3:

"Sec. 2. It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published at least thirty (30) days and not more than ninety (90) days prior to the introduction of this Act in the Legislature of Texas, in a newspaper having general circulation in Harris County, Texas; that a copy of such notice and a copy of this Act have been delivered to the Governor of Texas who has submitted such notice and Act to the Texas Water Rights Commission, and said Texas Water Rights Commission has filed its recommendation as to such Act with the Governor, Lieutenant Governor and Speaker of the House of Representa-

tives of Texas within thirty (30) days from the date such notice and Act were received by the Texas Water Rights Commission; and that all the requirements and provisions of Article 16, Section 59(d) of the Constitution of the State of Texas have been fulfilled and accomplished as therein provided.

"Sec. 3. If any word, phrase, clause, paragraph, sentence, part, portion, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act shall nevertheless be valid, and the Legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion, or provision."

Art. 8280—331. Briarwick Improvement District

* * * * *

Sec. 18. Bonds of the District other than refunding bonds may be sold at a price and upon the terms determined by the Board of Directors of the District, but shall only be sold after the taking of public bids therefor, and none of such bonds, other than refunding bonds, shall be sold for less than 100% of their face value nor shall bear interest at a rate of more than 6% per annum. Refunding bonds shall be sold at a price and under the terms of the General Law applicable to water control and improvement districts. The District may exchange bonds or refunding bonds for property acquired by purchase, or in payment of the contract price of work done or materials furnished or services furnished for the use and benefit of the District, but such exchange of

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bonds or refunding bonds shall not be on a basis of less than 100% of the face value of the bonds or refunding bonds so exchanged or used for payment as herein specified; provided that no notice given pursuant to Article 7880—117, Revised Civil Statutes of Texas, 1925, as amended, shall be predicated upon or require the exchange of bonds or refunding bonds, and said Article shall otherwise be applicable to this District in all respects.

Sec. 18 amended by Acts 1967, 60th Leg., p. 297, ch. 141, § 1, emerg. eff. May 8, 1967.

* * * * *

Acts 1967, 60th Leg., p. 297, ch. 141, which amended section 18 of this article, provided in sections 2 and 3 thereof:

"Sec. 2. It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published at least thirty (30) days and not more than ninety (90) days prior to the introduction of this Act in the Legislature of Texas, in a newspaper having general circulation in Harris County, Texas; that a copy of such notice and a copy of this Act have been delivered to the Governor of Texas who has submitted such notice and Act to the Texas Water Rights Commission, and said Texas Water Rights Commission has filed its recommendation as to such Act with the Governor, Lieutenant Governor

and Speaker of the House of Representatives of Texas within thirty (30) days from the date such notice and Act were received by the Texas Water Rights Commission; and that all the requirements and provisions of Article 16, Section 59(d) of the Constitution of the State of Texas have been fulfilled and accomplished as therein provided.

"Sec. 3. If any word, phrase, clause, paragraph, sentence, part, portion, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act shall nevertheless be valid, and the Legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion, or provision."

Art. 8280—332. Bender Road Improvement District

* * * * *

Sec. 18. Bonds of the District other than refunding bonds may be sold at a price and upon the terms determined by the Board of Directors of the District, but shall only be sold after the taking of public bids therefor, and none of such bonds, other than refunding bonds, shall be sold for less than 100% of their face value nor shall bear interest at a rate of more than 6% per annum. Refunding bonds shall be sold at a price and under the terms of the General Law applicable to water control and improvement districts. The District may exchange bonds or refunding bonds for property acquired by purchase, or in payment of the contract price of work done or materials furnished or services furnished for the use and benefit of the District, but such exchange of bonds or refunding bonds shall not be on a basis of less than 100% of the face value of the bonds or refunding bonds so exchanged or used for payment as herein specified; provided that no notice given pursuant to Article 7880—117, Revised Civil Statutes of Texas, 1925, as amended, shall be predicated upon or require the exchange of bonds or refunding bonds, and said Article shall otherwise be applicable to this District in all respects.

Sec. 18 amended by Acts 1967, 60th Leg., p. 202, ch. 114, § 1, emerg. eff. May 4, 1967.

* * * * *

Acts 1967, 60th Leg., p. 202, ch. 114, which, in section 1 thereof, amended section 18 of this article, provided in sections 2 and 3:

"Sec. 2. It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published at least thirty (30) days and not more than ninety (90) days prior to the introduction of this Act in the Legislature of Texas, in a newspaper having general circulation in

Harris County, Texas; that a copy of such notice and a copy of this Act have been delivered to the Governor of Texas who has submitted such notice and Act to the Texas Water Rights Commission, and said Texas Water Rights Commission has filed its recommendation as to such Act with the Governor, Lieutenant Governor and Speaker of the House of Representatives of Texas within thirty (30) days from the date such notice and Act were received by the Texas Water Rights Commission; and that all the

requirements and provisions of Article 16, Section 59(d) of the Constitution of the State of Texas have been fulfilled and accomplished as therein provided.

"Sec. 3. If any word, phrase, clause, paragraph, sentence, part, portion, or provision of this Act or the application thereof to any person or circumstance shall be held

to be invalid or unconstitutional, the remainder of the Act shall nevertheless be valid, and the Legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion, or provision."

Art. 8280—333. West Road Improvement District

* * * * *

Sec. 18. Bonds of the District other than refunding bonds may be sold at a price and upon the terms determined by the Board of Directors of the District, but shall only be sold after the taking of public bids therefor, and none of such bonds, other than refunding bonds, shall be sold for less than 100% of their face value nor shall bear interest at a rate of more than 6% per annum. Refunding bonds shall be sold at a price and under the terms of the General Law applicable to water control and improvement districts. The District may exchange bonds or refunding bonds for property acquired by purchase, or in payment of the contract price of work done or materials furnished or services furnished for the use and benefit of the District, but such exchange of bonds or refunding bonds shall not be on a basis of less than 100% of the face value of the bonds or refunding bonds so exchanged or used for payment as herein specified; provided that no notice given pursuant to Article 7880—117, Revised Civil Statutes of Texas, 1925, as amended, shall be predicated upon or require the exchange of bonds or refunding bonds, and said Article shall otherwise be applicable to this District in all respects. Sec. 18 amended by Acts 1967, 60th Leg., p. 296, ch. 140, § 1, emerg. eff. May 8, 1967.

* * * * *

Acts 1967, 60th Leg., p. 296, ch. 140, which amended section 18 of this article, provided in sections 2 and 3 thereof:

"Sec. 2. It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published at least thirty (30) days and not more than ninety (90) days prior to the introduction of this Act in the Legislature of Texas, in a newspaper having general circulation in Harris County, Texas; that a copy of such notice and a copy of this Act have been delivered to the Governor of Texas who has submitted such notice and Act to the Texas Water Rights Commission, and said Texas Water Rights Commission has filed its recommendation as to such Act with the Governor, Lieutenant Governor and Speaker of the House of Representa-

tives of Texas within thirty (30) days from the date such notice and Act were received by the Texas Water Rights Commission; and that all the requirements and provisions of Article 16, Section 59(d) of the Constitution of the State of Texas have been fulfilled and accomplished as therein provided.

"Sec. 3. If any word, phrase, clause, paragraph, sentence, part, portion, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act shall nevertheless be valid, and the Legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion, or provision."

Art. 8280—334. Bordersville Improvement District

* * * * *

Sec. 18. Bonds of the District other than refunding bonds may be sold at a price and upon the terms determined by the Board of Directors of the District, but shall only be sold after the taking of public bids therefor, and none of such bonds, other than refunding bonds, shall be sold for less than 100% of their face value nor shall bear interest at a rate of more than 6% per annum. Refunding bonds shall be sold at a price and under the terms of the General Law applicable to water control and improvement districts. The District may exchange bonds or refunding bonds for property acquired by purchase, or in payment of the contract price of work done or materials furnished or services furnished for the

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use and benefit of the District, but such exchange of bonds or refunding bonds shall not be on a basis of less than 100% of the face value of the bonds or refunding bonds so exchanged or used for payment as herein specified; provided that no notice given pursuant to Article 7880—117, Revised Civil Statutes of Texas, 1925, as amended, shall be predicated upon or require the exchange of bonds or refunding bonds, and said Article shall otherwise be applicable to this District in all respects.

Sec. 18 amended by Acts 1967, 60th Leg., p. 191, ch. 102, § 1, emerg. eff. April 29, 1967.

* * * * *

Acts 1967, 60th Leg., p. 191, ch. 102, which amended section 18 of this article, provided in sections 2 and 3 thereof:

"Sec. 2. It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published at least thirty (30) days and not more than ninety (90) days prior to the introduction of this Act in the Legislature of Texas, in a newspaper having general circulation in Harris County, Texas; that a copy of such notice and a copy of this Act have been delivered to the Governor of Texas who has submitted such notice and Act to the Texas Water Rights Commission, and said Texas Water Rights Commission has filed its recommendation as to such Act with the Governor, Lieutenant Governor and Speaker of the House of Representa-

tives of Texas within thirty (30) days from the date such notice and Act were received by the Texas Water Rights Commission; and that all the requirements and provisions of Article 16, Section 59(d) of the Constitution of the State of Texas have been fulfilled and accomplished as therein provided.

"Sec. 3. If any word, phrase, clause, paragraph, sentence, part, portion, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act shall nevertheless be valid, and the Legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion, or provision."

Art. 8280—338. Braeburn West Utility District

* * * * *

Sec. 11. The District shall have the right, power and authority to enter into contracts with the United States of America, the State of Texas, or any subdivision thereof, municipal corporations, owners of land, developers or lessees of land and properties and others, as may be necessary or appropriate in connection with the facilities, works or improvements as the District may be authorized and empowered to perform so that, to the greatest extent reasonably possible, considering sound engineering and economic practices, the area may be placed in position ultimately to receive the services of such facilities, works or improvements. No election shall be required of any town or city for approval of contracts with the District, but such contracts may be entered into without the necessity of an election by any contracting party. Such contracts may be for any term not to exceed fifty (50) years.

The District shall have the power and authority to enter into a contract with the City of Houston with respect to compliance with the policy of the City on the formation of water control and improvement districts within such City's extraterritorial jurisdiction, generally to the effect that:

- (a) Bonds may be issued by the District only for the purpose of purchasing and constructing, or purchasing or constructing, or otherwise acquiring waterworks systems, sanitary sewer systems, storm sewer systems and drainage facilities, or parts of such systems or facilities, and to make any and all necessary purchases, constructions, improvements, extensions, additions and repairs thereto, and to purchase or acquire all necessary land, right-of-way, easements, sites, equipment, buildings, plants, structures and facilities therefor and to operate and maintain same, and to sell water and other services within or without the boundaries of the District. Such bonds issued by the District, other than refunding bonds, shall only be sold after the taking of public bids therefor, and none of such bonds other than refunding bonds, shall be sold for

less than one hundred percent (100%) of their face value and shall bear interest at the rate of not more than six percent (6%) per annum.

(b) The District shall submit the plans and specifications for the construction of water, sanitary sewer and drainage facilities to serve such District to such City for approval and such District must obtain the approval thereof by such City before commencing construction thereof. The construction of the District's water, sanitary sewer and drainage facilities shall be in accordance with the approved plans and specifications and with applicable standards and specifications of the City of Houston, and during the progress of the construction and installation of such facilities, the Director of Public Works of the City of Houston, or an employee thereof, shall make periodic on the ground inspections, and no such construction shall be started or undertaken by the District unless it has in its possession the following:

(c) A certificate of the District's engineer, who shall be a registered professional engineer under the laws of the State of Texas, that, in his opinion, such construction conforms to said City's established standards and specifications; and a letter or certificate of the Director of the Department of Public Works of said City of Houston (or the successor, department, or agency of said Department of Public Works) that, in his opinion, such construction conforms to said City's established standards and specifications.

Sec. 11 amended by Acts 1967, 60th Leg., p. 1699, ch. 652, § 1, emerg. eff. June 16, 1967.

Sec. 12. The District is fully empowered to borrow money for its corporate purposes, including the power to borrow money and accept grants, gratuities, or other support from the United States of America, or the State of Texas, or from any corporation or agency created or designated by the United States of America or the State of Texas, or from any other source, and in connection with any such loan, grant or other support, to enter into such arrangements as the Board of Directors may deem advisable. The District is granted full powers to authorize, execute, issue and sell bonds, whether to be supported by taxes, revenues or a combination of taxes and revenues, to evidence any indebtedness it may lawfully incur and in such connection the Board of Directors may proceed as permitted under the General Laws pertaining to the issuance of bonds by water control and improvement districts, including refunding bonds. Bonds payable solely from net revenues of the District's operation or from the proceeds of any contract for the District's services may be issued by resolution of the Board of Directors and no hearing or election therefor shall be required of any contracting party. All bonds issued by the District pursuant to the provisions of this Act shall constitute negotiable instruments within the meaning of the Uniform Commercial Code of this State. Before any bonds shall be sold by the District, a certified copy of the proceedings for the issuance thereof, including the form of such bonds, together with any other information which the Attorney General of Texas may require, shall be submitted to the Attorney General, and if he shall find that such bonds have been issued in accordance with the law, he shall approve such bonds and execute a certificate of approval which shall be filed in the office of the Comptroller of Public Accounts of the State of Texas, and be recorded in a record kept for that purpose. No bonds shall be issued until the same shall have been registered by the Comptroller of Public Accounts, who shall so register the same if the Attorney General shall have filed with the Comptroller of Public Accounts his certificate approving the bonds, and the proceedings for the issuance thereof, as hereinabove provided. When bonds or the proceedings pertaining thereto recite that they are secured by a pledge of the proceeds of a contract theretofore made between the District and any city, district, or other user, a copy of such contract and proceedings of

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the contracting parties shall be submitted to the Attorney General with the bond record and if such bonds have been duly authorized and such contracts made in compliance with the law, he shall approve the bonds and contracts and the bonds shall then be registered by the Comptroller of Public Accounts. When approved as aforesaid, the bonds and contracts shall be valid and binding and shall be incontestable for any cause. No bonds shall be issued until the same have been submitted to and reviewed by the Texas Water Rights Commission as provided by Article 7880—139, Vernon's Texas Civil Statutes, as amended, followed by full compliance by the District with all requirements made by the Commission pursuant to such Statute.

All bonds of the District shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, trustees and sinking funds of cities, towns

Art. 8280—342. Spenwick Place Municipal Utility District

Section 1. Under and pursuant to the provisions of Article XVI, Section 59 of the Constitution of Texas, a conservation and reclamation district is hereby created and established in Harris County, Texas, to be known as "Spenwick Place Municipal Utility District of Harris County" (hereinafter called the "district"), which shall be a governmental agency and a body politic and corporate. The creation and establishment of the district is hereby declared to be essential to the accomplishment of the purposes of Article XVI, Section 59 of the Constitution of Texas.

Sec. 2. The district shall comprise all of the territory contained within the following described area and being entirely within Harris County, Texas:

Being a tract of land in the William M. Jones Survey, Abstract No. 482, Harris County, Texas. Said tract of land being bounded on the North by Spencer Highway, on the East by Harris County Water Control & Improvement District No. 56, on the South by Fairmont Parkway and on the West by the herein described boundary. Said tract of land being fully described by metes and bounds as follows:

BEGINNING at an iron pipe for corner at the intersection of the south line of Spencer Highway based on a width of 100 feet and the West line of Canada Drive based on a width of 60 feet;

THENCE North $89^{\circ}25'58''$ East with said South line of Spencer Highway, a distance of 3719.55 feet to an iron pipe for corner;

THENCE South $0^{\circ}38'00''$ East with a west line of said Harris County Water Control & Improvement District No. 56 boundary, a distance of 4563.76 feet to a point for corner in the North line of Fairmont Parkway, 250 feet wide;

THENCE South $80^{\circ}30'00''$ West with the North line of said Fairmont Parkway, a distance of 150.01 feet to an iron rod for corner, the beginning of a curve to the right;

THENCE in a Westerly direction with the North line of said Fairmont Parkway, following said curve to the right having a radius of 5604.58 feet and a central angle of $8^{\circ}52'00''$, a distance of 867.32 feet to an iron rod for corner, the end of said curve;

THENCE South $89^{\circ}22'00''$ West with the North line of said Fairmont Parkway, a distance of 2212.55 feet to an iron pipe for corner at its intersection with the East line of Lot 712 of the W. B. Lawrence LaPorte Outlots Subdivision according to map thereof recorded in Volume 83, Page 544 of the Deed Records of Harris County, Texas;

THENCE North $0^{\circ}37'02''$ West with the East line of said Lot 712, passing its Northeast corner at 892.98 feet and continuing on across an 80-foot wide road shown on said map of the W. B. Lawrence LaPorte Outlots

Subdivision for a total distance of 972.98 feet to the Southwest corner of Lot 706 of said Subdivision;

THENCE North $89^{\circ}22'58''$ East with the South line of said Lot 706, a distance of 484.0 feet to its Southeast corner;

THENCE North $0^{\circ}37'02''$ West with the East line of said Lot 706, passing its Northeast corner at 900.0 feet and continuing on with the East line of Lot 693 of said Subdivision for a total distance of 1800.0 feet to the Northeast corner of said Lot 693;

THENCE South $89^{\circ}22'58''$ West with the North line of said Lot 693, passing its Northwest corner at 484.0 feet and continuing on with the North Line of Lot 692 of said Subdivision, passing its Northwest Corner at 968.0 feet, and continuing on with the North line of Lot 691 of said Subdivision for a total distance of 980.20 feet to an iron rod for corner;

THENCE North $0^{\circ}37'02''$ West, a distance of 1885.04 feet to the point of beginning, containing 345.34 acres of land, more or less.

Sec. 3. It is determined and found that the boundaries and field notes of the district form a closure, and if any mistake is made in copying the field notes in the legislative process, or otherwise a mistake is made in the field notes, it shall in no way or manner affect the organization, existence and validity of the district, or the right of the district to issue any type or kind of bonds or refunding bonds, or to pay the principal and interest thereon, or the right to assess, levy and collect taxes, or the legality or operation of the district or its governing body, which shall be a board of directors as hereinafter provided.

Sec. 4. It is determined and found that all of the land and other property included within the area and boundaries of the district will be benefited by the works and projects which are to be accomplished by the district pursuant to the powers conferred by the provisions of Article XVI, Section 59 of the Constitution of Texas, and that said district was and is created to serve a public use and benefit.

Sec. 5. The district shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, authority and duties conferred and imposed by the General Laws of this state, now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Article XVI, Section 59 of the Constitution of Texas; but to the extent that the provisions of any such General Laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such General Laws are hereby adopted and incorporated by reference with the same effect as if incorporated in full in this Act. Without in any way limiting the generality of the foregoing, the district is hereby specifically granted the right, power and authority to purchase, construct, or purchase and construct, or otherwise acquire and accomplish by any and all practical means, waterworks systems, sanitary sewer systems, storm sewer systems and drainage facilities or parts of such systems or facilities and to make any and all necessary purchases, constructions, improvements, extensions, additions and repairs thereto, and to purchase or otherwise acquire all necessary land, easements, buildings, structures, equipment and other necessary facilities therefor within or without the boundaries of the district (except as limited by this Act) and to issue and sell its bonds for any one or more of such purposes and provide and make payment therefor and for all necessary expenses in connection therewith. By way of limitation, however, it is provided that the district shall conform and comply with all requirements of Ordinance No. 768 of the City of La Porte, Texas, as passed, approved and effective May 1, 1967, and it is further provided that the powers and duties herein granted to the district shall be subject to the continuing right of supervision of the state, to be exercised by and through the Texas Water Rights Commission.

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Sec. 6. It shall not be necessary for the board of directors to call or hold a confirmation election or a hearing on the exclusions of land or other property from the district or a hearing on the adoption of a plan of taxation. The ad valorem plan of taxation shall be used by the district.

Sec. 7. All powers of the district shall be exercised by a board of five directors. Each director shall serve for his term of office as herein provided, and thereafter until his successor shall be elected or appointed and qualified. No person shall be elected or appointed a director unless such person is 21 years of age or over and resides in and owns real property subject to taxation by the district. Immediately after this Act becomes effective, the following named persons who satisfy the foregoing requirements shall be the directors of said district, each of whom shall serve for the term of office herein specified and thereafter until his successor shall be elected or appointed and shall have qualified, to wit:

Cecil Knight
Edward Dale Campbell
Aubrey Foster
James A. Gee
A. L. Short

If any of such persons shall fail or refuse to serve, die, become incapacitated or otherwise not be qualified to assume the duties of a director of the district under this Act, the remaining directors shall appoint a successor or successors. The first two of the above named directors shall serve until the second Tuesday in January 1968, or as herein provided; and the remaining three of the above named directors shall serve until the second Tuesday in January 1969, or as herein provided. An election for directors shall be held on the second Tuesday in January of each year beginning in 1968 and two directors shall be elected in that year and in each even-numbered year thereafter, and three in each odd-numbered year thereafter. The annual election shall be ordered by the board of directors. Any vacancy occurring in the board of directors shall be filled for the unexpired term by a majority of the remaining directors. The board of directors shall elect from its number a president and a vice president of the district, and such other officers as in the judgment of the board are necessary. The president shall be the chief executive officer of the district and the presiding officer of the board, and have the same right to vote as any other director. The vice president shall perform all the duties and exercise all powers conferred by this Act upon the president when the president is absent or fails or declines to act. The board may appoint a secretary and a treasurer who may or may not be members of the board, and it may combine those offices. The board may require that the treasurer give bond in such amount as may be required by the board. The condition of such bond shall be that he will faithfully account for all money which shall come into his custody as treasurer of the district. The board shall appoint all necessary engineers, attorneys and other employees. The board shall adopt a seal for the district.

Sec. 8. When bonds or refunding bonds have been issued by the district and said bonds or refunding bonds have been approved by the Attorney General of Texas and registered by the Comptroller of Public Accounts, said bonds or refunding bonds shall be negotiable, valid, legal and binding obligations and shall be incontestable for any cause.

Sec. 9. Before issuing bonds for any purpose, the district shall submit engineering plans and specifications and/or other pertinent information to the Texas Water Rights Commission for approval in the manner required by Chapter 336, Acts of the 57th Legislature, Regular Session, 1961, codified in Vernon's Texas Civil Statutes as Article 7880—139, and said

district's project and improvements during the course of construction shall be subject to inspection in the manner provided in said Article 7880—139.

Sec. 10. The power of eminent domain of the district shall be limited to the boundaries of the district. In the event that the district, in the exercise of the power of eminent domain or power of relocation or any other power granted hereunder, makes necessary the relocation, raising, re-routing or changing the grade of, or altering the construction of any highway, railroad, electric transmission line, telegraph or telephone properties and facilities, or pipeline, all such necessary relocation, raising, re-routing, changing of grade or alteration of construction shall be accomplished at the sole expense of the district. The term "sole expense" shall mean the actual cost of such relocation, raising, re-routing, changing of grade or alteration of construction and providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facilities.

Sec. 11. The provisions of Article 7880—77b, as amended, as codified in Vernon's Annotated Civil Statutes of Texas, or any other general law, pertaining to the calling of a hearing for the determination of the dissolution of a district where a bond election has failed shall be inapplicable to this District, and this District shall continue to exist and shall have full power to function and operate regardless of the outcome of any bond election. Upon the failure of any bond election, a subsequent bond election may be called after the expiration of six months from the date of the bond election which failed.

Sec. 12. The accomplishment of the purposes stated in this Act being for the benefit of the people of this state and for the improvement of their properties and industries, the district in carrying out the purposes of this Act will be performing an essential public function under the Constitution of Texas, and the district shall not be required to pay any tax or assessment on the project or any part thereof or on any purchases made by the district, and the bonds issued hereunder and their transfer and income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this state.

Sec. 13. It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published at least 30 days and not more than 90 days prior to the introduction of this Act in the Legislature of Texas, in a newspaper having general circulation in Harris County, Texas; that a copy of such notice and a copy of this Act have been delivered to the Governor of Texas who has submitted such notice and Act to the Texas Water Commissioner, and said Texas Water Commission has filed its recommendation as to such Act with the Governor, Lieutenant Governor and Speaker of the House of Representatives of Texas within 30 days from the date such notice and Act were received by the Texas Water Commission; and that all the requirements and provisions of Article XVI, Section 59(d) of the Constitution of the State of Texas have been fulfilled and accomplished as therein provided.

Sec. 14. If any word, phrase, clause, paragraph, sentence, part, portion, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act shall nevertheless be valid, and the Legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion, or provision.

Acts 1967, 60th Leg., p. 1267, ch. 568, emerg. eff. June 16, 1967.

Title of Act:

An Act creating and establishing a conservation and reclamation district under Article XVI, Section 59, Constitution of Texas, known as "Spenwick Place Municipal Utility District of Harris County"; de-

claring said district to be a governmental agency and body politic and corporate; defining the boundaries of said district and finding that said boundaries form a closure; finding that said district is created to serve a public use and benefit; providing that

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said district shall have all of the rights, powers, privileges, authority and duties conferred by the General Laws applicable to water control and improvement districts created under Article XVI, Section 59 of the Constitution of Texas where not in conflict with this Act, specifying certain rights, powers and authority but providing, by way of limitation, that the district shall comply with all requirements of an ordinance of the City of La Porte, Texas, and that all powers and duties of said district shall be subject to the continuing right of supervision of the state, exercised by and through the Texas Water Rights Commission; providing for no confirmation election nor hearing for the exclusion of lands nor hearing on plan of taxation need be held and adopting the ad valorem plan of taxation; providing for

the governing body of said district; providing for the qualifications, election and terms of directors and appointing members of original board of directors; providing for the validity of bonds issued by said district; providing for the approval and inspection of construction projects by the Texas Water Commission; limiting the powers of eminent domain of said district; providing for payment of certain relocation and other costs; providing that Article 7880—77b shall not be applicable to said district; providing that said district is free from taxation within this state; determining and finding that the requirements of Article XVI, Section 59(d) have been fulfilled and accomplished; providing for severability; and declaring an emergency. Acts 1967, 60th Leg., p. 1267, ch. 568.

Art. 8280—343. Bayou Vista Municipal Utility District

Section 1. Under and pursuant to the provisions of Article 16, Section 59 of the Constitution of Texas, a conservation and reclamation district is hereby created and established in Galveston County, Texas, to be known as "Bayou Vista Municipal Utility District," hereinafter called the "District," which shall be a governmental agency and a body politic and corporate. The creation and establishment of the District is hereby declared to be essential to the accomplishment of the purposes of Article 16, Section 59 of the Constitution of Texas.

Sec. 2. The District shall comprise all of the territory contained within the following described area:

Bayou Vista MUD

Situated wholly within Galveston County, Texas and being a 28.57 acre, more or less tract of land comprising of a part of the S. C. Bundick League, Abstract No. 7, and more particularly described as follows:

Beginning at the point of intersection of the common line of Lots 19 and 20, according to a partition of a portion of said League, as set out in District Court Cause No. 11503, in the office of the District Clerk of Galveston County, Texas, and the South right-of-way line of State Highway No. 6, said point also being in the Southeasterly line of Bayou Vista Addition No. 3, according to the Map recorded by File No. 176970 of the Map Records of Galveston County, Texas.

Thence S 50° 54' 00" W 2,823.50 feet along the common line of said Lots 19 and 20 and the Southeasterly line of said Bayou Vista Addition No. 3, to a point in the Easterly waters edge of Highland Bayou for a corner of the tract herein described.

Thence, commencing in a Northerly direction, along the meanders of the Easterly waters edge of said Highland Bayou as follows:

N 17° 06' 00" E	50.00 feet
N 21° 35' 00" W	180.00 feet
N 43° 00' 00" E	300.00 feet
N 30° 00' 00" E	100.00 feet
N 13° 50' 00" E	120.00 feet
N 24° 30' 00" E	170.00 feet
N 39° 15' 00" E	150.00 feet
N 62° 40' 00" E	110.00 feet
N 87° 15' 00" E	330.00 feet
N 55° 10' 00" E	100.00 feet
N 36° 45' 00" E	170.00 feet
N 26° 15' 00" E	110.00 feet
N 12° 30' 00" W	583.00 feet
S 81° 45' 00" W	360.00 feet
N 00° 12' 28" E	226.00 feet

to a point in the South right-of-way line of said State Highway No. 6 for a corner of the tract herein described.

Thence S 88° 00' 00" E 396.63 feet along the South right-of-way line of said State Highway No. 6 to a point for a corner of the tract herein described.

Thence S 88° 14' 23" E 463.59 feet along the South right-of-way line of said State Highway No. 6 to a point for a corner of the tract herein described.

Thence in a Southeasterly direction along the South right-of-way line of said State Highway No. 6 being a curve to the right, having a radius of 2,784.93 feet, a central angle of 04°48'40", a length of 233.85 feet, whose chord bears S 76° 45' 20" E, a distance of 233.78 feet to the point of tangency for a corner of the tract herein described.

Thence S 74° 21' 00" E 548.87 feet along the South right-of-way line of said State Highway No. 6 to the place of beginning of the tract herein described.

Containing 28.57 acres, more or less.

Sec. 3. It is determined and found that the boundaries and field notes of the District form a closure; and if any mistake is made in copying the field notes in the legislative process, or otherwise a mistake is made in the field notes, it shall in no way or manner affect the organization, existence and validity of the District, or the right of the District to issue any type of bonds or refunding bonds for the purposes for which the District is created, or to pay the principal and interest thereon, or the right to assess, levy and collect taxes, or the legality or operation of the District or its governing body.

Sec. 4. It is determined and found that all of the land and other property included within the area and boundaries of the District will be benefited by the works and project which are to be accomplished by the District pursuant to the powers conferred by the provisions of Article 16, Section 59, of the Constitution of Texas, and that said District was and is created to serve a public use and benefit.

Sec. 5. The District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, authority and duties conferred and imposed by the general laws of this state now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Article 16, Section 59 of the Constitution; but to the extent that the provisions of any such general laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such general laws are hereby adopted and incorporated by reference with the same effect as if incorporated in full in this Act. The powers and duties herein granted to the district shall be subject to the continuing right of supervision of the state, to be exercised by and through the Texas Water Rights Commission.

Sec. 6. It shall not be necessary for the Board of Directors to call or hold a confirmation election for the confirmation of the District.

Sec. 7. It shall not be necessary for the Board of Directors to call or hold a hearing on the exclusions of land or other property from the District; provided, however, that the Board shall hold such hearing upon the written request of any landowner or other property owner within the District filed with the Secretary of the Board prior to the calling of the first bond election for the District. The Board on its own motion may call and hold an exclusions hearing or hearings in the manner provided by the general law.

Sec. 8. It shall not be necessary for the Board of Directors to call or hold a hearing on the adoption of a plan of taxation, but the ad valorem plan of taxation shall be used by the District.

For Annotations and Historical Notes, see V.A.T.S.

Sec. 9. All powers of the District shall be exercised by a Board of five Directors. Each Director shall serve for his term of office as herein provided, and thereafter until his successor shall be elected or appointed and qualified. No person shall be appointed a Director unless he is twenty-one (21) years of age or over and a resident of the State of Texas. Such Director shall not be required to reside within the boundaries of the District. Each Director shall qualify by subscribing to the oath of office and giving bond in the amount of Five Thousand Dollars (\$5,000) for the faithful performance of his duties. The cost of such bond shall be paid by the District. Such bond shall be filed in the office of the County Clerk and approved by the County Judge or the Commissioners Court of the county within which District is situated. Such oath shall be filed with the secretary of the District's Board of Directors after his selection. The bonds of directors elected or appointed after the directors named below shall be approved by the district's board of directors, filed for record in the office of the county clerk of the county in which the district is located and shall be recorded in a record kept for that purpose in the office of the district and be filed for safekeeping in the depository of the district. Immediately after this Act becomes effective, the following named persons, all of whom are twenty-one (21) years of age or over and residents of the State of Texas, shall be the Directors of the District and shall constitute the Board of Directors of the District:

C. L. Berglund
Louis L. Strey
Jack G. Simpson
Ralph K. Miller
T. W. Adair, Jr.

Said persons shall qualify as Directors within thirty days, or as soon thereafter as practicable, from the effective date of this Act. If any of the aforementioned persons shall fail or refuse to qualify or to serve, or shall die or become incapacitated or otherwise not be qualified to assume the duties of a Director of the District under this Act, a majority of the remaining Directors shall appoint a successor or successors. The Directors named above or their duly appointed successor or successors shall serve until the second Tuesday in January 1969. Succeeding Directors shall be elected or appointed and shall serve for the term and in the manner provided for by Article 7880—37, V.A.C.S. The annual elections shall be ordered by the Board of Directors. Any vacancy occurring in the Board of Directors shall be filled for the unexpired term by a majority of the remaining Directors. The Board of Directors shall elect from its number a president, a vice-president, and a secretary of the Board of Directors and of the District, and such other officers as in the judgment of the Board are necessary. Three Directors shall constitute a quorum at any meeting, and a concurrence of three shall be sufficient in all matters pertaining to the business of the District including the letting of construction contracts and the drawing of warrants in payment for construction work, the purchase of existing facilities, and matters relating to construction work. Warrants to pay current expenses, salaries and accounts may be drawn and signed by an officer or employee, designated by standing order entered on the minutes of the Board of Directors, when such accounts have been contracted and ordered paid by the Directors. The president may execute all contracts, construction or otherwise, entered into by the Board of Directors on behalf of the District. The vice-president shall perform all duties and exercise all power conferred by this Act or the general law upon the president when the president is absent or fails or declines to act. Any order adopted or other action taken at a meeting of the Board of Directors at which the president is absent may be signed by the vice-president, or the Board may authorize the president to sign such order or other action. The secretary shall keep and sign the minutes of the

meetings of the Board of Directors; and in his absence at any Board meeting, a secretary pro tem shall be named for that meeting who may exercise all the duties and powers of the secretary for such meeting, and shall sign the minutes thereof, and may attest all orders passed or other action taken at such meeting, or the Board may authorize the secretary to attest such orders or other action. The secretary shall be the custodian of all minutes and records of the District. The Board shall appoint all necessary engineers, attorneys, auditors and other employees. The Board shall adopt a seal for the District.

Sec. 10. Before issuing any construction bonds, the District shall submit plans and specifications therefor to the Texas Water Rights Commission for approval in the manner required by Article 7880—139, Revised Civil Statutes of Texas; and the District's project and improvements during the course of construction shall be subject to inspection in the manner provided by said Article 7880—139.

Sec. 11. When any kind of bonds, or refunding bonds has been approved by the Attorney General of Texas, registered by the Comptroller of Public Accounts of the State of Texas, and issued by the District, such bonds or refunding bonds shall be negotiable, legal, valid and binding obligations of the District and shall be incontestable for any cause.

Sec. 12. The power of eminent domain of the District shall be limited to the county or counties in which the District is situated. In the event that the District, in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, re-routing or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telegraph or telephone properties and facilities, or pipeline, all such necessary relocation, raising, re-routing, changing of grade or alteration of construction shall be accomplished at the sole expense of the District. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, re-routing, or change in grade or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

Sec. 13. This District is hereby created notwithstanding any of the provisions of the Municipal Annexation Act, being Article 970a, Revised Civil Statutes of Texas, as amended, and to the extent of the creation of the District only, said Article 970a shall have no application. In all other respects, the District hereby created is expressly made subject to all provisions of said Article 970a.

Sec. 14. It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published at least thirty (30) days and not more than ninety (90) days prior to the introduction of this Act in the Legislature of Texas, in a newspaper having a general circulation in the county or counties in which this District or any part thereof is situated; that a copy of such notice and a copy of this Act have been delivered to the Governor of Texas who has submitted such notice and Act to the Texas Water Rights Commission, and said Texas Water Rights Commission has filed its recommendation as to such Act with the Governor, Lieutenant Governor and Speaker of the House of Representatives of Texas within thirty (30) days from the date such notice and Act were received by the Texas Water Rights Commission; and that all the requirements and provisions of Article 16, Section 59(d) of the Constitution of the State of Texas have been fulfilled and accomplished as therein provided.

Sec. 15. The Board of Directors of the District shall select any bank or trust company in the State of Texas to act as depository of the proceeds of the bonds or revenues derived from the operation of the facilities of the District, and said depository shall furnish such indemnity bonds or

For Annotations and Historical Notes, see V.A.T.S.

pledge such securities or meet such other requirements as determined by the Board of Directors of the District. The District may select one or more depositories.

Sec. 16. In no manner limiting the right, power or authority of the District, as heretofore granted, the District is specifically granted the right, power and authority to purchase and construct, or to purchase or construct, or otherwise to acquire waterworks systems, sanitary sewer systems, storm sewer systems and drainage facilities, or parts of such systems or facilities, and to make any and all necessary purchases, constructions, improvements, extension, additions, and repairs thereto, and to purchase or acquire all necessary land, rights-of-way, easements, sites, equipment, buildings, plants, structures and facilities therefor and to operate and maintain same, and to sell water and other services. The District may exercise any of the rights, powers and authorities granted in this Act within or without the boundaries of the District, and is specifically authorized to exercise any of said rights, powers and authorities in order to provide water and sewerage services to areas within or without the boundaries of the District. The District may vote and issue any kind of bonds or refunding bonds for any or all of such purposes herein provided, for contiguous or noncontiguous areas, and provide and make payment therefor and for necessary expenses in connection therewith.

Sec. 17. Bonds of the District, other than refunding bonds, may be sold at a price and upon the terms determined by the Board of Directors of the District, except that such bonds shall not be sold for a less amount than provided by law. Such bonds or refunding bonds may be sold in denominations of \$1,000 each or multiples thereof. Refunding bonds shall be sold at a price and under the terms of the general law applicable to water control and improvement districts. The District may exchange bonds or refunding bonds for property acquired by purchase, or in payment of the contract price of work done or materials furnished or services furnished for the use and benefit of the District; provided that no notice given pursuant to Article 7880—117, Revised Civil Statutes of Texas, as amended, shall be predicated upon or require the exchange of bonds or refunding bonds, and said Article shall otherwise be applicable to this District in all respects.

Sec. 18. The provisions of Article 7880—77b, Revised Civil Statutes of Texas, as amended, or any other general law, pertaining to the calling of a hearing for the determination of the dissolution of a district where a bond election has failed shall be inapplicable to this District, and this District shall continue to exist and shall have full power to function and operate regardless of the outcome of any bond election. Upon the failure of any bond election, a subsequent bond election may be called after the expiration of six months from the date of the bond election which failed.

Sec. 19. Notice of all elections may be given under the hand of either the president or the secretary of the District.

Sec. 20. The returns of all elections may be canvassed by the Board of Directors of the District at any time within seven (7) days after the holding of an election, or as soon thereafter as reasonably practicable. The election returns of the annual election of Directors may be canvassed by the Board of Directors as it was composed at the time of such election, or by the Directors elected at such election, or by a combination of both. At the Board of Directors meeting at which the returns are canvassed, composed as aforesaid, any Director newly elected at such election may qualify by filing his official bond and taking the oath of office, either before or after the returns are canvassed, and upon the filing of such bond the Board, composed as aforesaid, may approve same.

Sec. 21. The accomplishment of the purposes stated in this Act being for the benefit of the people of this state and for the improvement of their

properties and industries, the District in carrying out the purposes of this Act will be performing an essential public function under the Constitution, and the District shall not be required to pay any tax or assessment on the project or any part thereof or on any purchases made by the District, and the bonds issued hereunder and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this state.

Sec. 22. All bonds and refunding bonds of the District shall be and are hereby declared to be legal, eligible and authorized investments for banks, savings and loan associations, insurance companies, fiduciaries, trustees, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds and refunding bonds shall be eligible to secure the deposit of any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their face value, when accompanied by all unma-tured coupons appurtenant thereto.

Sec. 23. If any word, phrase, clause, paragraph, sentence, part, portion, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act shall nevertheless be valid, and the Legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion, or provision.

Acts 1967, 60th Leg., p. 1272, ch. 569, emerg. eff. June 16, 1967.

Title of Act:

An Act creating and establishing a conservation and reclamation district under Article 16, Section 59, Constitution of Texas, known as "Bayou Vista Municipal Utility District," declaring District a governmental agency, body politic and corporate; defining the boundaries; finding the field notes and boundaries form a closure, and related matters; finding a benefit to all land and other property within the District; finding that District is created to serve a public use and benefit; conferring on District the rights, powers, privileges, authority and duties of the general laws of Texas applicable to water control and improvement districts created under Article 16, Section 59, Constitution of Texas, where not in conflict with this Act and adopting same by reference; providing for continuing supervision by the State through the Texas Water Rights Commission; providing for no election for confirmation; providing for no hearing for exclusions, except on written request or the board of directors own motion; providing for no hearing on plan of taxation and adopting ad valorem plan of taxation for District; providing for governing body of District; providing for qualifications and bonds of directors; naming first board of directors; providing for directors to fill vacancies; providing for terms and election of directors and notice of directors elections, and related matters; providing for organization of board of directors; providing for the letting of construction contracts and the drawing of warrants; providing for the execution of contracts by the president; providing for a vice-president, a secretary and a secretary pro tem and outlining their duties; providing for employment of engineers, attorneys,

auditors and other employees; providing for a seal for the District; providing for approval of District's plans and specifications by the Texas Water Rights Commission and inspection during construction by said Commission; providing for bonds and refunding bonds to be approved by the Attorney General of Texas and registered by the Comptroller of Public Accounts of Texas, and providing for negotiability, legality, validity, obligation and incontestability of the bonds and refunding bonds; providing the power of eminent domain shall be limited to the county or counties within which District is situated; providing District shall bear expenses of relocating, raising or re-routting any highway, railroad, or utility lines or pipelines made necessary by its exercise of the power of eminent domain; defining "sole expenses"; providing that the Municipal Annexation Act shall have no application to the creation of this District; determining and finding the requirements of Article 16, Section 59(d) as to notice of intention to introduce this Act have been fulfilled and accomplished; providing for the selection of a depository or depositories for the District and related matters; providing additional powers of District within and without boundaries of District; providing for the voting and issuing of bonds to serve areas within or without the boundaries of District; providing for the sale of bonds of the District in denominations of \$1,000 or multiples thereof, for the exchange of bonds for property and services, and for the minimum price of bonds at such sale or exchange; providing that Article 7880—77b shall not be applicable to this District, and related matters; providing that notice of all elections shall be under hand of president or secretary; providing for

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canvassing of election returns; providing the bonds of this District and their transfer and income therefrom and profits thereon and purchases made by District shall be tax-free in this state; providing the bonds and refunding bonds of this District shall be eligible investments; enacting other provisions related to the aforementioned subjects; providing for a severability clause; and declaring an emergency. Acts 1967, 60th Leg., p. 1272, ch. 569.

Art. 8280—344. Highland Municipal Utility District

Section 1. Under and pursuant to the provisions of Article 16, Section 59 of the Constitution of Texas, a conservation and reclamation district is hereby created and established in Galveston County, Texas, to be known as "Highland Municipal Utility District", hereinafter called the "District," which shall be a governmental agency and a body politic and corporate. The creation and establishment of the District is hereby declared to be essential to the accomplishment of the purposes of Article 16, Section 59 of the Constitution of Texas.

Sec. 2. The District shall comprise all of the territory contained within the following described area:

Situated in Galveston County, Texas, and being 602.3429 acres, more or less, out of the John D. Moore League, A-150, in the City of La Marque, and being more particularly described by metes and bounds as follows:

Beginning at the point of intersection of the center lines of 5th Avenue, based on a right of way of 70.5 feet, and Sycamore Street, based on a right of way of 80.00 feet, as shown on the plat of Highland Subdivision as recorded in Volume 81, Page 526 of the Galveston County Map Records.

Thence S 89° 17' 00" W, 876.25 feet along the center line of Sycamore Street to a point for corner.

Thence S 00° 43' 00" E, 1194.18 feet along the west right-of-way line of 7th Avenue and crossing U. S. Highway 75 to a point for corner.

Thence S 89° 17' 00" W, 2452.50 feet to a point for corner, said point lying in the east right-of-way line of 13th Avenue.

Thence S 00° 43' 00" E, 147.71 feet along the east right-of-way line of 13th Avenue to a point for corner.

Thence S 89° 17' 00" W, 666.05 feet to a point for corner in the north right-of-way line of Mesquite Street, 80 feet wide, said point being the southeast corner of Lot 17, Block "U", of said Highland Subdivision.

Thence S 00° 43' 00" E, 1029.00 feet, crossing the Mesquite Street 80-foot-wide right of way and along the east property line of Lot 3, Block "Y", of Highland Subdivision, to a point for corner, said point lying on the north bank of Highland Bayou and said point being the southeast corner of said Lot 3, Block "Y".

Thence, following the meanders of the northerly bank of Highland Bayou to the southwest corner of Lot 9, Block "T", Highland Subdivision, a total distance of 7354.40 feet, said meanders being more particularly described as follows:

S 80° 00' 00" W	180.00 feet
S 48° 00' 00" W	130.00 feet
S 14° 37' 00" W	151.52 feet
S 53° 00' 00" W	50.00 feet
N 79° 30' 00" W	120.00 feet
N 46° 43' 00" W	161.02 feet
N 81° 43' 00" W	285.00 feet
S 74° 15' 00" W	78.14 feet
S 73° 00' 00" W	175.00 feet
S 41° 30' 00" W	135.00 feet
S 24° 24' 00" W	215.00 feet
S 08° 24' 00" W	270.00 feet
S 28° 24' 00" W	90.00 feet
S 63° 24' 00" W	90.00 feet

S 85° 30' 00" W 137.00 feet
 N 77° 30' 00" W 90.00 feet
 N 45° 00' 00" W 50.00 feet
 N 16° 00' 00" W 75.00 feet
 N 04° 00' 00" W 470.00 feet
 N 22° 00' 00" W 120.00 feet
 N 65° 34' 00" W 80.24 feet
 S 76° 16' 00" W 318.45 feet
 N 75° 00' 00" W 170.00 feet
 N 87° 30' 00" W 310.00 feet
 S 79° 30' 00" W 220.00 feet
 N 74° 30' 00" W 75.00 feet
 N 40° 00' 00" W 100.00 feet
 N 17° 00' 00" W 190.00 feet
 N 02° 00' 00" E 65.00 feet
 N 25° 00' 00" E 300.00 feet
 N 04° 49' 30" W 201.37 feet
 N 44° 50' 00" W 105.10 feet
 N 67° 20' 00" W 250.00 feet
 N 56° 00' 00" W 160.00 feet
 N 22° 00' 00" W 85.00 feet
 N 09° 03' 00" W 196.25 feet
 N 18° 47' 00" E 160.00 feet
 N 16° 44' 00" W 348.52 feet
 N 40° 41' 00" W 176.79 feet
 N 40° 00' 00" W 220.0 feet
 N 62° 03' 00" W 170.00 feet
 N 88° 43' 00" W 185.00 feet
 N 76° 24' 00" W 195.00 feet to the southwest

corner of Lot 9, Block "T", Highland Subdivision.

Thence N 00° 43' 00" W, 1253.00 feet along the west line of Lot 9, Block "T", Highland Subdivision, to the northwest corner of said Lot 9, said point lying in the south right-of-way line of Cedar Street.

Thence N 89° 17' 00" E, 460.45 feet along the south right-of-way line of Cedar Street to the northwest corner of Lot 7, Block "T", Highland Subdivision, to a point for corner.

Thence N 00° 43' 00" W, 730.00 feet, crossing the Cedar Street 80-foot-wide right of way and along the west line of Lot 19, Block "Q", of Highland Subdivision, to the northwest corner of said Lot 19, to a point for corner.

Thence N 89° 17' 00" E, 640.80 feet along the south line of Lot 16, Block "Q", Highland Subdivision, to the southwest corner of Lot 15, Block "Q", of said Highland Subdivision, to a point for corner.

Thence N 00° 43' 00" W, 345.00 feet along the west line of Lot 15, Block "Q", Highland Subdivision, to the northwest corner of said Lot 15, to a point for corner.

Thence N 89° 17' 00" E, 675.00 feet along the north line of Lot 15, Block "Q", Highland Subdivision, to a point for corner.

Thence N 10° 05' 04" E, 299.41 feet to a point for corner.

Thence N 00° 43' 00" W, 50.00 feet to a point for corner, said point lying in the north line of Lot 14, Block "Q", Highland Subdivision.

Thence S 89° 17' 00" W, 120.85 feet along the north line of Lot 14, Block "Q", Highland Subdivision, to a point for corner.

Thence N 00° 43' 00" W, 687.46 feet to a point for corner.

Thence N 89° 17' 00" E, 610.75 feet along the north line of Lot 10, Block "Q", Highland Subdivision, to the northeast corner of said Lot 10, to a point for corner, said point lying in the west right-of-way line of Bayou Road.

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Thence S 00° 43' 00" E, 245.49 feet along the west right-of-way line of Bayou Road to a point for corner.

Thence N 89° 17' 00" E, 60.00 feet to a point for corner in the east right-of-way line of Bayou Road.

Thence S 63° 25' 00" E, 2808.42 feet to a point for corner in the center line of 13th Avenue 65.25-foot-wide right of way.

Thence S 00° 43' 00" E, 186.10 feet along the center line of 13th Avenue to a point for corner.

Thence N 89° 17' 00" E, 838.38 feet along the center line of Oak Street 80-foot right of way to a point for corner.

Thence S 00° 43' 00" E, 345.00 feet along the center line of 11th Avenue 70.5-foot-wide right of way, to a point for corner.

Thence N 89° 17' 00" E, 841.00 feet along the center line of Cedar Street 80-foot-wide right of way to a point for corner.

Thence S 00° 43' 00" E, 345.00 feet along the center line of 9th Avenue 70.5-foot-wide right of way to a point for corner.

Thence N 89° 17' 00" E, 1682.00 feet along the center line of Pecan Street 80-foot wide right of way to a point for corner.

Thence S 00° 43' 00" E, 690.00 feet along the center line of 5th Avenue 70.5-foot-wide right of way to the point of beginning.

Containing 602.3429 acres, more or less.

Sec. 3. It is determined and found that the boundaries and field notes of the District form a closure; and if any mistake is made in copying the field notes in the legislative process, or otherwise a mistake is made in the field notes, it shall in no way or manner affect the organization, existence and validity of the District, or the right of the District to issue any type of bonds or refunding bonds for the purposes for which the District is created, or to pay the principal and interest thereon, or the right to assess, levy and collect taxes, or the legality or operation of the District or its governing body.

Sec. 4. It is determined and found that all of the land and other property included within the area and boundaries of the District will be benefited by the works and project which are to be accomplished by the District pursuant to the powers conferred by the provisions of Article 16, Section 59, of the Constitution of Texas, and that said District was and is created to serve a public use and benefit.

Sec. 5. The District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, authority and duties conferred and imposed by the general laws of this state now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Article 16, Section 59 of the Constitution; but to the extent that the provisions of any such general laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such general laws are hereby adopted and incorporated by reference with the same effect as if incorporated in full in this Act. The powers and duties herein granted to the district shall be subject to the continuing right of supervision of the state, to be exercised by and through the Texas Water Rights Commission.

Sec. 6. It shall not be necessary for the Board of Directors to call or hold a confirmation election for the confirmation of the District.

Sec. 7. It shall not be necessary for the Board of Directors to call or hold a hearing on the exclusions of land or other property from the District; provided, however, that the Board shall hold such hearing upon the written request of any landowner or other property owner within the District filed with the Secretary of the Board prior to the calling of the first bond election for the District. The Board on its own motion may call and hold an exclusions hearing or hearings in the manner provided by the general law.

Sec. 8. It shall not be necessary for the Board of Directors to call or hold a hearing on the adoption of a plan of taxation, but the ad valorem plan of taxation shall be used by the District.

Sec. 9. All powers of the District shall be exercised by a Board of five Directors. Each Director shall serve for his term of office as herein provided, and thereafter until his successor shall be elected or appointed and qualified. No person shall be appointed a Director unless he is twenty-one (21) years of age or over and a resident of the State of Texas. Such Director shall not be required to reside within the boundaries of the District. Each Director shall qualify by subscribing to the oath of office and giving bond in the amount of Five Thousand Dollars (\$5,000) for the faithful performance of his duties. The cost of such bond shall be paid by the District. Such bond shall be filed in the office of the County Clerk and approved by the County Judge or the Commissioners Court of the county within which District is situated. Such oath shall be filed with the secretary of the District's Board of Directors after his selection. The bonds of Directors elected or appointed after the Directors named below shall be approved by the District's Boards of Directors, filed for record in the office of the county clerk of the county in which the District is located and shall be recorded in a record kept for that purpose in the office of the District and be filed for safekeeping in the depository of the District. Immediately after this Act becomes effective, the following named persons, all of whom are twenty-one (21) years of age or over and residents of the State of Texas, shall be the Directors of the District and shall constitute the Board of Directors of the District:

Ed Cutrer
Max Crisp
William D. Cleveland
F. Duty
Etha Little

Said persons shall qualify as Directors within thirty days, or as soon thereafter as practicable, from the effective date of this Act. If any of the aforementioned persons shall fail or refuse to qualify or to serve, or shall die or become incapacitated or otherwise not be qualified to assume the duties of a Director of the District under this Act, a majority of the remaining Directors shall appoint a successor or successors. The Directors named above or their duly appointed successor or successors shall serve until the second Tuesday in January 1969. Succeeding Directors shall be elected or appointed and shall serve for the term and in the manner provided for by Article 7880—37, V.A.C.S. The annual elections shall be ordered by the Board of Directors. Any vacancy occurring in the Board of Directors shall be filled for the unexpired term by a majority of the remaining Directors. The Board of Directors shall elect from its number a president, a vice-president, and a secretary of the Board of Directors and of the District, and such other officers as in the judgment of the Board are necessary. Three Directors shall constitute a quorum at any meeting, and a concurrence of three shall be sufficient in all matters pertaining to the business of the District including the letting of construction contracts and the drawing of warrants in payment for construction work, the purchase of existing facilities, and matters relating to construction work. Warrants to pay current expenses, salaries and accounts may be drawn and signed by an officer or employee, designated by standing order entered on the minutes of the Board of Directors, when such accounts have been contracted and ordered paid by the Directors. The president may execute all contracts, construction or otherwise, entered into by the Board of Directors on behalf of the District. The vice-president shall perform all duties and exercise all power conferred by this Act or the general law upon the president when the president is absent or fails or declines to

act. Any order adopted or other action taken at a meeting of the Board of Directors at which the president is absent may be signed by the vice-president, or the Board may authorize the president to sign such order or other action. The secretary shall keep and sign the minutes of the meetings of the Board of Directors; and in his absence at any Board meeting, a secretary pro tem shall be named for that meeting who may exercise all the duties and powers of the secretary for such meeting, and shall sign the minutes thereof, and may attest all orders passed or other action taken at such meeting, or the Board may authorize the secretary to attest such orders or other action. The secretary shall be the custodian of all minutes and records of the District. The Board shall appoint all necessary engineers, attorneys, auditors and other employees. The Board shall adopt a seal for the District.

Sec. 10. Before issuing any construction bonds, the District shall submit plans and specifications therefor to the Texas Water Rights Commission for approval in the manner required by Article 7880—139, Revised Civil Statutes of Texas; and District's project and improvements during the course of construction shall be subject to inspection in the manner provided by said Article 7880—139.

Sec. 11. When any kind of bonds or refunding bonds has been approved by the Attorney General of Texas, registered by the Comptroller of Public Accounts of the State of Texas, and issued by the District, such bonds or refunding bonds shall be negotiable, legal, valid and binding obligations of the District and shall be incontestable for any cause.

Sec. 12. The power of eminent domain of the District shall be limited to the county or counties in which the District is situated. In the event that the District, in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, re-routing or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telegraph or telephone properties and facilities, or pipeline, all such necessary relocation, raising, re-routing, changing of grade or alteration of construction shall be accomplished at the sole expense of the District. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, re-routing, or change in grade or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

Sec. 13. This District is hereby created notwithstanding any of the provisions of the Municipal Annexation Act, being Article 970a, Revised Civil Statutes of Texas, as amended, and to the extent of the creation of the District only, said Article 970a shall have no application. In all other respects, the District hereby created is expressly made subject to all provisions of said Article 970a. Further, all plans and specifications and contracts for construction or the installation of facilities must be presented to the City of La Marque, Texas, for approval prior to such construction or installation, and such improvements shall conform to applicable city ordinances, rules and regulations pertaining thereto.

Sec. 14. It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published at least thirty (30) days and not more than ninety (90) days prior to the introduction of this Act in the Legislature of Texas, in a newspaper having a general circulation in the county or counties in which this District or any part thereof is situated; that a copy of such notice and a copy of this Act have been delivered to the Governor of Texas who has submitted such notice and Act to the Texas Water Rights Commission, and said Texas Water Rights Commission has filed its recommendation as to such Act with the Governor, Lieutenant Governor and Speaker of the House of Representatives of Texas within thirty

(30) days from the date such notice and Act were received by the Texas Water Rights Commission; and that all the requirements and provisions of Article 16, Section 59(d) of the Constitution of the State of Texas have been fulfilled and accomplished as therein provided.

Sec. 15. The Board of Directors of the District shall select any bank or trust company in the State of Texas to act as depository of the proceeds of the bonds or revenues derived from the operation of the facilities of the District, and said depository shall furnish such indemnity bonds or pledge such securities or meet such other requirements as determined by the Board of Directors of the District. The District may select one or more depositories.

Sec. 16. In no manner limiting the right, power or authority of the District, as heretofore granted, the District is specifically granted the right, power and authority to purchase and construct, or to purchase or construct, or otherwise to acquire waterworks systems, sanitary sewer systems, storm sewer systems and drainage facilities, or parts of such systems or facilities, and to make any and all necessary purchases, constructions, improvements, extension, additions, and repairs thereto, and to purchase or acquire all necessary land, rights-of-way, easements, sites, equipment, buildings, plants, structures and facilities therefor and to operate and maintain same, and to sell water and other services. The District is also granted the right, power and authority to construct and maintain all works and improvements necessary or proper for the prevention of floods within the area of District, to construct and maintain levees, bulkheading, and dams, to construct, maintain and operate canals, to reclaim and drain the overflowed lands within the District, and to alter land elevations where correction is needed or proper. The District may exercise any of the rights, powers and authorities granted in this Act within or without the boundaries of the District, and is specifically authorized to exercise any of said rights, powers and authorities in order to provide water and sewerage services to areas within or without the boundaries of the District. The District may vote and issue any kind of bonds or refunding bonds for any or all of such purposes herein provided, for contiguous or non-contiguous areas, and provide and make payment therefor and for necessary expenses in connection therewith.

Sec. 17. Bonds of the District, other than refunding bonds, may be sold at a price and upon the terms determined by the Board of Directors of the District, except that such bonds shall not be sold for less than par and shall not bear interest at a rate exceeding 6% per annum. Such bonds or refunding bonds may be sold in denominations of \$1,000 each or multiples thereof. Refunding bonds shall be sold at a price and under the terms of the general law applicable to water control and improvement districts. The District may exchange bonds or refunding bonds for property acquired by purchase, or in payment of the contract price of work done or materials furnished or services furnished for the use and benefit of the District; provided that no notice given pursuant to Article 7880—117, Revised Civil Statutes of Texas, as amended, shall be predicated upon or require the exchange of bonds or refunding bonds, and said Article shall otherwise be applicable to this District in all respects.

Sec. 18. The provisions of Article 7880—77b, Revised Civil Statutes of Texas, as amended, or any other general law, pertaining to the calling of a hearing for the determination of the dissolution of a district where a bond election has failed shall be inapplicable to this District, and this District shall continue to exist and shall have full power to function and operate regardless of the outcome of any bond election. Upon the failure of any bond election, a subsequent bond election may be called after the expiration of six months from the date of the bond election which failed.

Sec. 19. Notice of all elections may be given under the hand of either the president or the secretary of the District.

For Annotations and Historical Notes, see V.A.T.S.

Sec. 20. The returns of all elections may be canvassed by the Board of Directors of the District at any time within seven (7) days after the holding of an election, or as soon thereafter as reasonably practicable. The election returns of the annual election of Directors may be canvassed by the Board of Directors as it was composed at the time of such election, or by the Directors elected at such election, or by a combination of both. At the Board of Directors meeting at which the returns are canvassed, composed as aforesaid, any Director newly elected at such election may qualify by filing his official bond and taking the oath of office, either before or after the returns are canvassed, and upon the filing of such bond the Board, composed as aforesaid, may approve same.

Sec. 21. The accomplishment of the purposes stated in this Act being for the benefit of the people of this state and for the improvement of their properties and industries, the District in carrying out the purposes of this Act will be performing an essential public function under the Constitution, and the District shall not be required to pay any tax or assessment on the project or any part thereof or on any purchases made by the District, and the bonds issued hereunder and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this state.

Sec. 22. All bonds and refunding bonds of the District shall be and are hereby declared to be legal, eligible and authorized investments for banks, savings and loan associations, insurance companies, fiduciaries, trustees, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds and refunding bonds shall be eligible to secure the deposit of any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their face value, when accompanied by all unmatured coupons appurtenant thereto.

Sec. 23. If any word, phrase, clause, paragraph, sentence, part, portion, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act shall nevertheless be valid, and the Legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion, or provision.

Acts 1967, 60th Leg., p. 1282, ch. 572, emerg. eff. June 16, 1967.

Title of Act:

An Act creating and establishing a conservation and reclamation district under Article 16, Section 59, Constitution of Texas, known as "Highland Municipal Utility District"; declaring District a governmental agency, body politic and corporate; defining the boundaries; finding the field notes and boundaries form a closure, and related matters; finding a benefit to all land and other property within the District; finding that District is created to serve a public use and benefit; conferring on District the rights, powers, privileges, authority and duties of the general laws of Texas applicable to water control and improvement districts created under Article 16, Section 59, Constitution of Texas, where not in conflict with this Act and adopting same by reference; providing for continuing supervision by the state through the Texas Water Rights Commission; providing for no election for confirmation; providing for no hearing for exclusions, except on written request or the board of directors own motion; providing for no hearing

on plan of taxation and adopting ad valorem plan of taxation for District; providing for governing body of District; providing for qualifications and bonds of Directors; naming first Board of Directors; providing for Directors to fill vacancies; providing for terms and election of Directors and notice of Directors elections, and related matters; providing for organization of Board of Directors; providing for the letting of construction contracts and the drawing of warrants; providing for the execution of contracts by the president; providing for a vice-president, a secretary and a secretary pro tem and outlining their duties; providing for employment of engineers; attorneys, auditors and other employees; providing for a seal for the District; providing for approval of District's plans and specifications by the Texas Water Rights Commission and inspection during construction by said Commission; providing for bonds and refunding bonds to be approved by the Attorney General of Texas and registered by the Comptroller of Public Accounts of Texas,

and providing for negotiability, legality, validity, obligation and incontestability of the bonds and refunding bonds; providing the power of eminent domain shall be limited to the county or counties within which District is situated; providing District shall bear expenses of relocating, raising or re-routing any highway, railroad, or utility lines or pipelines made necessary by its exercise of the power of eminent domain; defining "sole expenses"; providing that the Municipal Annexation Act shall have no application to the creation of this District; providing for approval of plans and specifications and contracts by the City of La Marque; determining and finding the requirements of Article 16, Section 59(d) as to notice of intention to introduce this Act have been fulfilled and accomplished; providing for the selection of a depository or depositories for the District and related matters; providing additional powers of District within and without boundaries of District; providing for construction of works for the prevention of floods, for construction of levees, bulk-

heading, and dams, for reclamation of overflowed lands, and alteration of land elevations; providing for the voting and issuing of bonds to serve areas within or without the boundaries of District; providing for the sale of bonds of the District in denominations of \$1,000 or multiples thereof, for the exchange of bonds for property and services, and for the minimum price of bonds at such sale or exchange; providing that Article 7880—77b shall not be applicable to this District, and related matters; providing that notice of all elections shall be under hand of president or secretary; providing for canvassing of election returns; providing the bonds of this District and their transfer and income therefrom and profits thereon and purchases made by District shall be tax-free in this state; providing the bonds and refunding bonds of this District shall be eligible investments; enacting other provisions related to the aforementioned subjects; providing for a severability clause; and declaring an emergency. Acts 1967, 60th Leg., p. 1282, ch. 572.

Art. 8280—345. East Port Bolivar Municipal Utility District

Section 1. Under and pursuant to the provisions of Article 16, Section 59 of the Constitution of Texas, a conservation and reclamation district is hereby created and established in Galveston County, Texas, to be known as "East Port Bolivar Municipal Utility District," hereinafter called the "District," which shall be a governmental agency and a body politic and corporate. The creation and establishment of the District is hereby declared to be essential to the accomplishment of the purposes of Article 16, Section 59 of the Constitution of Texas.

Sec. 2. The District shall comprise all of the territory contained within the following described area:

Lying wholly within Galveston County, Texas, and being 651.9 acres, more or less, out of the Samuel Parr Survey, A-162, described as follows:

Beginning at an old railroad rail marking the south corner of Lot 1, Johnson and Exline Subdivision as recorded in Volume 220, Page 257 of the Deed Records of Galveston County, Texas, said corner being in the northeast city limit line of Port Bolivar, Texas.

Thence N 52° 34' E 3725.3 feet along the southeast line of said Johnson and Exline Subdivision to a ¾" iron pipe marking the south corner of Lot 8, Johnson and Exline Subdivision.

Thence N 29° 34' W 4144.8 feet along the southwest line of said Lot 8 to a point in the southeast right-of-way line of the Intracoastal Canal.

Thence N 47° 58' E 792.2 feet along said southeast right-of-way line of the Intracoastal Canal to a point in the northeast line of said Lot 8.

Thence S 29° 34' E 8885.2 feet to a point on the mean higher high-tide line along the shore of the Gulf of Mexico.

Thence in a generally southwesterly direction, following the meanders of the mean higher high-tide line along the shore of the Gulf of Mexico, 5142 feet, more or less, to the point of intersection of said mean higher high-tide line along the shore of the Gulf of Mexico with the northeast city limit line of Port Bolivar, Texas.

Thence N 29° 26' W 6585.0 feet along the northeast city limit line of Port Bolivar, Texas, to the place of beginning.

Sec. 3. It is determined and found that the boundaries and field notes of the District form a closure; and if any mistake is made in copy-

For Annotations and Historical Notes, see V.A.T.S.

ing the field notes in the legislative process, or otherwise a mistake is made in the field notes, it shall in no way or manner affect the organization, existence and validity of the District, or the right of the District to issue any type of bonds or refunding bonds for the purposes for which the District is created, or to pay the principal and interest thereon, or the right to assess, levy and collect taxes, or the legality or operation of the District or its governing body.

Sec. 4. It is determined and found that all of the land and other property included within the area and boundaries of the District will be benefited by the works and project which are to be accomplished by the District pursuant to the powers conferred by the provisions of Article 16, Section 59, of the Constitution of Texas, and that said District was and is created to serve a public use and benefit.

Sec. 5. The District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, authority and duties conferred and imposed by the General Laws of this state now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Article 16, Section 59 of the Constitution; but to the extent that the provisions of any such General Laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such General Laws are hereby adopted and incorporated by reference with the same effect as if incorporated in full in this Act. The powers and duties herein granted to the District shall be subject to the continuing right of supervision of the state, to be exercised by and through the Texas Water Rights Commission.

Sec. 6. It shall not be necessary for the Board of Directors to call or hold a confirmation election for the confirmation of the District.

Sec. 7. It shall not be necessary for the Board of Directors to call or hold a hearing on the exclusions of land or other property from the District; provided, however, that the Board shall hold such hearing upon the written request of any landowner or other property owner within the District filed with the Secretary of the Board prior to the calling of the first bond election for the District. The Board on its own motion may call and hold an exclusions hearing or hearings in the manner provided by the General Law.

Sec. 8. It shall not be necessary for the Board of Directors to call or hold a hearing on the adoption of a plan of taxation, but the ad valorem plan of taxation shall be used by the District.

Sec. 9. All powers of the District shall be exercised by a Board of five Directors. Each Director shall serve for his term of office as herein provided, and thereafter until his successor shall be elected or appointed and qualified. No person shall be appointed a Director unless he is twenty-one (21) years of age or over and a resident of the State of Texas. Such Director shall not be required to reside within the boundaries of the District. Each Director shall qualify by subscribing to the oath of office and giving bond in the amount of Five Thousand Dollars (\$5,000) for the faithful performance of his duties. The cost of such bond shall be paid by the District. Such bond shall be filed in the office of the County Clerk and approved by the County Judge or the Commissioners Court of the county within which District is situated. Such oath shall be filed with the secretary of the District's Board of Directors after his selection. The bonds of Directors elected or appointed after the Directors named below shall be approved by the District's Boards of Directors, filed for record in the office of the county clerk of the county in which the District is located and shall be recorded in a record kept for that purpose in the office of the District, and be filed for safekeeping in the depository of the District. Immediately after this Act becomes effective, the following named persons, all of whom are twenty-one (21) years of age or over and resi-

dents of the State of Texas, shall be the Directors of the District and shall constitute the Board of Directors of the District:

Andrew Johnson
Jack Petitt
Donald Gosh
T. H. Long
Eugene Freeman

Said persons shall qualify as Directors within thirty days, or as soon thereafter as practicable, from the effective date of this Act. If any of the aforementioned persons shall fail or refuse to qualify or to serve, or shall die or become incapacitated or otherwise not be qualified to assume the duties of a Director of the District under this Act, a majority of the remaining Directors shall appoint a successor or successors. The Directors named above or their duly appointed successor or successors shall serve until the second Tuesday in January 1969. Succeeding Directors shall be elected or appointed and shall serve for the term and in the manner provided for by Article 7880—37, V.A.C.S. The annual elections shall be ordered by the Board of Directors. Any vacancy occurring in the Board of Directors shall be filled for the unexpired term by a majority of the remaining Directors. The Board of Directors shall elect from its number a president, a vice-president, and a secretary of the Board of Directors and of the District, and such other officers as in the judgment of the Board are necessary. Three Directors shall constitute a quorum at any meeting, and a concurrence of three shall be sufficient in all matters pertaining to the business of the District including the letting of construction contracts and the drawing of warrants in payment for construction work, the purchase of existing facilities, and matters relating to construction work. Warrants to pay current expenses, salaries and accounts may be drawn and signed by an officer or employee, designated by standing order entered on the minutes of the Board of Directors, when such accounts have been contracted and ordered paid by the Directors. The president may execute all contracts, construction or otherwise, entered into by the Board of Directors on behalf of the District. The vice president shall perform all duties and exercise all power conferred by this Act or the General Law upon the president when the president is absent or fails or declines to act. Any order adopted or other action taken at a meeting of the Board of Directors at which the president is absent may be signed by the vice-president, or the Board may authorize the president to sign such order or other action. The secretary shall keep and sign the minutes of the meetings of the Board of Directors; and in his absence at any Board meeting, a secretary pro tem shall be named for that meeting who may exercise all the duties and powers of the secretary for such meeting, and shall sign the minutes thereof, and may attest all orders passed or other action taken at such meeting, or the Board may authorize the secretary to attest such orders or other action. The secretary shall be the custodian of all minutes and records of the District. The Board shall appoint all necessary engineers, attorneys, auditors and other employees. The Board shall adopt a seal for the District.

Sec. 10. Before issuing any construction bonds, the District shall submit plans and specifications therefor to the Texas Water Rights Commission for approval in the manner required by Article 7880—139, Revised Civil Statutes of Texas; and District's project and improvements during the course of construction shall be subject to inspection in the manner provided by said Article 7880—139.

Sec. 11. When any kind of bonds or refunding bonds has been approved by the Attorney General of Texas, registered by the Comptroller of Public Accounts of the State of Texas, and issued by the District, such

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bonds or refunding bonds shall be negotiable, legal, valid and binding obligations of the District and shall be incontestable for any cause.

Sec. 12. The power of eminent domain of the District shall be limited to the county or counties in which the District is situated. In the event that the District, in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, re-routing or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telegraph or telephone properties and facilities, or pipeline, all such necessary relocation, raising, re-routing, changing of grade or alteration of construction shall be accomplished at the sole expense of the District. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, re-routing, or change in grade or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

Sec. 13. This District is hereby created notwithstanding any of the provisions of the Municipal Annexation Act, being Article 970a, Revised Civil Statutes of Texas, as amended, and to the extent of the creation of the District only, said Article 970a shall have no application. In all other respects, the District hereby created is expressly made subject to all provisions of said Article 970a.

Sec. 14. It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published at least thirty (30) days and not more than ninety (90) days prior to the introduction of this Act in the Legislature of Texas, in a newspaper having a general circulation in the county or counties in which this District or any part thereof is situated; that a copy of such notice and a copy of this Act have been delivered to the Governor of Texas who has submitted such notice and Act to the Texas Water Rights Commission, and said Texas Water Rights Commission has filed its recommendation as to such Act with the Governor, Lieutenant Governor and Speaker of the House of Representatives of Texas within thirty (30) days from the date such notice and Act were received by the Texas Water Rights Commission; and that all the requirements and provisions of Article 16, Section 59(d) of the Constitution of the State of Texas have been fulfilled and accomplished as therein provided.

Sec. 15. The Board of Directors of the District shall select any bank or trust company in the State of Texas to act as depository of the proceeds of the bonds or revenues derived from the operation of the facilities of the District, and said depository shall furnish such indemnity bonds or pledge such securities or meet such other requirements as determined by the Board of Directors of the District. The District may select one or more depositories.

Sec. 16. In no manner limiting the right, power or authority of the District, as heretofore granted, the District is specifically granted the right, power and authority to purchase and construct, or to purchase or construct, or otherwise to acquire waterworks systems, sanitary sewer systems, storm sewer systems and drainage facilities, or parts of such systems or facilities, and to make any and all necessary purchases, constructions, improvements, extension, additions, and repairs thereto, and to purchase or acquire all necessary land, rights-of-way, easements, sites, equipment, buildings, plants, structures and facilities therefor and to operate and maintain same, and to sell water and other services. The District is also granted the right, power and authority to construct and maintain all works and improvements necessary or proper for the prevention of floods within the area of District, to construct and maintain levees, bulkheading, and dams, to construct, maintain and operate canals, to reclaim and drain the overflowed lands within the District, and to

alter land elevations where correction is needed or proper. The District may exercise any of the rights, powers and authorities granted in this Act within or without the boundaries of the District, and is specifically authorized to exercise any of said rights, powers and authorities in order to provide water and sewerage services to areas within or without the boundaries of the District. The District may vote and issue any kind of bonds or refunding bonds for any or all of such purposes herein provided, for contiguous or non-contiguous areas, and provide and make payment therefor and for necessary expenses in connection therewith.

Sec. 17. Bonds of the District, other than refunding bonds, may be sold at a price and upon the terms determined by the Board of Directors of the District, except that such bonds shall not be sold for a less amount than provided by law. Such bonds or refunding bonds may be sold in denominations of \$1,000 each or multiples thereof. Refunding bonds shall be sold at a price and under the terms of the General Law applicable to water control and improvement districts. The District may exchange bonds or refunding bonds for property acquired by purchase, or in payment of the contract price of work done or materials furnished or services furnished for the use and benefit of the District; provided that no notice given pursuant to Article 7880--117, Revised Civil Statutes of Texas, as amended, shall be predicated upon or require the exchange of bonds or refunding bonds, and said Article shall otherwise be applicable to this District in all respects.

Sec. 18. The provisions of Article 7880--77b, Revised Civil Statutes of Texas, as amended, or any other General Law, pertaining to the calling of a hearing for the determination of the dissolution of a District where a bond election has failed shall be inapplicable to this District, and this District shall continue to exist and shall have full power to function and operate regardless of the outcome of any bond election. Upon the failure of any bond election, a subsequent bond election may be called after the expiration of six months from the date of the bond election which failed.

Sec. 19. Notice of all elections may be given under the hand of either the president or the secretary of the District.

Sec. 20. The returns of all elections may be canvassed by the Board of Directors of the District at any time within seven (7) days after the holding of an election, or as soon thereafter as reasonably practicable. The election returns of the annual election of Directors may be canvassed by the Board of Directors as it was composed at the time of such election, or by the Directors elected at such election, or by a combination of both. At the Board of Directors meeting at which the returns are canvassed, composed as aforesaid, any Director newly elected at such election may qualify by filing his official bond and taking the oath of office, either before or after the returns are canvassed, and upon the filing of such bond the Board, composed as aforesaid, may approve same.

Sec. 21. The accomplishment of the purposes stated in this Act being for the benefit of the people of this state and for the improvement of their properties and industries, the District in carrying out the purposes of this Act will be performing an essential public function under the Constitution, and the District shall not be required to pay any tax or assessment on the project or any part thereof or on any purchases made by the District, and the bonds issued hereunder and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this state.

Sec. 22. All bonds and refunding bonds of the District shall be and are hereby declared to be legal, eligible and authorized investments for banks, savings and loan associations, insurance companies, fiduciaries, trustees, and for the sinking funds of cities, towns, villages,

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counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds and refunding bonds shall be eligible to secure the deposit of any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their face value, when accompanied by all unmatured coupons appurtenant thereto.

Sec. 23. If any word, phrase, clause, paragraph, sentence, part, portion, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act shall nevertheless be valid, and the Legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion, or provision.

Acts 1967, 60th Leg., p. 1301, ch. 578, emerg. eff. June 16, 1967.

Title of Act:

An Act creating and establishing a conservation and reclamation district under Article 16, Section 59, Constitution of Texas, known as "East Port Bolivar Municipal Utility District"; declaring District a governmental agency, body politic and corporate; defining the boundaries; finding the field notes and boundaries form a closure, and related matters; finding a benefit to all land and other property within the District; finding that District is created to serve a public use and benefit; conferring on District the rights, powers, privileges, authority and duties of the General Laws of Texas applicable to water control and improvement districts created under Article 16, Section 59, Constitution of Texas, where not in conflict with this Act and adopting same by reference; providing for continuing supervision by the State through the Texas Water Rights Commission; providing for no election for confirmation; providing for no hearing for exclusions, except on written request or the Board of Directors own motion; providing for no hearing on plan of taxation and adopting ad valorem plan of taxation for District; providing for governing body of District; providing for qualifications and bonds of Directors; naming first Board of Directors; providing for Directors to fill vacancies; providing for terms and election of Directors and notice of Directors elections, and related matters; providing for organization of Board of Directors; providing for the letting of construction contracts and the drawing of warrants; providing for the execution of contracts by the president; providing for a vice-president, a secretary and a secretary pro tem and outlining their duties; providing for employment of engineers; attorneys, auditors and other employees; providing for a seal for the District; providing for approval of District's plans and specifications by the Texas Water Rights Commission and inspection during construction by said Commission; providing for bonds and refunding bonds to be approved by the Attorney General of Texas and registered by

the Comptroller of Public Accounts of Texas, and providing for negotiability, legality, validity, obligation and incontestability of the bonds and refunding bonds; providing the power of eminent domain shall be limited to the county or counties within which District is situated; providing District shall bear expenses of relocating, raising or re-routing any highway, railroad, or utility lines or pipelines made necessary by its exercise of the power of eminent domain; defining "sole expenses"; providing that the Municipal Annexation Act shall have no application to the creation of this District; determining and finding the requirements of Article 16, Section 59(d) as to notice of intention to introduce this Act have been fulfilled and accomplished; providing for the selection of a depository or depositories for the District and related matters; providing additional powers of District within and without boundaries of District; providing for construction of works for the prevention of floods, for construction of levees, bulkheading, and dams, for reclamation of overflowed lands, and alteration of land elevations; providing for the voting and issuing of bonds to serve areas within or without the boundaries of District; providing for the sale of bonds of the District in denominations of \$1,000 or multiples thereof, for the exchange of bonds for property and services, and for the minimum price of bonds at such sale or exchange; providing that Article 7880—77b shall not be applicable to this District, and related matters; providing that notice of all elections shall be under hand of president or secretary; providing for canvassing of election returns; providing the bonds of this District and their transfer and income therefrom and profits thereon and purchases made by District shall be tax-free in this state; providing the bonds and refunding bonds of this District shall be eligible investments; enacting other provisions related to the aforementioned subjects; providing for a severability clause; and declaring an emergency. Acts 1967, 60th Leg., p. 1301, ch. 578.

Art. 8280—346. Sunmeadow Municipal Utility District

Section 1. Under and pursuant to the provisions of Article 16, Section 59 of the Constitution of Texas, a conservation and reclamation district is hereby created and established in Galveston County, Texas, to be known as "Sunmeadow Municipal Utility District," hereinafter called the "District," which shall be a governmental agency and a body politic and corporate. The creation and establishment of the District is hereby declared to be essential to the accomplishment of the purposes of Article 16, Section 59 of the Constitution of Texas.

Sec. 2. The District shall comprise all of the territory contained within the following described area:

Situated wholly within Galveston County, Texas, and being 243.550 acres, more or less, out of the Mary Sloan Survey, A-184, more particularly described by metes and bounds as follows:

Beginning at a $\frac{3}{8}$ -inch iron rod located at the intersection of the easterly line of the said Mary Sloan Survey with the northwesterly right-of-way line of FM 528, 100 feet wide.

Thence S 39° 30' 45" W 150.00 feet along the northwesterly right-of-way line of FM 528 to a $\frac{5}{8}$ -inch iron rod for corner.

Thence N 50° 29' 15" W 118.00 feet to a $\frac{5}{8}$ -inch iron rod for corner.

Thence S 52° 55' 30" W 1786.00 feet to a $\frac{5}{8}$ -inch iron rod for corner.

Thence S 70° 10' 30" W 352.00 feet to a $\frac{5}{8}$ -inch iron rod for corner.

Thence N 82° 11' 30" W 154.00 feet to a $\frac{5}{8}$ -inch iron rod for corner.

Thence N 40° 03' 30" W 262.00 feet to a $\frac{5}{8}$ -inch iron rod for corner.

Thence S 45° 59' 30" W 150.00 feet to a $\frac{5}{8}$ -inch iron rod for corner.

Thence S 24° 23' 30" W 160.00 feet to a $\frac{5}{8}$ -inch iron rod for corner.

Thence S 8° 23' 30" W 592.34 feet to a $\frac{5}{8}$ -inch iron rod for corner.

Thence N 81° 36' 30" W 838.18 feet to a 2-inch iron pipe marking the most southerly southwest corner of the herein described tract.

Thence N 8° 23' 30" E 974.64 feet to a 2-inch iron pipe for corner.

Thence N 81° 36' 30" W 492.00 feet to a $\frac{5}{8}$ -inch iron rod for corner.

Thence N 7° 38' 30" E 440.00 feet to a $\frac{5}{8}$ -inch iron rod for corner.

Thence S 89° 01' 30" E 544.00 feet to a $\frac{5}{8}$ -inch iron rod for corner.

Thence N 14° 53' 21" E 694.92 feet to a $\frac{5}{8}$ -inch iron rod for corner.

Thence N 58° 32' 00" E 180.00 feet to a $\frac{5}{8}$ -inch iron rod for corner.

Thence N 44° 50' 00" E 360.00 feet to a $\frac{5}{8}$ -inch iron rod for corner.

Thence N 47° 18' 00" E 210.00 feet to a $\frac{5}{8}$ -inch iron rod for corner.

Thence N 78° 16' 00" E 225.00 feet to a $\frac{5}{8}$ -inch iron rod for corner.

Thence N 6° 06' 00" W 485.00 feet to a $\frac{5}{8}$ -inch iron rod for corner.

Thence N 1° 36' 00" W 120.00 feet to a $\frac{5}{8}$ -inch iron rod for corner.

Thence S 88° 24' 00" W 105.00 feet to a $\frac{5}{8}$ -inch iron rod for corner.

Thence N 46° 56' 30" W 170.00 feet to a $\frac{5}{8}$ -inch iron rod for corner, said point being located in the northwesterly line of the Mary Sloan Survey, and the southeasterly line of the William Henry Survey, A-84.

Thence N 43° 03' 30" E 1716.00 feet along the northwesterly line of the Mary Sloan Survey and the southeasterly line of the William Henry Survey to a $\frac{1}{2}$ -inch iron pipe for corner.

Thence S 48° 23' 15" E 170.28 feet to a 2-inch iron pipe for corner.

Thence N 43° 17' 45" E 420.14 feet to a $\frac{3}{4}$ -inch iron pipe for corner.

Thence S 81° 37' 45" E 1259.84 feet to a $\frac{1}{2}$ -inch iron pipe for corner, said point being located in the easterly line of the Mary Sloan Survey, and the westerly line of the George W. Patterson Survey, A-645.

For Annotations and Historical Notes, see V.A.T.S.

Thence S 8° 04' 30" W 2950.67 feet along the easterly line of the Mary Sloan Survey and the westerly line of the George W. Patterson Survey, to the place of beginning.

Containing 243.550 acres, more or less.

Sec. 3. It is determined and found that the boundaries and field notes of the District form a closure; and if any mistake is made in copying the field notes in the legislative process, or otherwise a mistake is made in the field notes, it shall in no way or manner affect the organization, existence and validity of the District, or the right of the District to issue any type of bonds or refunding bonds for the purposes for which the District is created, or to pay the principal and interest thereon, or the right to assess, levy and collect taxes, or the legality or operation of the District or its governing body.

Sec. 4. It is determined and found that all of the land and other property included within the area and boundaries of the District will be benefited by the works and project which are to be accomplished by the District pursuant to the powers conferred by the provisions of Article 16, Section 59, of the Constitution of Texas, and that said District was and is created to serve a public use and benefit.

Sec. 5. The District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, authority and duties conferred and imposed by the General Laws of this state now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Article 16, Section 59 of the Constitution; but to the extent that the provisions of any such General Laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such General Laws are hereby adopted and incorporated by reference with the same effect as if incorporated in full in this Act. The powers and duties herein granted to the District shall be subject to the continuing right of supervision of the state, to be exercised by and through the Texas Water Rights Commission.

Sec. 6. It shall not be necessary for the Board of Directors to call or hold a confirmation election for the confirmation of the District.

Sec. 7. It shall not be necessary for the Board of Directors to call or hold a hearing on the exclusions of land or other property from the District; provided, however, that the Board shall hold such hearing upon the written request of any landowner or other property owner within the District filed with the Secretary of the Board prior to the calling of the first bond election for the District. The Board on its own motion may call and hold an exclusions hearing or hearings in the manner provided by the General Law.

Sec. 8. It shall not be necessary for the Board of Directors to call or hold a hearing on the adoption of a plan of taxation, but the ad valorem plan of taxation shall be used by the District.

Sec. 9. All powers of the District shall be exercised by a Board of five Directors. Each Director shall serve for his term of office as herein provided, and thereafter until his successor shall be elected or appointed and qualified. No person shall be appointed a Director unless he is twenty-one (21) years of age or over and a resident of the State of Texas. Such Director shall not be required to reside within the boundaries of the District. Each Director shall qualify by subscribing to the oath of office and giving bond in the amount of Five Thousand Dollars (\$5,000) for the faithful performance of his duties. The cost of such bond shall be paid by the District. Such bond shall be filed in the office of the County Clerk and approved by the County Judge or the Commissioners Court of the county within which District is situated. Such oath shall be filed with the secretary of the District's Board of Directors after his selection. The bonds of Directors elected

or appointed after the Directors named below shall be approved by the District's Boards of Directors, filed for record in the office of the county clerk of the county in which the District is located and shall be recorded in a record kept for that purpose in the office of the District and be filed for safekeeping in the depository of the District. Immediately after this Act becomes effective, the following named persons, all of whom are twenty-one (21) years of age or over and residents of the State of Texas, shall be the Directors of the District and shall constitute the Board of Directors of the District:

B. Jay Riviere
Robert E. Holcomb
Thomas E. Wright
Hiram Angel
Laurance C. Mosher

Said persons shall qualify as Directors within thirty days, or as soon thereafter as practicable, from the effective date of this Act. If any of the aforementioned persons shall fail or refuse to qualify or to serve, or shall die or become incapacitated or otherwise not be qualified to assume the duties of a Director of the District under this Act, a majority of the remaining Directors shall appoint a successor or successors. The Directors named above or their duly appointed successor or successors shall serve until the second Tuesday in January 1969. Succeeding Directors shall be elected or appointed and shall serve for the term and in the manner provided for by Article 7880—37, V. A. C. S. The annual elections shall be ordered by the Board of Directors. Any vacancy occurring in the Board of Directors shall be filled for the unexpired term by a majority of the remaining Directors. The Board of Directors shall elect from its number a president, a vice-president, and a secretary of the Board of Directors and of the District, and such other officers as in the judgment of the Board are necessary. Three Directors shall constitute a quorum at any meeting, and a concurrence of three shall be sufficient in all matters pertaining to the business of the District including the letting of construction contracts and the drawing of warrants in payment for construction work, the purchase of existing facilities, and matters relating to construction work. Warrants to pay current expenses, salaries and accounts may be drawn and signed by an officer or employee, designated by standing order entered on the minutes of the Board of Directors, when such accounts have been contracted and ordered paid by the Directors. The president may execute all contracts, construction or otherwise, entered into by the Board of Directors on behalf of the District. The vice-president shall perform all duties and exercise all power conferred by this Act or the General Law upon the president when the president is absent or fails or declines to act. Any order adopted or other action taken at a meeting of the Board of Directors at which the president is absent may be signed by the vice-president, or the Board may authorize the president to sign such order or other action. The secretary shall keep and sign the minutes of the meetings of the Board of Directors; and in his absence at any Board meeting, a secretary pro tem shall be named for that meeting who may exercise all the duties and powers of the secretary for such meeting, and shall sign the minutes thereof, and may attest all orders passed or other action taken at such meeting, or the Board may authorize the secretary to attest such orders or other action. The secretary shall be the custodian of all minutes and records of the District. The Board shall appoint all necessary engineers, attorneys, auditors and other employees. The Board shall adopt a seal for the District.

Sec. 10. Before issuing any construction bonds, the District shall submit plans and specifications therefor to the Texas Water Rights Commission for approval in the manner required by Article 7880—139, Revised Civil Statutes of Texas; and District's project and improve-

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ments during the course of construction shall be subject to inspection in the manner provided by said Article 7880—139.

Sec. 11. When any kind of bonds or refunding bonds has been approved by the Attorney General of Texas, registered by the Comptroller of Public Accounts of the State of Texas, and issued by the District, such bonds or refunding bonds shall be negotiable, legal, valid and binding obligations of the District and shall be incontestable for any cause.

Sec. 12. The power of eminent domain of the District shall be limited to the county or counties in which the District is situated. In the event that the District, in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, re-routing or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telegraph or telephone properties and facilities, or pipeline, all such necessary relocation, raising, re-routing, changing of grade or alteration of construction shall be accomplished at the sole expense of the District. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, re-routing, or change in grade or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

Sec. 13. This District is hereby created notwithstanding any of the provisions of the Municipal Annexation Act, being Article 970a, Revised Civil Statutes of Texas, as amended, and to the extent of the creation of the District only, said Article 970a shall have no application. In all other respects, the District hereby created is expressly made subject to all provisions of said Article 970a.

Sec. 14. It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published at least thirty (30) days and not more than ninety (90) days prior to the introduction of this Act in the Legislature of Texas, in a newspaper having a general circulation in the county or counties in which this District or any part thereof is situated; that a copy of such notice and a copy of this Act have been delivered to the Governor of Texas who has submitted such notice and Act to the Texas Water Rights Commission, and said Texas Water Rights Commission has filed its recommendation as to such Act with the Governor, Lieutenant Governor and Speaker of the House of Representatives of Texas within thirty (30) days from the date such notice and Act were received by the Texas Water Rights Commission; and that all the requirements and provisions of Article 16, Section 59(d) of the Constitution of the State of Texas have been fulfilled and accomplished as therein provided.

Sec. 15. The Board of Directors of the District shall select any bank or trust company in the State of Texas to act as depository of the proceeds of the bonds or revenues derived from the operation of the facilities of the District, and said depository shall furnish such indemnity bonds or pledge such securities or meet such other requirements as determined by the Board of Directors of the District. The District may select one or more depositories.

Sec. 16. In no manner limiting the right, power or authority of the District, as heretofore granted, the District is specifically granted the right, power and authority to purchase and construct, or to purchase or construct, or otherwise to acquire waterworks systems, sanitary sewer systems, storm sewer systems and drainage facilities, or parts of such systems or facilities, and to make any and all necessary purchases, constructions, improvements, extension, additions, and repairs thereto, and to purchase or acquire all necessary land, rights-of-way, easements, sites, equipment, buildings, plants, structures and facilities therefor and to

operate and maintain same, and to sell water and other services. The District may exercise any of the rights, powers and authorities granted in this Act within or without the boundaries of the District, and is specifically authorized to exercise any of said rights, powers and authorities in order to provide water and sewerage services to areas within or without the boundaries of the District. The District may vote and issue any kind of bonds or refunding bonds for any or all of such purposes herein provided, for contiguous or noncontiguous areas, and provide and make payment therefor and for necessary expenses in connection therewith.

Sec. 17. Bonds of the District, other than refunding bonds, may be sold at a price and upon the terms determined by the Board of Directors of the District, except that such bonds shall not be sold for a less amount than provided by law. Such bonds or refunding bonds may be sold in denominations of \$1,000 each or multiples thereof. Refunding bonds shall be sold at a price and under the terms of the General Law applicable to water control and improvement districts. The District may exchange bonds or refunding bonds for property acquired by purchase, or in payment of the contract price of work done or materials furnished or services furnished for the use and benefit of the District; provided that no notice given pursuant to Article 7880—117, Revised Civil Statutes of Texas, as amended, shall be predicated upon or require the exchange of bonds or refunding bonds, and said Article shall otherwise be applicable to this District in all respects.

Sec. 18. The provisions of Article 7880—77b, Revised Civil Statutes of Texas, as amended, or any other General Law, pertaining to the calling of a hearing for the determination of the dissolution of a District where a bond election has failed shall be inapplicable to this District, and this District shall continue to exist and shall have full power to function and operate regardless of the outcome of any bond election. Upon the failure of any bond election, a subsequent bond election may be called after the expiration of six months from the date of the bond election which failed.

Sec. 19. Notice of all elections may be given under the hand of either the president or the secretary of the District.

Sec. 20. The returns of all elections may be canvassed by the Board of Directors of the District at any time within seven (7) days after the holding of an election, or as soon thereafter as reasonably practicable. The election returns of the annual election of Directors may be canvassed by the Board of Directors as it was composed at the time of such election, or by the Directors elected at such election, or by a combination of both. At the Board of Directors meeting at which the returns are canvassed, composed as aforesaid, any Director newly elected at such election may qualify by filing his official bond and taking the oath of office, either before or after the returns are canvassed, and upon the filing of such bond the Board, composed as aforesaid, may approve same.

Sec. 21. The accomplishment of the purposes stated in this Act being for the benefit of the people of this state and for the improvement of their properties and industries, the District in carrying out the purposes of this Act will be performing an essential public function under the Constitution, and the District shall not be required to pay any tax or assessment on the project or any part thereof or on any purchases made by the District, and the bonds issued hereunder and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this state.

Sec. 22. All bonds and refunding bonds of the District shall be and are hereby declared to be legal, eligible and authorized investments for banks, savings and loan associations, insurance companies, fiduciaries, trustees, and for the sinking funds of cities, towns, villages, counties,

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school districts, or other political corporations or subdivisions of the State of Texas. Such bonds and refunding bonds shall be eligible to secure the deposit of any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their face value, when accompanied by all unmatured coupons appurtenant thereto.

Sec. 23. If any word, phrase, clause, paragraph, sentence, part, portion, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act shall nevertheless be valid, and the Legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion, or provision.

Acts 1967, 60th Leg., p. 1307, ch. 579, emerg. eff. June 16, 1967.

Title of Act:

An Act creating and establishing a conservation and reclamation district under Article 16, Section 59, Constitution of Texas, known as "Sunmeadow Municipal Utility District"; declaring District a governmental agency, body politic and corporate; defining the boundaries; finding the field notes and boundaries form a closure, and related matters; finding a benefit to all land and other property within the District; finding that District is created to serve a public use and benefit; conferring on District the rights, powers, privileges, authority and duties of the General Laws of Texas applicable to water control and improvement districts created under Article 16, Section 59, Constitution of Texas, where not in conflict with this Act and adopting same by reference; providing for continuing supervision by the state through the Texas Water Rights Commission; providing for no election for confirmation; providing for no hearing for exclusions, except on written request or the Board of Directors own motion; providing for no hearing on plan of taxation and adopting ad valorem plan of taxation for District; providing for governing body of District; providing for qualifications and bonds of Directors; naming first Board of Directors; providing for Directors to fill vacancies; providing for terms and election of Directors and notice of Directors elections, and related matters; providing for organization of Board of Directors; providing for the letting of construction contracts and the drawing of warrants; providing for the execution of contracts by the president; providing for a vice-president, a secretary and a secretary pro tem and outlining their duties; providing for employment of engineers; attorneys, auditors and other employees; providing for a seal for the District; providing for approval of District's plans and specifications by the Texas Water Rights Commission and inspection during construction by said Commission; providing for bonds

and refunding bonds to be approved by the Attorney General of Texas and registered by the Comptroller of Public Accounts of Texas, and providing for negotiability, legality, validity, obligation and incontestability of the bonds and refunding bonds; providing the power of eminent domain shall be limited to the county or counties within which District is situated; providing District shall bear expenses of relocating, raising or re-routing any highway, railroad, or utility lines or pipelines made necessary by its exercise of the power of eminent domain; defining "sole expenses"; providing that the Municipal Annexation Act shall have no application to the creation of this District; determining and finding the requirements of Article 16, Section 59 (d) as to notice of intention to introduce this Act have been fulfilled and accomplished; providing for the selection of a depository or depositories for the District and related matters; providing additional powers of District within and without boundaries of District; providing for the voting and issuing of bonds to serve areas within or without the boundaries of District; providing for the sale of bonds of the District in denominations of \$1,000 or multiples thereof, for the exchange of bonds for property and services, and for the minimum price of bonds at such sale or exchange; providing that Article 7880—77b shall not be applicable to the District, and related matters; providing that notice of all elections shall be under hand of president or secretary; providing for canvassing of election returns; providing the bonds of this District and their transfer and income therefrom and profits thereon and purchases made by District shall be tax-free in this state; providing the bonds and refunding bonds of this District shall be eligible investments; enacting other provisions related to the aforementioned subjects; providing for a severability clause; and declaring an emergency. Acts 1967, 60th Leg., p. 1307, ch. 579.

Art. 8280—347. Jack County Water Control and Improvement District
No. 1

Section 1. Under and pursuant to the provisions of Article XVI, Section 59, Constitution of Texas, there is hereby created a water control

and improvement district to be known as the Jack County Water Control and Improvement District No. 1, hereinafter at times called district.

Sec. 2. The district shall consist of that part of the State of Texas which is known as, and included in, the boundaries of the County of Jack, with the exception of all territory included within the boundaries of East Keechi Water Control and Improvement District No. 1 in Jack County.

Sec. 3. The district shall have and exercise and is hereby vested with all the rights, powers, privileges, and duties conferred and imposed by the General Laws of this state now in force or hereafter enacted applicable to water control and improvement districts created under the authority of Section 59, Article XVI, Constitution of Texas, but to the extent that the provisions of any such General Laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. Any such General Laws are hereby incorporated by reference with the same effect as if incorporated in this Act.

Sec. 4. In addition to the powers contained in said General Laws, the district shall have and possess all powers necessary or requisite to cooperate fully with the federal government, its agencies, departments, and representatives thereof in taking advantage of, and in securing and getting assistance, aid, benefits, grants, loans, credit, and money as provided in the Watershed Protection and Flood Prevention Act, 16 U.S.C. Sections 1001-1008, 33 U.S.C. Section 701b, and as same may be hereafter amended. It is the intention of the Legislature to create the district with all the powers and authority necessary to fully qualify and gain the full benefits of said public laws including, but not limited to, all powers and authority necessary or requisite to carry out the projects and works and improvements contemplated by said public laws and the power and authority to secure a loan or loans from the proper agencies or departments of the federal government, and if necessary to issue bonds of the district as collateral or security therefor, for the purpose of defraying the costs and expenses of the district in connection with the carrying out of its projects and works and improvements. The provisions of said public laws that are applicable to the district are hereby enacted into this Act by reference and are made applicable to the district.

Sec. 5. (a) The management and control of the district is hereby vested in a board of five (5) directors which shall have all the powers and authorities conferred and imposed upon boards of directors of water control and improvement districts organized under the provisions of Chapter 25, General Laws, Acts of the 39th Legislature, Regular Session, 1925, and amendments and additions thereto. Each director shall serve for his term of office as herein provided, and thereafter until his successor shall be elected or appointed and qualified. The first board of directors appointed herein shall meet and organize as is provided by the General Laws and shall within sixty (60) days after this Act becomes effective file their official bonds and shall subscribe to the Constitutional oath of office.

(b) The following named persons shall be, and the same are hereby, appointed directors of said district and shall constitute the board of directors of said district: W. R. Hill, W. W. Ramage, John W. Pursley, Jerry Craft and James M. Spiller, all residing and owning property within said district. If any of the aforementioned persons shall die, become incapacitated or otherwise not be qualified to assume his duties under this Act, the remaining directors shall appoint his successor.

(c) The above-named directors shall serve until the first Tuesday after the first Monday in November, 1968, on which date the first election of directors shall be held in accordance with the provisions of Section 3, Chapter 25, General Laws, Acts of the 39th Legislature, Regular Session, 1925, as amended by Section 6, Chapter 107, Acts of the 40th Legislature, 1st Called Session, 1926. Thereafter, directors of the district shall be

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chosen and elections for directors shall be held in accordance with the provisions of the General Laws relating to water control and improvement districts.

Sec. 6. (a) The directors appointed under Section 5(b) of this Act shall order and hold a confirmation election under the terms of Sections 23 (as amended by Section 1, Chapter 310, Acts of the 55th Legislature, Regular Session, 1957) and 24, Chapter 25, General Laws, Acts of the 39th Legislature, Regular Session, 1925 (Articles 7880—23 and 7880—24, Vernon's Texas Civil Statutes).

(b) The district shall hold an exclusion hearing under the terms of Section 76, Chapter 25, General Laws, Acts of the 39th Legislature, Regular Session, 1925, as last amended by Section 1, Chapter 324, Acts of the 55th Legislature, Regular Session, 1957 (Article 7880—76, Vernon's Texas Civil Statutes).

(c) It shall not be necessary for the board of directors to hold a hearing on the adoption of a plan of taxation and the ad valorem plan of taxation shall be used by the district. Provided, however, that taxes imposed by the district shall never exceed Five Cents (5¢) per One Hundred Dollars (\$100) valuation. The district shall use for tax purposes the same valuations for the property within the district as that carried on the county tax rolls for state and county purposes.

Sec. 7. (a) The Legislature hereby exercises the authority conferred upon it by Section 59, Article XVI, Constitution of Texas, and declares that said district is essential to the accomplishment of the purposes of said constitutional provision, and declares the district to be a governmental agency, a body politic and corporate.

(b) In the event that the district, in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, re-routing, or changing the grade of, or altering the construction of any highway, railroad, electric transmission line, telephone or telegraph properties and facilities, or pipeline, all such necessary relocation, raising, re-routing, changing grade of or alteration of construction shall be accomplished at the sole expense of the district. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, re-routing, or change in grade or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

Sec. 8. For the purpose of providing dams, structures, projects and works of improvement for flood prevention, the conservation and development of water, and for other necessary plants, facilities and equipment in connection therewith and for the improvement, repair and operation of same and for carrying out any other powers or authority conferred by this Act or by Chapter 25, General Laws, Acts of the 39th Legislature, Regular Session, 1925, and the several amendments thereof, and for the purpose of paying all costs, charges and expenses of the district, the district is empowered to issue negotiable bonds in the manner provided by General Law for water control and improvement districts.

Sec. 9. No loan shall be consummated by the district from the federal government and no bonds shall hereafter be issued unless authorized at an election at which only qualified voters who reside in the district, and who own taxable property therein and who have duly rendered same for taxation, shall be qualified to vote unless a majority of the votes cast favor the proposition. Upon approval of the bonds by the Attorney General and registration by the Comptroller they shall be incontestable.

Sec. 10. If the plans for works and improvements or amendments thereto contemplated by the district are prepared by the Soil Conservation Service, United States Department of Agriculture, and approved by the

district's directors it shall not be necessary for an engineer's report covering the plans and improvements to be constructed, together with the maps, plats, profiles and data fully showing and explaining same to be filed in the office of the district before an election is held to authorize the issuance of bonds in connection with such works and improvements and it shall not be necessary for such plans and specifications, engineering reports, profiles, maps and other data, or subsequent amendments thereto to be approved by the State Board of Water Engineers prior to the issuance of such bonds; provided, however, that before the expenditure of any funds for the construction of any works and improvements, the approval of the State Board of Water Engineers shall be secured for that portion of the works and improvements to be constructed and it shall not be necessary for advance approval to be given for the entire project contemplated by the district, but approval may be secured or given on a separate or individual basis for that portion of the entire project or works and improvements to be constructed at any particular time and on which plans and specifications of the Soil Conservation Service, United States Department of Agriculture, have been prepared and submitted by the Directors to the State Board of Water Engineers.

Sec. 11. If any word, phrase, clause, sentence, paragraph, or provision of this Act is held to be invalid or unconstitutional by a court of competent jurisdiction in this state, it is the intention of the Legislature that the remaining provisions thereof shall be effective, and that such remaining portions shall remain in full force and effect.

Acts 1967, 60th Leg., p. 1314, ch. 580, emerg. eff. June 16, 1967.

Title of Act:

An Act to create the Jack County Water Control and Improvement District No. 1 in a portion of Jack County under the provisions of Section 59, Article XVI, of the Constitution of the State of Texas, and Chapter 25, General Laws, Acts of the 39th

Legislature, Regular Session, 1925 (Articles 7880—1, through 7880—147c(6), Vernon's Texas Civil Statutes), as amended; prescribing the powers, duties, functions, procedures, and financing of the district; and declaring an emergency. Acts 1967, 60th Leg., p. 1314, ch. 580.

Art. 8280—348. Dolphin Beach Municipal Utility District

Section 1. Under and pursuant to the provisions of Section 59 of Article XVI, Constitution of Texas, a Conservation and Reclamation District is hereby created and incorporated in Galveston County, Texas, to be known as "Dolphin Beach Municipal Utility District of Galveston County, Texas" (hereinafter referred to as the "District"). The District shall be a body politic and corporate.

Sec. 2. The boundaries of the District shall be as follows:

Field Notes for 234 acres of land, more or less, out of Division 3 of Section 13 of the Hall and Jones Survey, Galveston Island, Galveston County, Texas:

BEGINNING at the point of intersection of the common line between Section 13 and Section 14 of the Hall and Jones Survey with the shore line of the Gulf of Mexico;

THENCE North 32° 24' 40" West, along the common line between said Sections 13 and 14, a distance of 5,750.0 feet, more or less, to a point for corner on the shore line of Galveston Bay;

THENCE North 53° 35' East, a distance of 1,778.44 feet to a point for corner;

THENCE South 32° 24' 40" East, parallel to and 465.75 feet at Right Angles Southwest of the Northeast line of said Division 3 of Section 13, a distance of 5,750.0 feet to a point for corner on the shore line of the Gulf of Mexico;

THENCE South 53° 35' West, along the shore line of the Gulf of Mexico, a distance of 1,778.44 feet to the PLACE OF BEGINNING and containing 234 acres of land, more or less.

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Sec. 3. It is expressly determined, and the Legislature hereby finds that the boundaries of the District form a closure, and if any mistake is made in copying the field notes in the legislative process, or otherwise a mistake is found to have occurred in the field notes, it shall in no way or manner affect the organization, existence or validity of the District, or its right to issue bonds or refunding bonds, or to pay the principal and interest thereon, or the right to assess, levy and collect taxes, or in any other manner affect the legality or operation of the District or its governing body.

Sec. 4. The District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges and duties conferred and imposed by the General Laws of the State of Texas now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Section 59 of Article XVI, Constitution of Texas, and such General Laws are hereby incorporated by reference with the same effect as if incorporated in full in this Act, but to the extent that the provisions of such General Laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. Without in any way limiting the generalization of the foregoing, it is expressly provided that the District shall have and exercise and is hereby vested with, all of the rights, powers, privileges, authorities and functions conferred and imposed by Chapter 3A of Title 128, Revised Civil Statutes of Texas, 1925, together with all amendments thereof and additions thereto, including all powers and authority relating to the navigation of its coastal and inland waters, the reclamation and drainage of its overflowed lands, and other lands needing drainage in the District, and the collection, transportation, processing, disposal and control of all domestic, industrial or communal waste; provided, however, that the exercise of the power of eminent domain shall not extend beyond the boundaries of the District.

Not by way of limitation, the District shall have and is hereby expressly granted the following rights, powers, privileges and functions:

(a) The power and authority to make, purchase, construct, lease, or otherwise acquire property, works, facilities and improvements (whether previously existing or to be made, constructed or acquired) within or without the boundaries of the District necessary or useful to carry out the powers and authority granted by this Act and the General Laws.

(b) The right, power and authority to purchase, construct, maintain and operate navigable canals or waterways, including bulkheads therefor, and all navigational systems or facilities auxiliary thereto necessary or useful in the operation or development of the District's ports and waterways or in aid to navigation thereon.

(c) The right, power and authority to enter into contracts of not exceeding forty (40) years duration with persons, corporations, public or private, municipal corporations, political subdivisions of the State of Texas, and others, and on such terms and conditions as the Board of Directors may deem desirable, fair and advantageous for:

(1) the purchase and sale of water, or either;

(2) the transportation, treatment and disposal of its domestic, industrial or communal wastes or the transportation, treatment and disposal of domestic, industrial or communal wastes of others; and

(3) the performance of any of the rights or powers granted by this Act and the General Laws.

In the event that the District in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, re-routing or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telephone or telegraph properties and facilities, or pipeline, all such necessary relocation, raising, re-routing, changing of grade or al-

teration of construction shall be accomplished at the sole expense of the District. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, re-routing, or change in grade or alteration of construction in providing comparable replacement without enhancement of such facilities after deducting therefrom the net salvage value derived from the old facility. The powers and duties herein granted to the District shall be subject to the continuing right of supervision of the State, to be exercised by and through the Texas Water Rights Commission.

Sec. 5. The management and control of the District is hereby vested in a Board of five (5) Directors which shall have all of the powers and authority and duties conferred and imposed upon boards of directors of water control and improvement districts organized under the provisions of Chapter 3A of Title 128, Revised Civil Statutes of Texas, 1925, together with all amendments thereof and additions thereto. The members of the first Board of Directors shall be Stanton Brown, Roger Daily, Claude K. Williams, Mrs. Marguerite Lege, and Marvin West. Said members shall become Directors immediately after this Act becomes effective, and shall meet and organize as soon as practicable after the effective date of this Act, and shall file their official bonds and subscribe to the Constitutional oath of office. If any of the aforementioned members of the first Board of Directors shall die, become incapacitated or otherwise not qualify to assume their duties under this Act, the remaining members of said Board of Directors shall appoint his or their successors; provided, however, if none of the members of the first Board of Directors qualify by the second Tuesday in January 1969, the County Judge shall, upon the petition of any landowner in the District, call an election for the purpose of electing a Board of Directors for the District to serve until the next general election for Directors. The manner of holding such election, the notice of such election, and the time of holding such election shall be governed by the provisions of Chapter 3A, Title 128, relating to Director elections with the exception that the County Judge shall canvass the results of said election. With the exception of the first Board of Directors, the Board of Directors shall be selected as provided by the General Laws for water control and improvement districts. The first election of Directors of such District shall be held on the second Tuesday in January 1969, and in accordance with Article 7880—37, Revised Civil Statutes of Texas, 1925. Thereafter, Directors of the District shall be chosen, and elections for Directors shall be held in accordance with the provisions of the General Laws relating to water control and improvement districts.

Sec. 6. The District is hereby authorized to issue its negotiable tax bonds, revenue bonds, or tax and revenue bonds to provide funds for any or all of the purposes set out or incorporated by reference in Section 4 hereof, including the acquisition of land therefor, and said bonds shall be issued in the manner provided and as authorized by Article 7880—90a, Vernon's Texas Civil Statutes and Chapter 3A of Title 128, Vernon's Texas Civil Statutes, as presently or hereafter amended, provided however that bonds payable solely from net revenues may be issued by resolution or order of the Board of Directors and no election therefor shall be necessary. Nothing contained herein shall relieve the District from complying with the provisions of Article 7880—139, Vernon's Texas Civil Statutes.

The bonds issued hereunder may be payable from all or any designated part or parts of the revenues of the District's properties and facilities or under specific contracts, as may be provided in the orders or resolutions authorizing the issuance of such bonds; and, except as the same may be inconsistent or in conflict with the provisions of this Act, the provisions of said Chapter 3A of Title 128, as presently or hereafter amended, shall apply to all bonds issued under the provisions of this Act (the provisions of this Act to govern and take precedence in the event of any such inconsistency or conflict).

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Such bonds, within the discretion of the Board of Directors, may be additionally secured by a deed of trust or mortgage lien upon part or all of the physical properties of the District, and franchises, easements, water rights and appropriation permits, leases, and contracts and all rights appurtenant to such properties, vesting in the trustee power to sell such properties for payment of the indebtedness, power to operate the properties and all other powers and authority for the further security of the bonds. Such trust indenture, regardless of the existence of the deed of trust or mortgage lien on the properties, may contain provisions prescribed by the Board of Directors for the security of the bonds and the preservation of the trust estate, and may make provisions for amendment or modification thereof and the issuance of bonds to replace lost or mutilated bonds, and may condition the right to expend District money or sell District property upon approval of a registered professional engineer selected as provided therein and may make provision for investment of funds of the District. Any purchaser under a sale under the deed of trust or mortgage lien, where one is given, shall be absolute owner of the properties, facilities and rights so purchased and shall have the right to maintain and operate same.

In the orders or Resolutions authorizing the issuance of any revenue, tax-revenue, revenue refunding, or tax-revenue refunding bonds authorized hereunder, the District's Board of Directors may provide for the flow of funds, the establishment and maintenance of the interest and sinking fund or funds, reserve fund or funds, and other funds, and may make additional covenants with respect to the bonds and the pledged revenues and the operation and maintenance of those improvements and facilities (the revenues of which are pledged), including provisions for the operation or for the leasing of all or any part of said improvements and facilities and the use or pledge of moneys derived from such operation contracts and leases, as such Board may deem appropriate. Such orders or Resolutions may also prohibit the further issuance of bonds or other obligations payable from the pledged revenues, or may reserve the right to issue additional bonds to be secured by a pledge of and payable from said revenues on a parity with, or subordinate to, the lien and pledge in support of the bonds being issued, subject to such conditions as are set forth in such orders or Resolutions. Such orders or Resolutions may contain other provisions and covenants, as the District's Board may determine, not prohibited by the Constitution of Texas or by this Act, and said Board may adopt and cause to be executed any other proceedings or instruments necessary and/or convenient in the issuance of any such bonds.

From the proceeds of sale of any bonds issued hereunder, the District may appropriate or set aside out of the bond proceeds an amount for the payment of interest, administrative and operating expenses expected to accrue during the period of construction, as may be provided in the bond orders or Resolutions, and an amount necessary to pay all expenses incurred and to be incurred in the issuance, sale and delivery of the bonds. Moneys in the interest and sinking fund or funds, and the reserve fund or funds, and in the other fund or funds established or provided for in the bond orders or Resolutions may be invested in such manner and in such securities as may be provided in the bond order or orders or may be placed on interest-bearing time deposit. Such bonds may be in the denomination of \$100, or in multiples thereof, and until such time as the bond proceeds are needed to carry out the bond purpose, such proceeds may be invested in securities of the United States Government or any agency thereof or may be placed on interest-bearing time deposit, either or both. Any such revenue bonds, tax-revenue, revenue refunding bonds, or tax-revenue refunding bonds hereinafter mentioned may be registrable as to principal, or as to both principal and interest.

By orders or Resolutions adopted by its Board of Directors, said District shall have the power and authority to issue revenue refunding bonds or tax-revenue refunding bonds to refund revenue bonds or tax-revenue bonds (either original bonds or refunding bonds) theretofore issued by such District. Said refunding bonds shall be approved by the Attorney General as in the case of original bonds, and shall be registered by the Comptroller of Public Accounts upon the surrender and cancellation of the bonds to be refunded, but in lieu thereof, the orders or Resolutions authorizing their issuance may provide that they shall be sold and the proceeds thereof deposited in the place or places where the underlying bonds are payable, in which case the refunding bonds may be issued in an amount sufficient to pay the interest on the underlying bonds to their option or maturity date, and the Comptroller of Public Accounts shall register them without the surrender and cancellation of the underlying bonds.

After any bonds have been authorized by the District hereunder, such bonds and the record relating to their issuance shall be submitted to the Attorney General of the State of Texas for his examination as to the validity thereof, and after said Attorney General has approved the same, such bonds shall be registered by the Comptroller of Public Accounts of the State of Texas. When such bonds have been approved by the Attorney General, registered by the Comptroller of Public Accounts, and delivered to the purchasers, they shall thereafter be incontestable except for forgery or fraud. When any bonds recite that they are secured partially or otherwise by a pledge of the proceeds of a contract or contracts made between the District and another party or parties (private or public) a copy of such contract or contracts and the proceedings authorizing the same may or may not be submitted to the Attorney General along with the bond record and, if so submitted, the approval by the Attorney General of the bonds shall constitute an approval of such contract or contracts, and thereafter the contract or contracts shall be incontestable for any cause except for forgery or fraud.

Sec. 7. Land contiguous or adjacent to the District may be added to the District in the manner provided by Article 7880—75, Vernon's Texas Civil Statutes, as now or hereafter amended, provided, however, that the Board of Directors may require the petitioners to assume their pro rata share of the voted but unissued bonds of the District and authorize the Board to levy a tax on their property in payment for such unissued bonds, when issued. If the petitioners consent, the District shall be authorized to issue its voted but unissued tax or tax-revenue bonds even though the boundaries of the District have been changed since the voting or authorization of such bonds. Land may be added to the District only as provided herein.

Sec. 8. It shall not be necessary for the District to call or hold, prior to voting any bonds or taxes, a hearing on the exclusion of land or other property from the District; provided, however, that the Board of Directors shall hold such hearing upon the written request of any land or other property owner within the District filed with the Secretary of the Board prior to the time the Board calls the first bond election for the District. Nothing in this Section shall be construed to prevent the Board on its own motion from calling and holding an exclusions hearing or hearings pursuant to the provisions of the General Law.

Sec. 9. If a majority of the Board of Directors shall determine that the name of the District needs changing, the Board may change the name of the District to any name which is descriptive of the locale of the District and descriptive of the principal powers to be exercised by such District; provided, however, that the word "District" shall be included in the designation and a consecutive number shall be used if other districts of the same name have been created in the county. Notice of

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the change in name shall be given to the Texas Water Rights Commission by sending a certified copy of the Resolution changing the District's name to the Secretary of the Texas Water Rights Commission. Notice shall also be given by filing a certified copy of the Resolution in the Water Control and Improvement District records of the county. The District, under its changed name, shall be deemed to be a continuation of the District as formerly named, for all purposes.

Sec. 10. The Board of Directors shall designate, establish and maintain a District office as provided by Article 7880—44. The minutes, contracts, notices, accounts, receipts and records of all kinds of the District shall be kept in a fireproof vault or safe at such District office and shall be subject to public inspection at all reasonable hours. The District office shall be established and maintained within the District, provided, however, if the Board of Directors finds that a location outside of the District is better suited for the transaction of the business of the District, the Board of Directors may designate, establish and maintain the District office at such location outside of the District.

If the Board of Directors establishes the District office outside the District, it shall give notice of the location of the District office by filing a true copy of its resolution establishing the location of the District office with the Texas Water Rights Commission, by filing a true copy in the Water Control and Improvement District records of Galveston County and also by publishing the location in a newspaper of general circulation in Galveston County.

If location of the District office is thereafter changed, notice of such change shall be given in the same manner.

Sec. 11. The provisions of Section 10, Chapter 280, Acts of the 41st Legislature of Texas, Regular Session, 1929 (codified as Article 7880—77b, Vernon's Texas Civil Statutes), shall apply to the District; however, it shall be within the discretion of the Board of Directors to hold a hearing on the question of the dissolution of the District if a construction bond election fails and the Board of Directors shall not be required to hold a hearing on the question of the dissolution of the District unless twenty per cent of the qualified voters of the District petition the Board for such a hearing in the manner provided in Article 7880—77b.

Sec. 12. The bonds of the District shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, trustees, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas, and any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their value, when accompanied by all unmatured coupons appurtenant thereto.

Sec. 13. Upon the adoption of this Act, said District shall be a fully created and established water control and improvement district and it shall not be necessary to hold a confirmation election. The ad valorem basis or plan of taxation shall be used by said District, and it shall not be necessary for the Board of Directors to hold a hearing on the adoption of a plan of taxation.

Sec. 14. As soon as practicable after the qualification of the first Board of Directors of said District, the Board shall by Resolution designate one or more banks within or without the District to serve as the District's depository, and all funds of said District shall be secured in the manner now provided for the security of county funds. Such bank or banks shall serve for a period of two (2) years and until a successor has been appointed by the Board and has qualified.

Sec. 15. The Legislature hereby exercises the authority conferred upon it by Section 59 of Article XVI, Constitution of Texas, and declares that the District created by this Act is essential to the accomplishment of the purposes of said constitutional provisions; finds that all of the land and other property included therein are, and will be, benefited thereby and by the improvements that the District will purchase, construct, or otherwise acquire; and declares the District to be a governmental agency, a body politic and corporate, and a municipal corporation.

Sec. 16. If any word, phrase, clause, sentence, paragraph, Section or other part of this Act or the application thereof to any person or circumstance, shall ever be held by a court of competent jurisdiction to be invalid or unconstitutional, the remainder of the Act and the application of such word, phrase, clause, sentence, paragraph, Section, or other part of this Act to other persons or circumstances shall not be affected thereby.

Sec. 17. It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published at least thirty (30) days and not more than ninety (90) days prior to the introduction of this Act in the Legislature of Texas, in a newspaper having general circulation in Galveston County, Texas; that a copy of such notice and a copy of this Act have been delivered to the Governor of Texas who has submitted such notice and Act to the Texas Water Rights Commission, and said Texas Water Rights Commission had filed its recommendation as to such Act with the Governor, Lieutenant Governor and Speaker of the House of Representatives of Texas within thirty (30) days from the date such notice and Act were received by the Texas Water Rights Commission; and that all the requirements and provisions of Article XVI, Section 59(d) of the Constitution of the State of Texas have been fulfilled and accomplished as therein provided.

Acts 1967, 60th Leg., p. 1317, ch. 581, emerg. eff. June 16, 1967.

Title of Act:

An Act creating a conservation and reclamation district under the provisions of Section 59, Article XVI, Constitution of Texas, to be known as "Dolphin Beach Municipal Utility District of Galveston County, Texas"; prescribing its rights, powers, privileges, and duties; providing the District shall bear the sole expense of the relocation of certain facilities under the provisions of this Act; providing for its

governing body; containing provisions that its bonds are legal and authorized investments; providing for selection of a depository; adopting the ad valorem basis of taxation; providing a procedure to change its name; requiring the District to establish an office; containing other provisions relating to the subject; providing a severability clause; and declaring an emergency. Acts 1967, 60th Leg., p. 1317, ch. 581.

Art. 8280—349. League Land Municipal Utility District

Section 1. Under and pursuant to the provisions of Section 59 of Article XVI, Constitution of Texas, a Conservation and Reclamation District is hereby created and incorporated in Galveston County, Texas, to be known as "League Land Municipal Utility District of Galveston County, Texas" (hereinafter referred to as the "District"). The District shall be a body politic and corporate.

Sec. 2. The boundaries of the District shall be as follows:

Field Notes for 1,116.7 acres of land, more or less, out Subdivisions "D", "E", and Jarboe Addition, Block 3, as shown on map entitled "Map of League City and Subdivisions Comprising the M. Muldoon 2 League Grant and Part of the S. F. Austin League East of G.H. & H.R.R. in Galveston Co., Texas," made for J. C. League by R. W. Luttrell, C.E., dated December, 1893, December, 1907, and July, 1909:

BEGINNING at a 2" iron pipe that marks the intersection of the center line of a 40 foot road right-of-way with the Southeast right-of-way line of old F.M. Rd. No. 518 (old League City-Kemah Road), said 40 foot

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road right-of-way being between Lots 112 and 118 of said Subdivision "D", said Beginning Point further being the North corner of the Clear Creek Independent School District tract;

THENCE North 37° 24' East, along the Southeast right of-way line of old F.M. Rd. No. 518, a distance of 2,747.16 feet to a point of curve;

THENCE in a Northeast and Easterly direction, continuing along the Southeast and Southerly right-of-way line of old F.M. Rd. No. 518 with a curve to the right whose radius is 1,869.85 feet and Central Angle is 57° 20', a distance of 1,871.08 feet to a point of tangent;

THENCE in an Easterly direction, continuing along the Southerly right-of-way line of old F.M. Rd. No. 518 as follows:

South 85° 16' East, a distance of 1,029.0 feet;

South 4° 44' West, a distance of 8.67 feet;

South 85° 16' East, a distance of 1,335.80 feet; and

South 85° 13' East, a distance of 3,114.73 feet,

more or less, to a point for corner on the center line of a 40 foot road right-of-way, said center line being the division line between Blocks 2 and 3 of said Jarboe Addition;

THENCE South 14° 33' 30" East, along the center line of said 40 foot road right-of-way, same being the common line between Blocks 2 and 3 of said Jarboe Addition, a distance of 3,310.0 feet, more or less, to a point for corner in the center line of Jarboe Creek;

THENCE in a Southwesterly direction, up the center line of Jarboe Creek with all its meanders, a distance of 1,100.0 feet, more or less, to a point for corner on the projection of the Southeast line of Lot 42 in Block 3 of said Jarboe Addition;

THENCE South 73° 13' West, along the Southeast line of said Lot 42 and its projection and continuing along the Southeast line of Lot 41 in said Block 3, a distance of 667.54 feet, more or less, to the Northeast corner of Lot 3 in Block 3 of said Jarboe Addition;

THENCE South 16° 47' East, along the Easterly line of said Lot 3, a distance of 630.0 feet to a point for corner on the Northerly line of an original 60 foot road right-of-way as shown on said map by R. W. Luttrell, said 60 foot road right-of-way now being a part of the new F.M. Rd. No. 518, under construction;

THENCE in a Westerly direction, along the Northerly right-of-way line of said original 60 foot road right-of-way as follows:

South 73° 13' West, a distance of 1,323.20 feet;

South 81° 33' West, a distance of 3,806.61 feet; and

South 84° 15' West, a distance of 2,679.42 feet,

to a point for corner on the center line of a 40 foot road right-of-way between Lots 88 and 89 in said Subdivision "D";

THENCE North 15° 23' 30" West, along the center line of said 40 foot road right-of-way, same being the Easterly line of said Clear Creek Independent School District tract, a distance of 3,749.20 feet to the PLACE OF BEGINNING and containing 1,116.7 acres of land, more or less.

Sec. 3. It is expressly determined, and the Legislature hereby finds that the boundaries of the District form a closure, and if any mistake is made in copying the field notes in the legislative process, or otherwise a mistake is found to have occurred in the field notes, it shall in no way or manner affect the organization, existence or validity of the District, or its right to issue bonds or refunding bonds, or to pay the principal and interest thereon, or the right to assess, levy and collect taxes, or in any other manner affect the legality or operation of the District or its governing body.

Sec. 4. The District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges and duties conferred and imposed by the General Laws of the State of Texas now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Section 59 of Article XVI, Constitution of Texas, and such General Laws are hereby incorporated by reference with the same effect as if incorporated in full in this Act, but to the extent that the provisions of such General Laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. Without in any way limiting the generalization of the foregoing, it is expressly provided that the District shall have and exercise and is hereby vested with, all of the rights, powers, privileges, authorities and functions conferred and imposed by Chapter 3A of Title 128, Revised Civil Statutes of Texas, 1925, together with all amendments thereof and additions thereto, including all powers and authority relating to the collection, transportation, processing, disposal and control of all domestic, industrial or communal waste; provided, however, that the exercise of the power of eminent domain shall not extend beyond the boundaries of the District.

Not by way of limitation, the District shall have and is hereby expressly granted the following rights, powers, privileges and functions:

(a) The power and authority to make, purchase, construct, lease, or otherwise acquire property, works, facilities and improvements (whether previously existing or to be made, constructed or acquired) within or without the boundaries of the District necessary or useful to carry out the powers and authority granted by this Act and the General Laws.

(b) The right, power and authority to enter into contracts of not exceeding forty (40) years duration with persons, corporations, public or private, municipal corporations, political subdivisions of the State of Texas, and others, and on such terms and conditions as the Board of Directors may deem desirable, fair and advantageous for:

- (1) the purchase and sale of water, or either;
- (2) the transportation, treatment and disposal of its domestic, industrial or communal wastes or the transportation, treatment and disposal of domestic, industrial or communal wastes of others; and
- (3) the performance of any of the rights or powers granted by this Act and the General Laws.

In the event that the District in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, re-routing or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telephone or telegraph properties and facilities, or pipeline, all such necessary relocation, raising, re-routing, changing of grade or alteration of construction shall be accomplished at the sole expense of the District. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, re-routing, or change in grade or alteration of construction in providing comparable replacement without enhancement of such facilities after deducting therefrom the net salvage value derived from the old facility. The powers and duties herein granted to the District shall be subject to the continuing right of supervision of the State, to be exercised by and through the Texas Water Rights Commission.

Sec. 5. The management and control of the District is hereby vested in a Board of five (5) Directors which shall have all of the powers and authority and duties conferred and imposed upon boards of directors of water control and improvement districts organized under the provisions of Chapter 3A of Title 128, Revised Civil Statutes of Texas, 1925, together with all amendments thereof and additions thereto. The

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members of the first Board of Directors shall be Waters S. Davis, Ray Arterburn, Jack Idol, Charles Groves, and L. Thain Leonard. Said members shall become Directors immediately after this Act becomes effective, and shall meet and organize as soon as practicable after the effective date of this Act, and shall file their official bonds and subscribe to the Constitutional oath of office. If any of the aforementioned members of the first Board of Directors shall die, become incapacitated or otherwise not qualify to assume their duties under this Act, the remaining members of said Board of Directors shall appoint his or their successors; provided, however, if none of the members of the first Board of Directors qualify by the second Tuesday in January 1969, the County Judge shall, upon the petition of any landowner in the District, call an election for the purpose of electing a Board of Directors for the District to serve until the next general election for Directors. The manner of holding such election, the notice of such election, and the time of holding such election shall be governed by the provisions of Chapter 3A, Title 128, relating to Director elections with the exception that the County Judge shall canvass the results of said election. With the exception of the first Board of Directors, the Board of Directors shall be selected as provided by the General Laws for water control and improvement districts. The first election of Directors of such District shall be held on the second Tuesday in January 1969, and in accordance with Article 7880—37, Revised Civil Statutes of Texas, 1925. Thereafter, Directors of the District shall be chosen, and elections for Directors shall be held in accordance with the provisions of the General Laws relating to water control and improvement districts.

Sec. 6. The District is hereby authorized to issue its negotiable tax bonds, revenue bonds, or tax and revenue bonds to provide funds for the purpose of purchasing, constructing, improving, extending or enlarging a waterworks and sanitary sewer system for the District, including the acquisition of all necessary land and rights-of-way therefor, and said bonds shall be issued in the manner provided and as authorized by Article 7880—90a, Vernon's Texas Civil Statutes and Chapter 3A of Title 128, Vernon's Texas Civil Statutes, as presently or hereafter amended, provided however that bonds payable solely from net revenues may be issued by resolution or order of the Board of Directors and no election therefor shall be necessary. Nothing contained herein shall relieve the District from complying with the provisions of Article 7880—139, Vernon's Texas Civil Statutes.

All bonds issued by the District shall expressly reserve the right of the District to redeem the bonds at any time subsequent to the fifteenth anniversary of the date of their issuance without premium. All bonds, other than refunding bonds shall be sold, only after the taking of public bids therefor, and no bonds, other than refunding bonds shall be sold for less than par plus accrued interest.

The bonds issued hereunder may be payable from all or any designated part or parts of the revenues of the District's properties and facilities or under specific contracts, as may be provided in the orders or resolutions authorizing the issuance of such bonds; and, except as the same may be inconsistent or in conflict with the provisions of this Act, the provisions of said Chapter 3A of Title 128, as presently or hereafter amended, shall apply to all bonds issued under the provisions of this Act (the provisions of this Act to govern and take precedence in the event of any such inconsistency or conflict).

Such bonds, within the discretion of the Board of Directors, may be additionally secured by a deed of trust or mortgage lien upon part or all of the physical properties of the District, and franchises, easements, water rights and appropriation permits, leases, and contracts and all rights appurtenant to such properties, vesting in the trustee power to sell such

properties for payment of the indebtedness, power to operate the properties and all other powers and authority for the further security of the bonds. Such trust indenture, regardless of the existence of the deed of trust or mortgage lien on the properties, may contain provisions prescribed by the Board of Directors for the security of the bonds and the preservation of the trust estate, and may make provisions for amendment or modification thereof and the issuance of bonds to replace lost or mutilated bonds, and may condition the right to expend District money or sell District property upon approval of a registered professional engineer selected as provided therein and may make provision for investment of funds of the District. Any purchaser under a sale under the deed of trust or mortgage lien, where one is given, shall be absolute owner of the properties, facilities and rights so purchased and shall have the right to maintain and operate same.

In the orders or Resolutions authorizing the issuance of any revenue, tax-revenue, revenue refunding, or tax-revenue refunding bonds authorized hereunder, the District's Board of Directors may provide for the flow of funds, the establishment and maintenance of the interest and sinking fund or funds, reserve fund or funds, and other funds, and may make additional covenants with respect to the bonds and the pledged revenues and the operation and maintenance of those improvements and facilities (the revenues of which are pledged), including provisions for the operation or for the leasing of all or any part of said improvements and facilities and the use or pledge of moneys derived from such operation contracts and leases, as such Board may deem appropriate. Such orders or Resolutions may also prohibit the further issuance of bonds or other obligations payable from the pledged revenues, or may reserve the right to issue additional bonds to be secured by a pledge of and payable from said revenues on a parity with, or subordinate to, the lien and pledge in support of the bonds being issued, subject to such conditions as are set forth in such orders or Resolutions. Such orders or Resolutions may contain other provisions and covenants, as the District's Board may determine, not prohibited by the Constitution of Texas or by this Act, and said Board may adopt and cause to be executed any other proceedings or instruments necessary and/or convenient in the issuance of any such bonds.

From the proceeds of sale of any bonds issued hereunder, the District may appropriate or set aside out of the bond proceeds an amount for the payment of interest, administrative and operating expenses expected to accrue during the period of construction, as may be provided in the bond orders or Resolutions, and an amount necessary to pay all expenses incurred and to be incurred in the issuance, sale and delivery of the bonds. Moneys in the interest and sinking fund or funds, and the reserve fund or funds, and in the other fund or funds established or provided for in the bond orders or Resolutions may be invested in such manner and in such securities as may be provided in the bond order or orders or may be placed on interest-bearing time deposit. Such bonds may be in the denomination of \$100, or in multiples thereof, and until such time as the bond proceeds are needed to carry out the bond purpose, such proceeds may be invested in securities of the United States Government or any agency thereof or may be placed on interest-bearing time deposit, either or both. Any such revenue bonds, tax-revenue, revenue refunding bonds, or tax-revenue refunding bonds hereinafter mentioned may be registrable as to principal, or as to both principal and interest.

By orders or Resolutions adopted by its Board of Directors, said District shall have the power and authority to issue revenue refunding bonds or tax-revenue refunding bonds to refund revenue bonds or tax-revenue bonds (either original bonds or refunding bonds) theretofore issued by such District. Said refunding bonds shall be approved by the Attorney General as in the case of original bonds, and shall be registered by the

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Comptroller of Public Accounts upon the surrender and cancellation of the bonds to be refunded, but in lieu thereof, the orders or Resolutions authorizing their issuance may provide that they shall be sold and the proceeds thereof deposited in the place or places where the underlying bonds are payable, in which case the refunding bonds may be issued in an amount sufficient to pay the interest on the underlying bonds to their option or maturity date, and the Comptroller of Public Accounts shall register them without the surrender and cancellation of the underlying bonds.

After any bonds have been authorized by the District hereunder, such bonds and the record relating to their issuance shall be submitted to the Attorney General of the State of Texas for his examination as to the validity thereof, and after said Attorney General has approved the same, such bonds shall be registered by the Comptroller of Public Accounts of the State of Texas. When such bonds have been approved by the Attorney General, registered by the Comptroller of Public Accounts, and delivered to the purchasers, they shall thereafter be incontestable except for forgery or fraud. When any bonds recite that they are secured partially or otherwise by a pledge of the proceeds of a contract or contracts made between the District and another party or parties (private or public) a copy of such contract or contracts and the proceedings authorizing the same may or may not be submitted to the Attorney General along with the bond record and, if so submitted, the approval by the Attorney General of the bonds shall constitute an approval of such contract or contracts, and thereafter the contract or contracts shall be incontestable for any cause except for forgery or fraud.

Sec. 7. Land contiguous or adjacent to the District may be added to the District in the manner provided by Article 7880—75, Vernon's Texas Civil Statutes, as now or hereafter amended, provided, however, that the Board of Directors may require the petitioners to assume their pro rata share of the voted but unissued bonds of the District and authorize the Board to levy a tax on their property in payment for such unissued bonds, when issued. If the petitioners consent, the District shall be authorized to issue its voted but unissued tax or tax-revenue bonds even though the boundaries of the District have been changed since the voting or authorization of such bonds. Land may be added to the District only as provided herein.

Sec. 8. It shall not be necessary for the District to call or hold, prior to voting any bonds or taxes, a hearing on the exclusion of land or other property from the District; provided, however, that the Board of Directors shall hold such hearing upon the written request of any land or other property owner within the District filed with the Secretary of the Board prior to the time the Board calls the first bond election for the District. Nothing in this Section shall be construed to prevent the Board on its own motion from calling and holding an exclusions hearing or hearings pursuant to the provisions of the General Law.

Sec. 9. If a majority of the Board of Directors shall determine that the name of the District needs changing, the Board may change the name of the District to any name which is descriptive of the locale of the District and descriptive of the principal powers to be exercised by such District; provided, however, that the word "District" shall be included in the designation and a consecutive number shall be used if other districts of the same name have been created in the county. Notice of the change in name shall be given to the Texas Water Rights Commission by sending a certified copy of the Resolution changing the District's name to the Secretary of the Texas Water Rights Commission. Notice shall also be given by filing a certified copy of the Resolution in the Water Control and Improvement District records of the county. The District, under its changed name, shall be deemed to be a continuation of the District as formerly named, for all purposes.

Sec. 10. The Board of Directors shall designate, establish and maintain a District office as provided by Article 7880—44. The minutes, contracts, notices, accounts, receipts and records of all kinds of the District shall be kept in a fireproof vault or safe at such District office and shall be subject to public inspection at all reasonable hours. The District office shall be established and maintained within the District, provided, however, if the Board of Directors finds that a location outside of the District is better suited for the transaction of the business of the District, the Board of Directors may designate, establish and maintain the District office at such location outside of the District.

If the Board of Directors establishes the District office outside the District, it shall give notice of the location of the District office by filing a true copy of its resolution establishing the location of the District office with the Texas Water Rights Commission, by filing a true copy in the Water Control and Improvement District records of Galveston County and also by publishing the location in a newspaper of general circulation in Galveston County.

If location of the District office is thereafter changed, notice of such change shall be given in the same manner.

Sec. 11. The provisions of Section 10, Chapter 280, Acts of the 41st Legislature of Texas, Regular Session, 1929 (codified as Article 7880—77b, Vernon's Texas Civil Statutes), shall apply to the District; however, it shall be within the discretion of the Board of Directors to hold a hearing on the question of the dissolution of the District if a construction bond election fails and the Board of Directors shall not be required to hold a hearing on the question of the dissolution of the District unless twenty per cent of the qualified voters of the District petition the Board for such a hearing in the manner provided in Article 7880—77b.

Sec. 12. The bonds of the District shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, trustees, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas, and any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their value, when accompanied by all unmatured coupons appurtenant thereto.

Sec. 13. Upon the adoption of this Act, said District shall be a fully created and established water control and improvement district and it shall not be necessary to hold a confirmation election. The ad valorem basis or plan of taxation shall be used by said District, and it shall not be necessary for the Board of Directors to hold a hearing on the adoption of a plan of taxation.

Sec. 14. As soon as practicable after the qualification of the first Board of Directors of said District, the Board shall by Resolution designate one or more banks within or without the District to serve as the District's depository, and all funds of said District shall be secured in the manner now provided for the security of county funds. Such bank or banks shall serve for a period of two (2) years and until a successor has been appointed by the Board and has qualified.

Sec. 15. Since the District will be located entirely within an incorporated city or town upon the effective date of this Act, it is expressly provided that the provisions of Article 1182c—1, Vernon's Texas Civil Statutes, as amended, shall not apply to this District unless and until the governing body of said city or town adopts an ordinance making the provisions of said Article 1182c—1, as presently or hereafter amended, applicable to such city or town and to the District. Upon the adoption of

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such an ordinance by a vote of not less than two-thirds ($\frac{2}{3}$) of the entire membership of the governing body of such city or town, the provisions of said Article 1182c—1 shall thereafter be applicable to such city or town and to the District.

Sec. 15(a). The construction of the District's water and sanitary sewer facilities shall be in accordance with the approved plans and specifications and with applicable standards and specifications of the City of League City, and during the progress of the construction and installation of such facilities the city shall make periodic on-the-ground inspections.

No construction shall be started or undertaken by the District unless it has in its possession a certificate of the District's engineer, who shall be a registered professional engineer under the laws of the State of Texas, that, in his opinion, such construction conforms to said city's established standards and specifications.

Sec. 16. The Legislature hereby exercises the authority conferred upon it by Section 59 of Article XVI, Constitution of Texas, and declares that the District created by this Act is essential to the accomplishment of the purposes of said constitutional provisions; finds that all of the land and other property included therein are, and will be, benefited thereby and by the improvements that the District will purchase, construct, or otherwise acquire; and declares the District to be a governmental agency, a body politic and corporate, and a municipal corporation.

Sec. 17. If any word, phrase, clause, sentence, paragraph, Section or other part of this Act or the application thereof to any person or circumstance, shall ever be held by a court of competent jurisdiction to be invalid or unconstitutional, the remainder of the Act and the application of such word, phrase, clause, sentence, paragraph, Section, or other part of this Act to other persons or circumstances shall not be affected thereby.

Sec. 18. It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published at least thirty (30) days and not more than ninety (90) days prior to the introduction of this Act in the Legislature of Texas, in a newspaper having general circulation in Galveston County, Texas; that a copy of such notice and a copy of this Act have been delivered to the Governor of Texas who has submitted such notice and act to the Texas Water Rights Commission, and said Texas Water Rights Commission had filed its recommendation as to such Act with the Governor, Lieutenant Governor and Speaker of the House of Representatives of Texas within thirty (30) days from the date such notice and Act were received by the Texas Water Rights Commission; and that all the requirements and provisions of Article XVI, Section 59(d) of the Constitution of the State of Texas have been fulfilled and accomplished as therein provided.

Acts 1967, 60th Leg., p. 1324, ch. 582, emerg. eff. June 16, 1967.

Title of Act:

An Act creating a conservation and reclamation district under the provisions of Section 59, Article XVI, Constitution of Texas, to be known as "League Land Municipal Utility District of Galveston County, Texas"; prescribing its rights, powers, privileges, and duties; providing the District shall bear the sole expense of the relocation of certain facilities under the provisions of this Act; providing for its gov-

erning body; containing provisions that its bonds are legal and authorized investments; providing for selection of a depository; adopting the ad valorem basis of taxation; providing a procedure to change its name; requiring the District to establish an office; containing other provisions relating to the subject; providing a severability clause; and declaring an emergency. Acts 1967, 60th Leg., p. 1324, ch. 582.

Art. 8280—350. West End Municipal Utility District

Section 1. Under and pursuant to the provisions of Section 59 of Article XVI, Constitution of Texas, a Conservation and Reclamation District is hereby created and incorporated in Galveston County, Texas, to

be known as "West End Municipal Utility District of Galveston County, Texas" (hereinafter referred to as the "District"). The District shall be a body politic and corporate.

Sec. 2. The boundaries of the District shall be as follows:

All of Section 14 of the Hall and Jones Survey,
Galveston Island, Galveston County, Texas.

Sec. 3. It is expressly determined, and the Legislature hereby finds that the boundaries of the District form a closure, and if any mistake is made in copying the field notes in the legislative process, or otherwise a mistake is found to have occurred in the field notes, it shall in no way or manner affect the organization, existence or validity of the District, or its right to issue bonds or refunding bonds, or to pay the principal and interest thereon, or the right to assess, levy and collect taxes, or in any other manner affect the legality or operation of the District or its governing body.

Sec. 4. The District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges and duties conferred and imposed by the General Laws of the State of Texas now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Section 59 of Article XVI, Constitution of Texas, and such General Laws are hereby incorporated by reference with the same effect as if incorporated in full in this Act, but to the extent that the provisions of such General Laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. Without in any way limiting the generalization of the foregoing, it is expressly provided that the District shall have and exercise and is hereby vested with, all of the rights, powers, privileges, authorities and functions conferred and imposed by Chapter 3A of Title 128, Revised Civil Statutes of Texas, 1925, together with all amendments thereof and additions thereto, including all powers and authority relating to the navigation of its coastal and inland waters, the reclamation and drainage of its overflowed lands, and other lands needing drainage in the District, and the collection, transportation, processing, disposal and control of all domestic, industrial or communal waste; provided, however, that the exercise of the power of eminent domain shall not extend beyond the boundaries of the District.

Not by way of limitation, the District shall have and is hereby expressly granted the following rights, powers, privileges and functions:

(a) The power and authority to make, purchase, construct, lease, or otherwise acquire property, works, facilities and improvements (whether previously existing or to be made, constructed or acquired) within or without the boundaries of the District necessary or useful to carry out the powers and authority granted by this Act and the General Laws.

(b) The right, power and authority to purchase, construct, maintain and operate navigable canals or waterways, including bulkheads therefor, and all navigational systems or facilities auxiliary thereto necessary or useful in the operation or development of the District's ports and waterways or in aid to navigation thereon.

(c) The right, power and authority to enter into contracts of not exceeding forty (40) years duration with persons, corporations, public or private, municipal corporations, political subdivisions of the State of Texas, and others, and on such terms and conditions as the Board of Directors may deem desirable, fair and advantageous for:

(1) the purchase and sale of water, or either;

(2) the transportation, treatment and disposal of its domestic, industrial or communal wastes or the transportation, treatment and disposal of domestic, industrial or communal wastes of others; and

(3) the performance of any of the rights or powers granted by this Act and the General Laws.

In the event that the District in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder,

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makes necessary the relocation, raising, re-routing or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telephone or telegraph properties and facilities, or pipeline, all such necessary relocation, raising, re-routing, changing of grade or alteration of construction shall be accomplished at the sole expense of the District. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, re-routing, or change in grade or alteration of construction in providing comparable replacement without enhancement of such facilities after deducting therefrom the net salvage value derived from the old facility. The powers and duties herein granted to the District shall be subject to the continuing right of supervision of the state, to be exercised by and through the Texas Water Rights Commission.

Sec. 5. The management and control of the District is hereby vested in a Board of five (5) Directors which shall have all of the powers and authority and duties conferred and imposed upon boards of directors of water control and improvement districts organized under the provisions of Chapter 3A of Title 128, Revised Civil Statutes of Texas, 1925, together with all amendments thereof and additions thereto. The members of the first Board of Directors shall be Natalie L. Davis, Pate Meinzer, Rai D. Kelso, John Fossett, and James P. Grizzard. Said members shall become Directors immediately after this Act becomes effective, and shall meet and organize as soon as practicable after the effective date of this Act, and shall file their official bonds and subscribe to the Constitutional oath of office. If any of the aforementioned members of the First Board of Directors shall die, become incapacitated or otherwise not qualify to assume their duties under this Act, the remaining members of said Board of Directors shall appoint his or their successors; provided, however, if none of the members of the first Board of Directors qualify by the second Tuesday in January 1969, the County Judge shall, upon the petition of any landowner in the District, call an election for the purpose of electing a Board of Directors for the District to serve until the next general election for Directors. The manner of holding such election shall be governed by the provisions of Chapter 3A, Title 128, relating to Director elections with the exception that the County Judge shall canvass the results of said election. With the exception of the first Board of Directors, the Board of Directors shall be selected as provided by the General Laws for water control and improvement districts. The first election of Directors of such District shall be held on the second Tuesday in January 1969, and in accordance with Article 7880—37, Revised Civil Statutes of Texas, 1925. Thereafter, Directors of the District shall be chosen, and elections for Directors shall be held in accordance with the provisions of the General Laws relating to water control and improvement districts.

Sec. 6. The District is hereby authorized to issue its negotiable tax bonds, revenue bonds, or tax and revenue bonds to provide funds for any or all of the purposes set out or incorporated by reference in Section 4 hereof, including the acquisition of land therefor, and said bonds shall be issued in the manner provided and as authorized by Article 7880—90a, Vernon's Texas Civil Statutes and Chapter 3A of Title 128, Vernon's Texas Civil Statutes, as presently or hereafter amended, provided however that bonds payable solely from net revenues may be issued by resolution or order of the Board of Directors and no election therefor shall be necessary. Nothing contained herein shall relieve the District from complying with the provisions of Article 7880—139, Vernon's Texas Civil Statutes.

The bonds issued hereunder may be payable from all or any designated part or parts of the revenues of the District's properties and facilities or under specific contracts, as may be provided in the orders or resolutions authorizing the issuance of such bonds; and, except as the same may be inconsistent or in conflict with the provisions of this Act, the provisions of said Chapter 3A of Title 128, as presently or hereafter amended, shall

apply to all bonds issued under the provisions of this Act (the provisions of this Act to govern and take precedence in the event of any such inconsistency or conflict).

Such bonds, within the discretion of the Board of Directors, may be additionally secured by a deed of trust or mortgage lien upon part or all of the physical properties of the District, and franchises, easements, water rights and appropriation permits, leases, and contracts and all rights appurtenant to such properties, vesting in the trustee power to sell such properties for payment of the indebtedness, power to operate the properties and all other powers and authority for the further security of the bonds. Such trust indenture, regardless of the existence of the deed of trust or mortgage lien on the properties, may contain provisions prescribed by the Board of Directors for the security of the bonds and the preservation of the trust estate, and may make provisions for amendment or modification thereof and the issuance of bonds to replace lost or mutilated bonds, and may condition the right to expend District money or sell District property upon approval of a registered professional engineer selected as provided therein and may make provision for investment of funds of the District. Any purchaser under a sale under the deed of trust or mortgage lien, where one is given, shall be absolute owner of the properties, facilities and rights so purchased and shall have the right to maintain and operate same.

In the orders or Resolutions authorizing the issuance of any revenue, tax-revenue, revenue refunding, or tax-revenue refunding bonds authorized hereunder, the District's Board of Directors may provide for the flow of funds, the establishment and maintenance of the interest and sinking fund or funds, reserve fund or funds, and other funds, and may make additional covenants with respect to the bonds and the pledged revenues and the operation and maintenance of those improvements and facilities (the revenues of which are pledged), including provisions for the operation or for the leasing of all or any part of said improvements and facilities and the use or pledge of moneys derived from such operation contracts and leases, as such Board may deem appropriate. Such orders or resolutions may also prohibit the further issuance of bonds or other obligations payable from the pledged revenues, or may reserve the right to issue additional bonds to be secured by a pledge of and payable from said revenues on a parity with, or subordinate to, the lien and pledge in support of the bonds being issued, subject to such conditions as are set forth in such orders or Resolutions. Such orders or Resolutions may contain other provisions and covenants, as the District's Board may determine, not prohibited by the Constitution of Texas or by this Act, and said Board may adopt and cause to be executed any other proceedings or instruments necessary and/or convenient in the issuance of any such bonds.

From the proceeds of sale of any bonds issued hereunder, the District may appropriate or set aside out of the bond proceeds an amount for the payment of interest, administrative and operating expenses expected to accrue during the period of construction, as may be provided in the bond orders or Resolutions, and an amount necessary to pay all expenses incurred and to be incurred in the issuance, sale and delivery of the bonds. Moneys in the interest and sinking fund or funds, and the reserve fund or funds, and in the other fund or funds established or provided for in the bond orders or Resolutions may be invested in such manner and in such securities as may be provided in the bond order or orders or may be placed on interest-bearing time deposit. Such bonds may be in the denomination of \$100, or in multiples thereof, and until such time as the bond proceeds are needed to carry out the bond purpose, such proceeds may be invested in securities of the United States Government or any agency thereof or may be placed on interest-bearing time deposit, either or both. Any such revenue bonds, tax-revenue, revenue refunding bonds, or tax-revenue

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refunding bonds hereinafter mentioned may be registrable as to principal, or as to both principal and interest.

By orders or Resolutions adopted by its Board of Directors, said District shall have the power and authority to issue revenue refunding bonds or tax-revenue refunding bonds to refund revenue bonds or tax-revenue bonds (either original bonds or refunding bonds) theretofore issued by such District. Said refunding bonds shall be approved by the Attorney General as in the case of original bonds, and shall be registered by the Comptroller of Public Accounts upon the surrender and cancellation of the bonds to be refunded, but in lieu thereof, the orders or Resolutions authorizing their issuance may provide that they shall be sold and the proceeds thereof deposited in the place or places where the underlying bonds are payable, in which case the refunding bonds may be issued in an amount sufficient to pay the interest on the underlying bonds to their option or maturity date, and the Comptroller of Public Accounts shall register them without the surrender and cancellation of the underlying bonds.

After any bonds have been authorized by the District hereunder, such bonds and the record relating to their issuance shall be submitted to the Attorney General of the State of Texas for his examination as to the validity thereof, and after said Attorney General has approved the same, such bonds shall be registered by the Comptroller of Public Accounts of the State of Texas. When such bonds have been approved by the Attorney General, registered by the Comptroller of Public Accounts, and delivered to the purchasers, they shall thereafter be incontestable except for forgery or fraud. When any bonds recite that they are secured partially or otherwise by a pledge of the proceeds of a contract or contracts made between the District and another party or parties (private or public) a copy of such contract or contracts and the proceedings authorizing the same may or may not be submitted to the Attorney General along with the bond record and, if so submitted, the approval by the Attorney General of the bonds shall constitute an approval of such contract or contracts, and thereafter the contract or contracts shall be incontestable for any cause except for forgery or fraud.

Sec. 7. Land contiguous or adjacent to the District may be added to the District in the manner provided by Article 7880—75, Vernon's Texas Civil Statutes, as now or hereafter amended, provided, however, that the Board of Directors may require the petitioners to assume their pro rata share of the voted but unissued bonds of the District and authorize the Board to levy a tax on their property in payment for such unissued bonds, when issued. If the petitioners consent, the District shall be authorized to issue its voted but unissued tax or tax-revenue bonds even though the boundaries of the District have been changed since the voting or authorization of such bonds. Land may be added to the District only as provided herein.

Sec. 8. It shall not be necessary for the District to call or hold, prior to voting any bonds or taxes, a hearing on the exclusion of land or other property from the District; provided, however, that the Board of Directors shall hold such hearing upon the written request of any land or other property owner within the District filed with the Secretary of the Board prior to the time the Board calls the first bond election for the District. Nothing in this Section shall be construed to prevent the Board on its own motion from calling and holding an exclusions hearing or hearings pursuant to the provisions of the General Law.

Sec. 9. If a majority of the Board of Directors shall determine that the name of the District needs changing, the Board may change the name of the District to any name which is descriptive of the locale of the District and descriptive of the principal powers to be exercised by such District; provided, however, that the word "District" shall be included in the designation and a consecutive number shall be used if other districts of

the same name have been created in the county. Notice of the change in name shall be given to the Texas Water Rights Commission by sending a certified copy of the Resolution changing the District's name to the Secretary of the Texas Water Rights Commission. Notice shall also be given by filing a certified copy of the Resolution in the Water Control and Improvement District records of the county. The District, under its changed name, shall be deemed to be a continuation of the District as formerly named, for all purposes.

Sec. 10. The Board of Directors shall designate, establish and maintain a District office as provided by Article 7880—44. The minutes, contracts, notices, accounts, receipts and records of all kinds of the District shall be kept in a fireproof vault or safe at such District office and shall be subject to public inspection at all reasonable hours. The District office shall be established and maintained within the District, provided, however, if the Board of Directors finds that a location outside of the District is better suited for the transaction of the business of the District, the Board of Directors may designate, establish and maintain the District office at such location outside of the District.

If the Board of Directors establishes the District office outside the District, it shall give notice of the location of the District office by filing a true copy of its Resolution establishing the location of the District office with the Texas Water Rights Commission, by filing a true copy in the Water Control and Improvement District records of Galveston County and also by publishing the location in a newspaper of general circulation in Galveston County.

If location of the District office is thereafter changed, notice of such change shall be given in the same manner.

Sec. 11. The provisions of Section 10, Chapter 280, Acts of the 41st Legislature of Texas, Regular Session, 1929 (codified as Article 7880—77b, Vernon's Texas Civil Statutes), shall apply to the District; however, it shall be within the discretion of the Board of Directors to hold a hearing on the question of the dissolution of the District if a construction bond election fails and the Board of Directors shall not be required to hold a hearing on the question of the dissolution of the District unless twenty per cent of the qualified voters of the District petition the Board for such a hearing in the manner provided in Article 7880—77b.

Sec. 12. The bonds of the District shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, trustees, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas, and any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their value, when accompanied by all unmatured coupons appurtenant thereto.

Sec. 13. Upon the adoption of this Act, said District shall be a fully created and established water control and improvement district and it shall not be necessary to hold a confirmation election. The ad valorem basis or plan of taxation shall be used by said District, and it shall not be necessary for the Board of Directors to hold a hearing on the adoption of a plan of taxation.

Sec. 14. As soon as practicable after the qualification of the first Board of Directors of said District, the Board shall by Resolution designate one or more banks within or without the District to serve as the District's depository, and all funds of said District shall be secured in the manner now provided for the security of county funds. Such bank

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or banks shall serve for a period of two (2) years and until a successor has been appointed by the Board and has qualified.

Sec. 15. The Legislature hereby exercises the authority conferred upon it by Section 59 of Article XVI, Constitution of Texas, and declares that the District created by this Act is essential to the accomplishment of the purposes of said constitutional provisions; finds that all of the land and other property included therein are, and will be, benefited thereby and by the improvements that the District will purchase, construct, or otherwise acquire; and declares the District to be a governmental agency, a body politic and corporate, and a municipal corporation.

Sec. 16. If any word, phrase, clause, sentence, paragraph, Section or other part of this Act or the application thereof to any person or circumstance, shall ever be held by a court of competent jurisdiction to be invalid or unconstitutional, the remainder of the Act and the application of such word, phrase, clause, sentence, paragraph, Section, or other part of this Act to other persons or circumstances shall not be affected thereby.

Sec. 17. It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published at least thirty (30) days and not more than ninety (90) days prior to the introduction of this Act in the Legislature of Texas, in a newspaper having general circulation in Galveston County, Texas; that a copy of such notice and a copy of this Act have been delivered to the Governor of Texas who has submitted such notice and Act to the Texas Water Rights Commission, and said Texas Water Rights Commission had filed its recommendation as to such Act with the Governor, Lieutenant Governor and Speaker of the House of Representatives of Texas within thirty (30) days from the date such notice and Act were received by the Texas Water Rights Commission; and that all the requirements and provisions of Article XVI, Section 59(d) of the Constitution of the State of Texas have been fulfilled and accomplished as therein provided. Acts 1967, 60th Leg., p. 1332, ch. 583, emerg. eff. June 16, 1967.

Title of Act:

An Act creating a conservation and reclamation district under the provisions of Section 59, Article XVI, Constitution of Texas, to be known as "West End Municipal Utility District of Galveston County, Texas"; prescribing its rights, powers, privileges, and duties; providing the District shall bear the sole expense of the relocation of certain facilities under the provisions of this Act; providing for its gov-

erning body; containing provisions that its bonds are legal and authorized investment; providing for selection of a depository; adopting the ad valorem basis of taxation; providing a procedure to change its name; requiring the District to establish an office; containing other provisions relating to the subject; providing a severability clause; and declaring an emergency. Acts 1967, 60th Leg., p. 1332, ch. 583.

Art. 8280—351. Staffordshire Municipal Utility District

Section 1. Under and pursuant to the provisions of Section 59 of Article XVI, Constitution of Texas, a Conservation and Reclamation District is hereby created and incorporated in Fort Bend County, Texas, to be known as "Staffordshire Municipal Utility District of Fort Bend County, Texas" (hereinafter referred to as the "District"). The District shall be a body politic and corporate.

Sec. 2. The boundaries of the District shall be as follows:

BEGINNING at the point of intersection of the northwest right-of-way line of U. S. Highway #59, the Southwest Freeway, with the Fort Bend-Harris County Line;

THENCE S. 44° 05' W. along the said northwest right-of-way line of U. S. Highway #59, a distance of 2465.09' to a point for corner;

THENCE N. 45° 55' W. a distance of 441.75' to a point for corner;

THENCE N. 70° 00' W. a distance of 3733.55' to a point in the eastern line of the Houston Lighting and Power Company 200' right-of-way,

said point being on the eastern line of the H. J. Dewitt Survey, Abstract #162, for corner;

THENCE S. 36° 26' W. a distance of 389.66' to a point in the western line of the United Gas Pipe Line Company right-of-way for corner;

THENCE S. 89° 29' W. a distance of 2546.15' to a point for corner on the center line of Stiles Lane;

THENCE N. 0° 48' E. along the center line of said Stiles Lane, a distance of 4894.61' to a point of intersection of the center line of Stiles Lane with the southern line of Belknap Road for corner;

THENCE S. 86° 55' E. along the projection of the said southern line of Belknap Road a distance of 265.50' to a point for corner on the northeast line of the Dorrance Wing Partition, recorded in Vol. 4304, Page 1 of the Deed Records of Harris County, Texas, and recorded in Vol. 413, Page 41 of the Deed Records of Fort Bend County, Texas;

THENCE S. 69° 50' E. along the said northeast line of the said Dorrance Wing Partition a distance of 287.80' to a point in the Fort Bend-Harris County Line for corner;

THENCE S. 61° 06' 19" E. along the Fort Bend-Harris County Line a distance of 8811.44' to the PLACE OF BEGINNING and containing 578.11 acres, more or less, out of the James Alston Survey, Abstract #101, the H. J. Dewitt Survey, Abstract #162, and the Leo Roark Survey, Abstract #651, Fort Bend County, Texas.

Sec. 3. It is expressly determined, and the Legislature hereby finds that the boundaries of the District form a closure, and if any mistake is made in copying the field notes in the legislative process, or otherwise a mistake is found to have occurred in the field notes, it shall in no way or manner affect the organization, existence or validity of the District, or its right to issue bonds or refunding bonds, or to pay the principal and interest thereon, or the right to assess, levy and collect taxes, or in any other manner affect the legality or operation of the District or its governing body.

Sec. 4. The District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges and duties conferred and imposed by the General Laws of the State of Texas now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Section 59 of Article XVI, Constitution of Texas, and such General Laws are hereby incorporated by reference with the same effect as if incorporated in full in this Act, but to the extent that the provisions of such General Laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. Without in any way limiting the generalization of the foregoing, it is expressly provided that the District shall have and exercise and is hereby vested with, all of the rights, powers, privileges, authorities and functions conferred and imposed by Chapter 3A of Title 128, Revised Civil Statutes of Texas, 1925, together with all amendments thereof and additions thereto, including all powers and authority relating to the reclamation and drainage of its overflowed lands, and other lands needing drainage in the District, and the collection, transportation, processing, disposal and control of all domestic, industrial or communal waste.

Not by way of limitation, the District shall have and is hereby expressly granted the following rights, powers, privileges and functions:

(a) The power and authority to make, purchase, construct, lease, or otherwise acquire property, works, facilities and improvements (whether previously existing or to be made, constructed or acquired) within or without the boundaries of the District necessary or useful to carry out the powers and authority granted by this Act and the General Laws.

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(b) The right, power and authority to enter into contracts of not exceeding forty (40) years duration with persons, corporations, public or private, municipal corporations, political subdivisions of the State of Texas, and others, and on such terms and conditions as the Board of Directors may deem desirable, fair and advantageous for:

- (1) the purchase and sale of water, or either;
- (2) the transportation, treatment and disposal of its domestic, industrial or communal wastes or the transportation, treatment and disposal of domestic, industrial or communal wastes of others; and
- (3) the performance of any of the rights or powers granted by this Act and the General Laws.

In the event that the District in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, re-routing or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telephone or telegraph properties and facilities, or pipeline, all such necessary relocation, raising, re-routing, changing of grade or alteration of construction shall be accomplished at the sole expense of the District. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, re-routing, or change in grade or alteration of construction in providing comparable replacement without enhancement of such facilities after deducting therefrom the net salvage value derived from the old facility. The powers and duties herein granted to the District shall be subject to the continuing right of supervision of the State, to be exercised by and through the Texas Water Rights Commission.

Sec. 5. The management and control of the District is hereby vested in a Board of five (5) Directors which shall have all of the powers and authority and duties conferred and imposed upon boards of directors of water control and improvements districts organized under the provisions of Chapter 3A of Title 128, Revised Civil Statutes of Texas, 1925, together with all amendments thereof and additions thereto. The members of the First Board of Directors shall be David Hannah, Jr., W. F. Burge, Harold D. Wallace, Arthur Coburn, II, and Lynch D. Smyth. Said members shall become Directors immediately after this Act becomes effective, and shall meet and organize as soon as practicable after the effective date of this Act, and shall file their official bonds and subscribe to the Constitutional oath of office. If any of the aforementioned members of the first Board of Directors shall die, become incapacitated or otherwise not qualified to assume their duties under this Act, the remaining members of said Board of Directors shall appoint his or their successors; provided, however, if none of the members of the first Board of Directors qualify by the second Tuesday in January 1969, the County Judge shall, upon the petition of any landowner in the District, call an election for the purpose of electing a Board of Directors for the District to serve until the next general election for directors. The manner of holding such election, the notice of such election, and the time of holding such election shall be governed by the provisions of Chapter 3A, Title 128, relating to Director elections with the exception that the County Judge shall canvass the results of said election. With the exception of the first Board of Directors, the Board of Directors shall be selected as provided by the General Laws for water control and improvement districts. The first election of Directors of such District shall be held on the second Tuesday in January 1969, and in accordance with Article 7880—37, Revised Civil Statutes of Texas, 1925. Thereafter, Directors of the District shall be chosen, and elections for Directors shall be held in accordance with the provisions of the General Laws relating to water control and improvement districts.

Sec. 6. The District is hereby authorized to issue its negotiable tax bonds, revenue bonds, or tax and revenue bonds to provide funds for any or all of the purposes set out or incorporated by reference in Section 4 hereof, including the acquisition of land therefor, and said bonds shall be issued in the manner provided and as authorized by Article 7880—90a, Vernon's Texas Civil Statutes and Chapter 3A of Title 128, Vernon's Texas Civil Statutes, as presently or hereafter amended, provided, however, that bonds payable solely from net revenues may be issued by resolution or order of the Board of Directors and no election therefor shall be necessary. Nothing contained herein shall relieve the District from complying with the provisions of Article 7880—139, Vernon's Texas Civil Statutes.

The bonds issued hereunder may be payable from all or any designated part or parts of the revenues of the District's properties and facilities or under specific contracts, as may be provided in the orders or resolutions authorizing the issuance of such bonds; and, except as the same may be inconsistent or in conflict with the provisions of this Act, the provisions of said Chapter 3A of Title 128, as presently or hereafter amended, shall apply to all bonds issued under the provisions of this Act (the provisions of this Act to govern and take precedence in the event of any such inconsistency or conflict).

Such bonds, within the discretion of the Board of Directors, may be additionally secured by a deed of trust or mortgage lien upon part or all of the physical properties of the District, and franchises, easements, water rights and appropriation permits, leases, and contracts and all rights appurtenant to such properties, vesting in the trustee power to sell such properties for payment of the indebtedness, power to operate the properties and all other powers and authority for the further security of the bonds. Such trust indenture, regardless of the existence of the deed of trust or mortgage lien on the properties, may contain provisions prescribed by the Board of Directors for the security of the bonds and the preservation of the trust estate, and may make provisions for amendment or modification thereof and the issuance of bonds to replace lost or mutilated bonds, and may condition the right to expend District money or sell District property upon approval of a registered professional engineer selected as provided therein and may make provision for investment of funds of the District. Any purchaser under a sale under the deed of trust or mortgage lien, where one is given, shall be absolute owner of the properties, facilities and rights so purchased and shall have the right to maintain and operate same.

In the orders or resolutions authorizing the issuance of any revenue, tax-revenue, revenue refunding, or tax-revenue refunding bonds authorized hereunder, the District's Board of Directors may provide for the flow of funds, the establishment and maintenance of the interest and sinking fund or funds, reserve fund or funds, and other funds, and may make additional covenants with respect to the bonds and the pledged revenues and the operation and maintenance of those improvements and facilities (the revenues of which are pledged), including provisions for the operation or for the leasing of all or any part of said improvements and facilities and the use or pledge of moneys derived from such operation contracts and leases, as such Board may deem appropriate. Such orders or resolutions may also prohibit the further issuance of bonds or other obligations payable from the pledged revenues, or may reserve the right to issue additional bonds to be secured by a pledge of and payable from said revenues on a parity with, or subordinate to, the lien and pledge in support of the bonds being issued; subject to such conditions as are set forth in such orders or resolutions. Such orders or resolutions may contain other provisions and covenants, as the District's Board may determine, not prohibited by the Constitu-

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tion of Texas or by this Act, and said Board may adopt and cause to be executed any other proceedings or instruments necessary and/or convenient in the issuance of any such bonds.

From the proceeds of sale of any bonds issued hereunder, the District may appropriate or set aside out of the bond proceeds an amount for the payment of interest, administrative and operating expenses expected to accrue during the period of construction, as may be provided in the bond orders or resolutions, and an amount necessary to pay all expenses incurred and to be incurred in the issuance, sale and delivery of the bonds. Moneys in the interest and sinking fund or funds, and the reserve fund or funds, and in the other fund or funds established or provided for in the bond orders or resolutions may be invested in such manner and in such securities as may be provided in the bond order or orders or may be placed on interest-bearing time deposit. Such bonds may be in the denomination of \$100, or in multiples thereof, and until such time as the bond proceeds are needed to carry out the bond purpose, such proceeds may be invested in securities of the United States Government or any agency thereof or may be placed on interest-bearing time deposit, either or both. Any such revenue bonds, tax-revenue, revenue refunding bonds, or tax-revenue refunding bonds hereinafter mentioned may be registrable as to principal, or as to both principal and interest.

By orders or resolutions adopted by its Board of Directors, said District shall have the power and authority to issue revenue refunding bonds or tax-revenue refunding bonds to refund revenue bonds or tax-revenue bonds (either original bonds or refunding bonds) theretofore issued by such District. Said refunding bonds shall be approved by the Attorney General as in the case of original bonds, and shall be registered by the Comptroller of Public Accounts upon the surrender and cancellation of the bonds to be refunded, but in lieu thereof, the orders or resolutions authorizing their issuance may provide that they shall be sold and the proceeds thereof deposited in the place or places where the underlying bonds are payable, in which case the refunding bonds may be issued provided an amount sufficient to pay the interest and principal on the underlying bonds to their maturity dates, or to their option dates if said bonds have been duly called for payment prior to maturity according to their terms, has been so deposited in the place or places where said underlying bonds are payable, and the Comptroller of Public Accounts shall register them without the surrender and cancellation of the underlying bonds.

After any bonds have been authorized by the District hereunder, such bonds and the record relating to their issuance shall be submitted to the Attorney General of the State of Texas for his examination as to the validity thereof, and after said Attorney General has approved the same, such bonds shall be registered by the Comptroller of Public Accounts of the State of Texas. When such bonds have been approved by the Attorney General, registered by the Comptroller of Public Accounts, and delivered to the purchasers, they shall thereafter be incontestable except for forgery or fraud. When any bonds recite that they are secured partially or otherwise by a pledge of the proceeds of a contract or contracts made between the District and another party or parties (private or public) a copy of such contract or contracts and the proceedings authorizing the same may or may not be submitted to the Attorney General along with the bond record and, if so submitted, the approval by the Attorney General of the bonds shall constitute an approval of such contract or contracts, and thereafter the contract or contracts shall be incontestable for any cause except for forgery or fraud. The District shall reserve the right to redeem all bonds which it issues at any time subsequent to the fifteenth (15th) anniversary of the date of issuance of such bonds, without premium and the District's bonds shall only be sold after taking public bids therefor. No District

bonds shall be sold for less than par and accrued interest from their date or dates to the date of actual delivery thereof.

Sec. 7. Land contiguous or adjacent to the District may be added to the District in the manner provided by Article 7880—75, Vernon's Texas Civil Statutes, as now or hereafter amended, provided, however, that the Board of Directors may require the petitioners to assume their pro rata share of the voted but unissued bonds of the District and authorize the Board to levy a tax on their property in payment for such unissued bonds, when issued. If the petitioners consent, the District shall be authorized to issue its voted but unissued tax or tax-revenue bonds even though the boundaries of the District have been changed since the voting or authorization of such bonds. Land may be added to the District only as provided herein.

Sec. 8. It shall not be necessary for the District to call or hold, prior to voting any bonds or taxes, a hearing on the exclusion of land or other property from the District; provided, however, that the Board of Directors shall hold such hearing upon the written request of any land or other property owner within the District filed with the Secretary of the Board prior to the time the Board calls the first bond election for the District. Nothing in this Section shall be construed to prevent the Board on its own motion from calling and holding an exclusions hearing or hearings pursuant to the provisions of the General Law.

Sec. 9. If a majority of the Board of Directors shall determine that the name of the District needs changing, the Board may change the name of the District to any name which is descriptive of the locale of the District and descriptive of the principal powers to be exercised by such District; provided, however, that the word "District" shall be included in the designation and a consecutive number shall be used if other districts of the same name have been created in the county. Notice of the change in name shall be given to the Texas Water Rights Commission by sending a certified copy of the resolution changing the District's name to the Secretary of the Texas Water Rights Commission. Notice shall also be given by filing a certified copy of the resolution in the Water Control and Improvement District records of the County. The District, under its changed name, shall be deemed to be a continuation of the District as formerly named, for all purposes.

Sec. 10. The Board of Directors shall designate, establish and maintain a District Office as provided by Article 7880—44. The minutes, contracts, notices, accounts, receipts and records of all kinds of the District shall be kept in a fireproof vault or safe at such District Office and shall be subject to public inspection at all reasonable hours. The District Office shall be established and maintained within the District, provided, however, if the Board of Directors finds that a location outside of the District is better suited for the transaction of the business of the District, the Board of Directors may designate, establish and maintain the District Office at such location outside of the District.

If the Board of Directors establishes the District Office outside the District, it shall give notice of the location of the District Office by filing a true copy of its resolution establishing the location of the District Office with the Texas Water Rights Commission, by filing a true copy in the Water Control and Improvement District records of Fort Bend County and also by publishing the location in a newspaper of general circulation in Fort Bend County.

If location of the District Office is thereafter changed, notice of such change shall be given in the same manner.

Sec. 11. The provisions of Section 10, Chapter 280, Acts of the 41st Legislature of Texas, Regular Session, 1929 (codified as Article 7880—77b, Vernon's Texas Civil Statutes), shall apply to the District; however, it shall be within the discretion of the Board of Directors to hold a hearing

on the question of the dissolution of the District if a construction bond election fails and the Board of Directors shall not be required to hold a hearing on the question of the dissolution of the District unless twenty per cent of the qualified voters of the District petition the Board for such a hearing in the manner provided in Article 7880—77b.

Sec. 12. The bonds of the District shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, trustees, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas, and any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their value, when accompanied by all unmatured coupons appurtenant thereto.

Sec. 13. Upon the adoption of this Act, said District shall be a fully created and established water control and improvement district and it shall not be necessary to hold a confirmation election. The ad valorem basis or plan of taxation shall be used by said District, and it shall not be necessary for the Board of Directors to hold a hearing on the adoption of a plan of taxation.

Sec. 14. As soon as practicable after the qualification of the first Board of Directors of said District, the Board shall by resolution designate one or more banks within or without the District to serve as the District's depository, and all funds of said District shall be secured in the manner now provided for the security of County funds. Such bank or banks shall serve for a period of two (2) years and until a successor has been appointed by the Board and has qualified.

Sec. 15. The construction of the District's water, sanitary sewer and drainage facilities shall be in accordance with the applicable standards and specifications of the City of Houston, Texas, and of the City of Stafford, Texas, and no such construction shall be started or undertaken by the District unless it has in its possession a certificate of the District's engineer, who shall be a registered professional engineer under the laws of the State of Texas, that in his opinion such construction conforms to the established policies of each of said Cities, a letter or certificate of the Director of the Department of Public Works of said City of Houston (or the successor department or agency of said Department of Public Works) that, in his opinion, such construction conforms to the established policies of the City of Houston, and a letter or certificate of the Mayor of the City of Stafford that, in his opinion, such construction conforms to the established policies of the City of Stafford.

Sec. 16. The Legislature hereby exercises the authority conferred upon it by Section 59 of Article XVI, Constitution of Texas, and declares that the District created by this Act is essential to the accomplishment of the purposes of said Constitutional provisions; finds that all of the land and other property included therein are, and will be, benefited thereby and by the improvements that the District will purchase, construct, or otherwise acquire; and declares the District to be a governmental agency, a body politic and corporate, and a municipal corporation.

Sec. 17. If any word, phrase, clause, sentence, paragraph, Section or other part of this Act or the application thereof to any person or circumstance, shall ever be held by a court of competent jurisdiction to be invalid or unconstitutional, the remainder of the Act and the application of such word, phrase, clause, sentence, paragraph, Section, or other part of this Act to other persons or circumstances shall not be affected thereby.

Sec. 18. It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published at least thirty (30) days and not more than ninety (90) days prior to the introduction of this Act in the Legislature of Texas, in a newspaper having general circulation in Fort Bend County, Texas; that a copy of such notice and a copy of this Act have been delivered to the Governor of Texas who has submitted such notice and act to the Texas Water Rights Commission, and said Texas Water Rights Commission had filed its recommendation as to such Act with the Governor, Lieutenant Governor and Speaker of the House of Representatives of Texas within thirty (30) days from the date such notice and Act were received by the Texas Water Rights Commission; and that all the requirements and provisions of Article XVI, Section 59(d) of the Constitution of the State of Texas have been fulfilled and accomplished as therein provided.

Acts 1967, 60th Leg., p. 1342, ch. 587, emerg. eff. June 16, 1967.

Title of Act:

An Act creating a conservation and reclamation district under the provisions of Section 59, Article XVI, Constitution of Texas, to be known as "Staffordshire Municipal Utility District of Fort Bend County, Texas"; prescribing its rights, powers, privileges, and duties; providing the District shall bear the sole expense of the relocation of certain facilities under the provisions of this Act; providing for its gov-

erning body; containing provisions that its bonds are legal and authorized investments; providing for selection of a depository; adopting the ad valorem basis of taxation; providing a procedure to change its name; requiring the District to establish an office; containing other provisions relating to the subject; providing a severability clause; and declaring an emergency. Acts 1967, 60th Leg., p. 1342, ch. 587.

Art. 8280—352. Galveston Island Ranches Municipal Utility District

Section 1. Under and pursuant to the provisions of Section 59 of Article XVI, Constitution of Texas, a Conservation and Reclamation District is hereby created and incorporated in Galveston County, Texas, to be known as "Galveston Island Ranches Municipal Utility District of Galveston County, Texas" (hereinafter referred to as the "District"). The District shall be a body politic and corporate.

Sec. 2. The boundaries of the District shall consist of the following two tracts in Galveston County, Texas:

TRACT 1

459.28 acres of land, more or less, out of Division 1 and Division 3 of Section No. 11 of the Hall and Jones Survey, Galveston Island, Galveston County, Texas, Abstract 121, being more particularly described as follows:

BEGINNING at the point of intersection of the Northeast line of Division No. 3 of Section 11 of the Hall and Jones Survey with the shore line of the Gulf of Mexico;

THENCE, South 57° 02' West along the shore line of the Gulf of Mexico a distance of 3030.4 feet, more or less, to its intersection with the Northeast boundary line of Share No. II as shown on a survey of said Division 1 and Division 3 of Section 11 of the Hall and Jones Survey, which is recorded in Book 473, Page 15, in the office of the County Clerk, Galveston County, Texas;

THENCE, North 32° 58' West along the Northeast line of said Share II a distance of 6,789.0 feet, more or less, to the most Northerly corner of said Share No. II (there are eight iron pipes along this line);

THENCE, North 43° 45' East a distance of 630.3 feet, more or less, to a 1" galv. iron pipe 5' long at Maggic's Point on the shore line of Galveston West Bay;

THENCE, along the shore line of Galveston West Bay and its meanders following a general course of North 72° 49' East a distance of 2,453.4 feet, more or less, to the intersection of the shore line of Galveston West Bay with the Northeast line of said Division No. 3;

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THENCE, South 33° 30' East along the Northeast line of said Division No. 3 a distance of 6,270 feet, more or less, to the shore line of the Gulf of Mexico, the place of beginning, and containing 459.28 acres of land, more or less.

TRACT II

317 acres of land, more or less, out of Division 10 of the Hall and Jones Survey of Galveston Island, Galveston County, Texas, Abstract 121, and being the same tract of land as described in Volume 1188, Page 540, in the office of the County Clerk, Galveston County, Texas, being more particularly described as follows:

BEGINNING at a point on the shore line of the Gulf of Mexico, the same being the Southwest corner of that certain tract of land in Section 10 of the Hall and Jones Survey of Galveston Island, described in a deed from D. B. Gilder to Robert K. Hutchings, et al, of record in Volume 881, Page 148, in the office of the County Clerk of Galveston County, Texas (hereinafter called "Hutchings tract");

THENCE, North 33° West along the Southwest line of said Gilder to Hutchings tract a distance of 8,990 feet, more or less, to a point on the shore line of Galveston West Bay;

THENCE, Easterly along the shore line of Galveston West Bay and its meanders to the Northeast corner of said Hutchings tract;

THENCE, South 31° 50' East along a Northeast line of said Hutchings tract (generally along old fence line), a distance of 4,640 feet to a point for an interior corner of said Hutchings tract;

THENCE, North 55° 50' East along a Northwest line of said Hutchings tract (generally along old fence line), a distance of 692.0 feet to a point for a corner;

THENCE, South 32° 07' West along a Northeast line of said Hutchings tract (generally along old fence line), a distance of 3,134 feet, more or less, to the shore line of the Gulf of Mexico;

THENCE, South 57° West along the shore line of the Gulf of Mexico a distance of 2,360 feet, more or less, to the Southwest corner of said Hutchings tract, the place of beginning, and containing 317 acres of land, more or less."

Sec. 3. It is expressly determined, and the Legislature hereby finds that the boundaries of the District form a closure, and if any mistake is made in copying the field notes in the legislative process, or otherwise a mistake is found to have occurred in the field notes, it shall in no way or manner affect the organization, existence or validity of the District, or its right to issue bonds or refunding bonds, or to pay the principal and interest thereon, or the right to assess, levy and collect taxes, or in any other manner affect the legality or operation of the District or its governing body.

Sec. 4. The District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges and duties conferred and imposed by the General Laws of the State of Texas now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Section 59 of Article XVI, Constitution of Texas, and such General Laws are hereby incorporated by reference with the same effect as if incorporated in full in this Act, but to the extent that the provisions of such General Laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. Without in any way limiting the generalization of the foregoing, it is expressly provided that the District shall have and exercise and is hereby vested with, all of the rights, powers, privileges, authorities and functions conferred and imposed by Chapter 3A of Title 128, Revised Civil Statutes of Texas, 1925, together with all amendments thereof and additions thereto, including all powers and authority relating to the navigation of its coastal and in-

land waters, the reclamation and drainage of its overflowed lands, and other lands needing drainage in the District, and the collection, transportation, processing, disposal and control of all domestic, industrial or communal waste; provided, however, that the exercise of the power of eminent domain shall not extend beyond the boundaries of the District.

Not by way of limitation, the District shall have and is hereby expressly granted the following rights, powers, privileges and functions:

(a) The power and authority to make, purchase, construct, lease, or otherwise acquire property, works, facilities and improvements (whether previously existing or to be made, constructed or acquired) within or without the boundaries of the District necessary or useful to carry out the powers and authority granted by this Act and the General Laws.

(b) The right, power and authority to purchase, construct, maintain and operate navigable canals or waterways, including bulkheads therefor, and all navigational systems or facilities auxiliary thereto necessary or useful in the operation or development of the District's ports and waterways or in aid to navigation thereon.

(c) The right, power and authority to enter into contracts of not exceeding forty (40) years duration with persons, corporations, public or private, municipal corporations, political subdivisions of the State of Texas, and others, and on such terms and conditions as the Board of Directors may deem desirable, fair and advantageous for:

(1) the purchase and sale of water, or either;

(2) the transportation, treatment and disposal of its domestic, industrial or communal wastes or the transportation, treatment and disposal of domestic, industrial or communal wastes of others; and

(3) the performance of any of the rights or powers granted by this Act and the General Laws.

In the event that the District in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, re-routing or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telephone or telegraph properties and facilities, or pipeline, all such necessary relocation, raising, re-routing, changing of grade or alteration of construction shall be accomplished at the sole expense of the District. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, re-routing, or change in grade or alteration of construction in providing comparable replacement without enhancement of such facilities after deducting therefrom the net salvage value derived from the old facility.

The powers and duties herein granted to the District shall be subject to the continuing right of supervision of the State, to be exercised by and through the Texas Water Rights Commission.

Sec. 5. The management and control of the District is hereby vested in a Board of five (5) Directors which shall have all of the powers and authority and duties conferred and imposed upon boards of directors of water control and improvement districts organized under the provisions of Chapter 3A of Title 128, Revised Civil Statutes of Texas, 1925, together with all amendments thereof and additions thereto. The members of the first Board of Directors shall be Sealy Hutchings, Robert K. Hutchings, John Henry Hutchings, Titus H. Harris, Jr., and G. G. Moore, III. Said members shall become Directors immediately after this Act becomes effective, and shall meet and organize as soon as practicable after the effective date of this Act, and shall file their official bonds and subscribe to the Constitutional oath of office. If any of the aforementioned members of the first Board of Directors shall die, become incapacitated or otherwise not qualify to assume their duties under this Act, the remaining members of said Board of Directors shall appoint his or their successors; provided,

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however, if none of the members of the first Board of Directors qualify by the second Tuesday in January 1969, the County Judge shall, upon the petition of any landowner in the District, call an election for the purpose of electing a Board of Directors for the District to serve until the next general election for directors. The manner of holding such election, the notice of such election, and the time of holding such election shall be governed by the provisions of Chapter 3A, Title 128, relating to Director elections with the exception that the County Judge shall canvass the results of said election. With the exception of the first Board of Directors, the Board of Directors shall be selected as provided by the General Laws for water control and improvement districts. The first election of Directors of such District shall be held on the second Tuesday in January 1969, and in accordance with Article 7880—37, Revised Civil Statutes of Texas, 1925. Thereafter, Directors of the district shall be chosen, and elections for Directors shall be held in accordance with the provisions of the General Laws relating to water control and improvement districts.

Sec. 6. The District is hereby authorized to issue its negotiable tax bonds, revenue bonds, or tax and revenue bonds to provide funds for any or all of the purposes set out or incorporated by reference in Section 4 hereof, including the acquisition of land therefor, and said bonds shall be issued in the manner provided and as authorized by Article 7880—90a, Vernon's Texas Civil Statutes and Chapter 3A of Title 128, Vernon's Texas Civil Statutes, as presently or hereafter amended, provided, however, that bonds payable solely from net revenues may be issued by resolution or order of the Board of Directors and no election therefor shall be necessary. Nothing contained herein shall relieve the District from complying with the provisions of Article 7880—139, Vernon's Texas Civil Statutes.

The bonds issued hereunder may be payable from all or any designated part or parts of the revenues of the District's properties and facilities or under specific contracts, as may be provided in the orders or resolutions authorizing the issuance of such bonds; and, except as the same may be inconsistent or in conflict with the provisions of this Act, the provisions of said Chapter 3A of Title 128, as presently or hereafter amended, shall apply to all bonds issued under the provisions of this Act (the provisions of this Act to govern and take precedence in the event of any such inconsistency or conflict).

Such bonds, within the discretion of the Board of Directors, may be additionally secured by a deed of trust or mortgage lien upon part or all of the physical properties of the District, and franchises, easements, water rights and appropriation permits, leases, and contracts and all rights appurtenant to such properties, vesting in the trustee power to sell such properties for payment of the indebtedness, power to operate the properties and all other powers and authority for the further security of the bonds. Such trust indenture, regardless of the existence of the deed of trust or mortgage lien on the properties, may contain provisions prescribed by the Board of Directors for the security of the bonds and the preservation of the trust estate, and may make provisions for amendment or modification thereof and the issuance of bonds to replace lost or mutilated bonds, and may condition the right to expend District money or sell District property upon approval of a registered professional engineer selected as provided therein and may make provision for investment of funds of the District. Any purchaser under a sale under the deed of trust or mortgage lien, where one is given, shall be absolute owner of the properties, facilities and rights so purchased and shall have the right to maintain and operate same.

In the orders or resolutions authorizing the issuance of any revenue, tax-revenue, revenue refunding, or tax-revenue refunding bonds authorized hereunder, the District's Board of Directors may provide for the flow of funds, the establishment and maintenance of the interest and

sinking fund or funds, reserve fund or funds, and other funds, and may make additional covenants with respect to the bonds and the pledged revenues and the operation and maintenance of those improvements and facilities (the revenues of which are pledged), including provisions for the operation or for the leasing of all or any part of said improvements and facilities and the use or pledge of moneys derived from such operation contracts and leases, as such Board may deem appropriate. Such orders or resolutions may also prohibit the further issuance of bonds or other obligations payable from the pledged revenues, or may reserve the right to issue additional bonds to be secured by a pledge of and payable from said revenues on a parity with, or subordinate to, the lien and pledge in support of the bonds being issued, subject to such conditions as are set forth in such orders or resolutions. Such orders or resolutions may contain other provisions and covenants, as the District's Board may determine, not prohibited by the Constitution of Texas or by this Act, and said Board may adopt and cause to be executed any other proceedings or instruments necessary and/or convenient in the issuance of any such bonds.

From the proceeds of sale of any bonds issued hereunder, the District may appropriate or set aside out of the bond proceeds an amount for the payment of interest, administrative and operating expenses expected to accrue during the period of construction, as may be provided in the bond orders or resolutions, and an amount necessary to pay all expenses incurred and to be incurred in the issuance, sale and delivery of the bonds. Moneys in the interest and sinking fund or funds, and the reserve fund or funds, and in the other fund or funds established or provided for in the bond orders or resolutions may be invested in such manner and in such securities as may be provided in the bond order or orders or may be placed on interest-bearing time deposit. Such bonds may be in the denomination of \$100, or in multiples thereof, and until such time as the bond proceeds are needed to carry out the bond purpose, such proceeds may be invested in securities of the United States Government or any agency thereof or may be placed on interest-bearing time deposit, either or both. Any such revenue bonds, tax-revenue, revenue refunding bonds, or tax-revenue refunding bonds hereinafter mentioned may be registrable as to principal, or as to both principal and interest.

By orders or resolutions adopted by its Board of Directors, said District shall have the power and authority to issue revenue refunding bonds or tax-revenue refunding bonds to refund revenue bonds or tax-revenue bonds (either original bonds or refunding bonds) theretofore issued by such District. Said refunding bonds shall be approved by the Attorney General as in the case of original bonds, and shall be registered by the Comptroller of Public Accounts upon the surrender and cancellation of the bonds to be refunded, but in lieu thereof, the orders or resolutions authorizing their issuance may provide that they shall be sold and the proceeds thereof deposited in the place or places where the underlying bonds are payable, in which case the refunding bonds may be issued provided an amount sufficient to pay the interest and principal on the underlying bonds to their maturity dates, or to their option dates if said bonds have been duly called for payment prior to maturity according to their terms, has been so deposited in the place or places where said underlying bonds are payable, and the Comptroller of Public Accounts shall register them without the surrender and cancellation of the underlying bonds.

After any bonds have been authorized by the District hereunder, such bonds and the record relating to their issuance shall be submitted to the Attorney General of the State of Texas for his examination as to the validity thereof, and after said Attorney General has approved the same, such bonds shall be registered by the Comptroller of Public Accounts of the State of Texas. When such bonds have been approved by the Attorney General, registered by the Comptroller of Public Accounts, and delivered to the purchasers, they shall thereafter be incontestable except

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for forgery or fraud. When any bonds recite that they are secured partially or otherwise by a pledge of the proceeds of a contract or contracts made between the District and another party or parties (private or public) a copy of such contract or contracts and the proceedings authorizing the same may or may not be submitted to the Attorney General along with the bond record and, if so submitted, the approval by the Attorney General of the bonds shall constitute an approval of such contract or contracts, and thereafter the contract or contracts shall be incontestable for any cause except for forgery or fraud.

Sec. 7. Land contiguous or adjacent to the District may be added to the District in the manner provided by Article 7880—75, Vernon's Texas Civil Statutes, as now or hereafter amended, provided, however, that the Board of Directors may require the petitioners to assume their pro rata share of the voted but unissued bonds of the District and authorize the Board to levy a tax on their property in payment for such unissued bonds, when issued. If the petitioners consent, the District shall be authorized to issue its voted but unissued tax or tax-revenue bonds even though the boundaries of the District have been changed since the voting or authorization of such bonds. Land may be added to the District only as provided herein.

Sec. 8. It shall not be necessary for the District to call or hold, prior to voting any bonds or taxes, a hearing on the exclusion of land or other property from the District; provided, however, that the Board of Directors shall hold such hearing upon the written request of any land or other property owner within the District filed with the Secretary of the Board prior to the time the Board calls the first bond election for the District. Nothing in this Section shall be construed to prevent the Board on its own motion from calling and holding an exclusions hearing or hearings pursuant to the provisions of the General Law.

Sec. 9. If a majority of the Board of Directors shall determine that the name of the District needs changing, the Board may change the name of the District to any name which is descriptive of the locale of the District and descriptive of the principal powers to be exercised by such District; provided, however, that the word "District" shall be included in the designation and a consecutive number shall be used if other districts of the same name have been created in the county. Notice of the change in name shall be given to the Texas Water Rights Commission by sending a certified copy of the resolution changing the District's name to the Secretary of the Texas Water Rights Commission. Notice shall also be given by filing a certified copy of the resolution in the Water Control and Improvement District records of the County. The District, under its changed name, shall be deemed to be a continuation of the District as formerly named, for all purposes.

Sec. 10. The Board of Directors shall designate, establish and maintain a District Office as provided by Article 7880—44. The minutes, contracts, notices, accounts, receipts and records of all kinds of the District shall be kept in a fireproof vault or safe at such District Office and shall be subject to public inspection at all reasonable hours. The District Office shall be established and maintained within the District, provided, however, if the Board of Directors finds that a location outside of the District is better suited for the transaction of the business of the District, the Board of Directors may designate, establish and maintain the District Office at such location outside of the District.

If the Board of Directors establishes the District Office outside the District, it shall give notice of the location of the District Office by filing a true copy of its resolution establishing the location of the District Office with the Texas Water Rights Commission, by filing a true copy in the Water Control and Improvement District records of Galveston County and also by publishing the location in a newspaper of general circulation in Galveston County.

If location of the District Office is thereafter changed, notice of such change shall be given in the same manner.

Sec. 11. The provisions of Section 10, Chapter 280, Acts of the 41st Legislature of Texas, Regular Session, 1929 (codified as Article 7880—77b, Vernon's Texas Civil Statutes), shall apply to the District; however, it shall be within the discretion of the Board of Directors to hold a hearing on the question of the dissolution of the District if a construction bond election fails and the Board of Directors shall not be required to hold a hearing on the question of the dissolution of the District unless twenty per cent of the qualified voters of the District petition the Board for such a hearing in the manner provided in Article 7880—77b.

Sec. 12. The bonds of the District shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, trustees, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas, and any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their value, when accompanied by all unmatured coupons appurtenant thereto.

Sec. 13. Upon the adoption of this Act, said District shall be a fully created and established water control and improvement district and it shall not be necessary to hold a confirmation election. The ad valorem basis or plan of taxation shall be used by said District, and it shall not be necessary for the Board of Directors to hold a hearing on the adoption of a plan of taxation.

Sec. 14. As soon as practicable after the qualification of the first Board of Directors of said District, the Board shall by resolution designate one or more banks within or without the District to serve as the District's depository, and all funds of said District shall be secured in the manner now provided for the security of County funds. Such bank or banks shall serve for a period of two (2) years and until a successor has been appointed by the Board and has qualified.

Sec. 15. The Legislature hereby exercises the authority conferred upon it by Section 59 of Article XVI, Constitution of Texas, and declares that the District created by this Act is essential to the accomplishment of the purposes of said Constitutional provisions; finds that all of the land and other property included therein are, and will be, benefited thereby and by the improvements that the District will purchase, construct, or otherwise acquire; and declares the District to be a governmental agency, a body politic and corporate, and a municipal corporation.

Sec. 16. If any word, phrase, clause, sentence, paragraph, Section or other part of this Act or the application thereof to any person or circumstance, shall ever be held by a court of competent jurisdiction to be invalid or unconstitutional, the remainder of the Act and the application of such word, phrase, clause, sentence, paragraph, Section, or other part of this Act to other persons or circumstances shall not be affected thereby.

Sec. 17. It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published at least thirty (30) days and not more than ninety (90) days prior to the introduction of this Act in the Legislature of Texas, in a newspaper having general circulation in Galveston County, Texas; that a copy of such notice and a copy of this Act have been delivered to the Governor of Texas who has submitted such notice and act to the Texas Water Rights Commission, and said Texas Water Rights Commission had filed its recommendation as to such Act with the Gov-

For Annotations and Historical Notes, see V.A.T.S.

ernor, Lieutenant Governor and Speaker of the House of Representatives of Texas within thirty (30) days from the date such notice and Act were received by the Texas Water Rights Commission; and that all the requirements and provisions of Article XVI, Section 59(d) of the Constitution of the State of Texas have been fulfilled and accomplished as therein provided.

Acts 1967, 60th Leg., p. 1350, ch. 589, emerg. eff. June 16, 1967.

Title of Act:

An Act creating a conservation and reclamation district under the provisions of Section 59, Article XVI, Constitution of Texas, to be known as "Galveston Island Ranches Municipal Utility District of Galveston County, Texas"; prescribing its rights, powers, privileges, and duties; providing the District shall bear the sole expense of the relocation of certain facilities under the provisions of this Act; pro-

viding for its governing body; containing provisions that its bonds are legal and authorized investments; providing for selection of a depository; adopting the ad valorem basis of taxation; providing a procedure to change its name; requiring the District to establish an office; containing other provisions relating to the subject; providing a severability clause; and declaring an emergency. Acts 1967, 60th Leg., p. 1350, ch. 589.

Art. 8280—353. Sweetwater Lake Municipal Utility District

Section 1. Under and pursuant to the provisions of Section 59 of Article XVI, Constitution of Texas, a Conservation and Reclamation District is hereby created and incorporated in Galveston County, Texas, to be known as "Sweetwater Lake Municipal Utility District of Galveston County, Texas" (hereinafter referred to as the "District"). The District shall be a body politic and corporate.

Sec. 2. The boundaries of the District shall be as follows:

BEGINNING at the southwest corner of Lot 45, Section 2, Trimble & Lindsey Survey;

THENCE northerly along the west line of said Lot 45 and the west line of Lot 46, Section 2, to the northwest corner of said Lot 46;

THENCE easterly along the north line of said Lot 46 to the northeast corner of same on the westerly right-of-way line of Anderson Ways Road;

THENCE southerly along the east line of said Lot 46 to its southeast corner;

THENCE easterly with the easterly projection of the south line of said Lot 46 and continuing in the same direction along the south line of Lot 35, Section 2, to the southeast corner of said Lot 35, same being the southwest corner of Lot 26, Section 2;

THENCE northerly along the east line of said Lot 35, same being the west line of said Lot 26, to the northeast corner of said Lot 35;

THENCE westerly along the north line of said Lot 35, same being the south line of Lot 34, Section 2, to the northwest corner of Lot 35 on the easterly right-of-way line of said Anderson Ways Road, same also being the southwest corner of said Lot 34;

THENCE northerly along the west line of Lots 34, 33 and 32, Section 2, to the northwest corner of said Lot 32 on the shoreline of West Bay;

THENCE in a generally easterly and northerly direction along said shoreline of West Bay and its meanders (said shoreline being along the north lines of Lots 32 and 29, a road, Lots 12 and 9, another road, and Lot 493, Section 1, Trimble & Lindsey Survey) to the northeast corner of said Lot 493;

THENCE southerly along the east line of said Lot 493 to the southeast corner of same, being also the northwest corner of Lot 489, Section 1;

THENCE easterly along the north line of Lot 489 and its easterly projection across a road and continuing in the same direction along the north lines of Lots 474 and 469, Section 1, and their easterly projection across a road and continuing in the same direction along the north line of Lot 454, Section 1, to the northeast corner of said Lot 454;

THENCE southerly along the east lines of Lots 454 and 455, Section 1, to the southeast corner of said Lot 455, same being the northwest corner of Lot 447, Section 1;

THENCE easterly along the north line of said Lot 447 to its northeast corner;

THENCE southerly along the east line of said Lot 447 to its southeast corner;

THENCE easterly with the easterly projection of the southerly line of said Lot 447 and continuing in the same direction along the north line of Lot 437, Section 1, to the northeast corner of Lot 437;

THENCE southerly along the east line of said Lot 437 to its southeast corner;

THENCE westerly along the south line of Lot 437 and its westerly projection across a road, and continuing in the same direction along the south lines of Lots 446 and 457, Section 1, and their westerly projection across a road, and continuing in the same direction along the south lines of Lots 466 and 477, Section 1, to the southwest corner of said Lot 477;

THENCE continuing westerly with the westerly projection of said south lines of said Lots 466 and 477 across a road, and continuing in the same direction along the south lines of Lots 486 and 497, Section 1, and their westerly projection across a road, and continuing in the same direction along the south lines of Lots 5 and 16, Section 2, to the southwest corner of said Lot 16;

THENCE continuing westerly with the westerly projection of said south lines of said Lots 5 and 16 across a road and continuing in the same direction with the south lines of Lots 25 and 36, Section 2, and their westerly projection across a road, and continuing westerly along the south line of Lot 45, Section 2, to the southwest corner of said Lot 45, Trimble & Lindsey Survey, THE PLACE OF BEGINNING, and containing 450 acres, more or less.

Sec. 3. It is expressly determined, and the Legislature hereby finds that the boundaries of the District form a closure, and if any mistake is made in copying the field notes in the legislative process, or otherwise a mistake is found to have occurred in the field notes, it shall in no way or manner affect the organization, existence or validity of the District, or its right to issue bonds or refunding bonds, or to pay the principal and interest thereon, or the right to assess, levy and collect taxes, or in any other manner affect the legality or operation of the District or its governing body.

Sec. 4. The District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, and duties conferred and imposed by the General Laws of the State of Texas now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Section 59 of Article XVI, Constitution of Texas, and such General Laws are hereby incorporated by reference with the same effect as if incorporated in full in this Act, but to the extent that the provisions of such General Laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. Without in any way limiting the generalization of the foregoing, it is expressly provided that the District shall have and exercise and is hereby vested with, all of the rights, powers, privileges, authorities and functions conferred and imposed by Chapter 3A of Title 128, Revised Civil Statutes of Texas, 1925, together with all amendments thereof and additions thereto, including all powers and authority relating to the navigation of its coastal and inland waters, the reclamation and drainage of its overflowed lands, and other lands needing drainage in the District, and the collection, transportation, processing, disposal and control of all domestic, industrial or communal waste; provided, however, that the exercise of the power of eminent domain shall not extend beyond the boundaries of the District.

For Annotations and Historical Notes, see V.A.T.S.

Not by way of limitation, the District shall have and is hereby expressly granted the following rights, powers, privileges and functions:

(a) The power and authority to make, purchase, construct, lease, or otherwise acquire property, works, facilities and improvements (whether previously existing or to be made, constructed or acquired) within or without the boundaries of the District necessary or useful to carry out the powers and authority granted by this Act and the General Laws.

(b) The right, power and authority to purchase, construct, maintain and operate navigable canals or waterways, including bulkheads therefor, and all navigational systems or facilities auxiliary thereto necessary or useful in the operation or development of the District's ports and waterways or in aid to navigation thereon.

(c) The right, power and authority to enter into contracts of not exceeding forty (40) years duration with persons, corporations, public or private, municipal corporations, political subdivisions of the State of Texas, and others, and on such terms and conditions as the Board of Directors may deem desirable, fair and advantageous for:

(1) the purchase and sale of water, or either;

(2) the transportation, treatment and disposal of its domestic, industrial or communal wastes or the transportation, treatment and disposal of domestic, industrial or communal wastes of others; and

(3) the performance of any of the rights or powers granted by this Act and the General Laws.

In the event that the District in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, re-routing or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telephone or telegraph properties and facilities, or pipeline, all such necessary relocation, raising, re-routing, changing of grade or alteration of construction shall be accomplished at the sole expense of the District. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, re-routing, or change in grade or alteration of construction in providing comparable replacement without enhancement of such facilities after deducting therefrom the net salvage value derived from the old facility.

The powers and duties herein granted to the District shall be subject to the continuing right of supervision of the State, to be exercised by and through the Texas Water Rights Commission.

Sec. 5. The management and control of the District is hereby vested in a Board of five (5) Directors which shall have all of the powers and authority and duties conferred and imposed upon boards of directors of water control and improvement districts organized under the provisions of Chapter 3A of Title 128, Revised Civil Statutes of Texas, 1925, together with all amendments thereof and additions thereto. The members of the first Board of Directors shall be appointed by the County Judge of Galveston County, Texas, and said first Board of Directors shall have their official bonds approved by the County Judge and file the same in the Water Control and Improvement District records of Galveston County, Texas. The members of the first Board of Directors shall meet and organize as soon as practicable after their qualification. If any of the members of the first Board of Directors shall die, become incapacitated or resign, the remaining members of the Board of Directors shall appoint his or their successor. With the exception of the first Board of Directors, the Board of Directors shall be selected as provided by the General Laws for water control and improvement districts. The first election of Directors of such District shall be held on the second Tuesday in the January following their appointment, and in accordance with Article 7880—37, Revised Civil Statutes of Texas, 1925. Thereafter, Directors of the District shall be chosen, and elections for Directors shall be held in ac-

cordance with the provisions of the General Laws relating to water control and improvement districts.

Sec. 6. The District is hereby authorized to issue its negotiable tax bonds, revenue bonds, or tax and revenue bonds to provide funds for any or all of the purposes set out or incorporated by reference in Section 4 hereof, including the acquisition of land therefor, and said bonds shall be issued in the manner provided and as authorized by Article 7880—90a, Vernon's Texas Civil Statutes and Chapter 3A of Title 128, Vernon's Texas Civil Statutes, as presently or hereafter amended, provided however that bonds payable solely from net revenues may be issued by resolution or order of the Board of Directors and no election therefor shall be necessary. Nothing contained herein shall relieve the District from complying with the provisions of Article 7880—139, Vernon's Texas Civil Statutes.

The bonds issued hereunder may be payable from all or any designated part or parts of the revenues of the District's properties and facilities or under specific contracts, as may be provided in the orders or resolutions authorizing the issuance of such bonds; and, except as the same may be inconsistent or in conflict with the provisions of this Act, the provisions of said Chapter 3A of Title 128, as presently or hereafter amended, shall apply to all bonds issued under the provisions of this Act (the provisions of this Act to govern and take precedence in the event of any such inconsistency or conflict).

Such bonds, within the discretion of the Board of Directors, may be additionally secured by a deed of trust or mortgage lien upon part or all of the physical properties of the District, and franchises, easements, water rights and appropriation permits, leases, and contracts and all rights appurtenant to such properties, vesting in the trustee power to sell such properties for payment of the indebtedness, power to operate the properties and all other powers and authority for the further security of the bonds. Such trust indenture, regardless of the existence of the deed of trust or mortgage lien on the properties, may contain provisions prescribed by the Board of Directors for the security of the bonds and the preservation of the trust estate, and may make provisions for amendment or modification thereof and the issuance of bonds to replace lost or mutilated bonds, and may condition the right to expend District money or sell District property upon approval of a registered professional engineer selected as provided therein and may make provision for investment of funds of the District. Any purchaser under a sale under the deed of trust or mortgage lien, where one is given, shall be absolute owner of the properties, facilities and rights so purchased and shall have the right to maintain and operate same.

In the orders or resolutions authorizing the issuance of any revenue, tax-revenue, revenue refunding, or tax-revenue refunding bonds authorized hereunder, the District's Board of Directors may provide for the flow of funds, the establishment and maintenance of the interest and sinking fund or funds, reserve fund or funds, and other funds, and may make additional covenants with respect to the bonds and the pledged revenues and the operation and maintenance of those improvements and facilities (the revenues of which are pledged), including provisions for the operation or for the leasing of all or any part of said improvements and facilities and the use or pledge of moneys derived from such operation contracts and leases, as such Board may deem appropriate. Such orders or resolutions may also prohibit the further issuance of bonds or other obligations payable from the pledged revenues, or may reserve the right to issue additional bonds to be secured by a pledge of and payable from said revenues on a parity with, or subordinate to, the lien and pledge in support of the bonds being issued, subject to such conditions as are set forth in such orders or resolutions. Such orders or resolutions may contain other provisions and covenants, as the District's Board may determine, not pro-

hibited by the Constitution of Texas or by this Act, and said Board may adopt and cause to be executed any other proceedings or instruments necessary and/or convenient in the issuance or any such bonds.

From the proceeds of sale of any bonds issued hereunder, the District may appropriate or set aside out of the bond proceeds an amount for the payment of interest, administrative and operating expenses expected to accrue during the period of construction, as may be provided in the bond orders or resolutions, and an amount necessary to pay all expenses incurred and to be incurred in the issuance, sale and delivery of the bonds. Moneys in the interest and sinking fund or funds, and the reserve fund or funds, and in the other fund or funds established or provided for in the bond orders or resolutions may be invested in such manner and in such securities as may be provided in the bond order or orders or may be placed on interest-bearing time deposit. Such bonds may be in the denomination of \$100, or in multiples thereof, and until such time as the bond proceeds are needed to carry out the bond purpose, such proceeds may be invested in securities of the United States Government or any agency thereof or may be placed on interest-bearing time deposit, either or both. Any such revenue bonds, tax-revenue, revenue refunding bonds, or tax-revenue refunding bonds hereinafter mentioned may be registrable as to principal, or as to both principal and interest.

By orders or resolutions adopted by its Board of Directors, said District shall have the power and authority to issue revenue refunding bonds or tax-revenue refunding bonds to refund revenue bonds or tax-revenue bonds (either original bonds or refunding bonds) theretofore issued by such District. Said refunding bonds shall be approved by the Attorney General as in the case of original bonds, and shall be registered by the Comptroller of Public Accounts upon the surrender and cancellation of the bonds to be refunded, but in lieu thereof, the orders or resolutions authorizing their issuance may provide that they shall be sold and the proceeds thereof deposited in the place or places where the underlying bonds are payable, in which case the refunding bonds may be issued provided an amount sufficient to pay the interest and principal on the underlying bonds to their maturity dates, or to their option dates if said bonds have been duly called for payment prior to maturity according to their terms, has been so deposited in the place or places where said underlying bonds are payable, and the Comptroller of Public Accounts shall register them without the surrender and cancellation of the underlying bonds.

After any bonds have been authorized by the District hereunder, such bonds and the record relating to their issuance shall be submitted to the Attorney General of the State of Texas for his examination as to the validity thereof, and after said Attorney General has approved the same, such bonds shall be registered by the Comptroller of Public Accounts of the State of Texas. When such bonds have been approved by the Attorney General, registered by the Comptroller of Public Accounts, and delivered to the purchasers, they shall thereafter be incontestable except for forgery or fraud. When any bonds recite that they are secured partially or otherwise by a pledge of the proceeds of a contract or contracts made between the District and another party or parties (private or public) a copy of such contract or contracts and the proceedings authorizing the same may or may not be submitted to the Attorney General along with the bond record and, if so submitted, the approval by the Attorney General of the bonds shall constitute an approval of such contract or contracts, and thereafter the contract or contracts shall be incontestable for any cause except for forgery or fraud.

Sec. 7. Land contiguous or adjacent to the District may be added to the District in the manner provided by Art. 7880—75, Vernon's Texas Civil Statutes, as now or hereafter amended, provided, however, that the

Board of Directors may require the petitioners to assume their pro rata share of the voted but unissued bonds of the District and authorize the Board to levy a tax on their property in payment for such unissued bonds, when issued. If the petitioners consent, the District shall be authorized to issue its voted but unissued tax or tax-revenue bonds even though the boundaries of the District have been changed since the voting or authorization of such bonds. Land may be added to the District only as provided herein.

Sec. 8. It shall not be necessary for the District to call or hold, prior to voting any bonds or taxes, a hearing on the exclusion of land or other property from the District; provided, however, that the Board of Directors shall hold such hearing upon the written request of any land or other property owner within the District filed with the Secretary of the Board prior to the time the Board calls the first bond election for the District. Nothing in this section shall be construed to prevent the Board on its own motion from calling and holding an exclusions hearing or hearings pursuant to the provisions of the General Law.

Sec. 9. If a majority of the Board of Directors shall determine that the name of the District needs changing, the Board may change the name of the District to any name which is descriptive of the locale of the District and descriptive of the principal powers to be exercised by such District; provided, however, that the word "District" shall be included in the designation and a consecutive number shall be used if other districts of the same name have been created in the county. Notice of the change in name shall be given to the Texas Water Rights Commission by sending a certified copy of the resolution changing the District's name to the Secretary of the Texas Water Rights Commission. Notice shall also be given by filing a certified copy of the resolution in the Water Control and Improvement District records of the County. The District, under its changed name, shall be deemed to be a continuation of the District as formerly named, for all purposes.

Sec. 10. The Board of Directors shall designate, establish and maintain a District Office as provided by Article 7880—44. The minutes, contracts, notices, accounts, receipts and records of all kinds of the District shall be kept in a fireproof vault or safe at such District Office and shall be subject to public inspection at all reasonable hours. The District Office shall be established and maintained within the District, provided, however, if the Board of Directors finds that a location outside of the District is better suited for the transaction of the business of the District, the Board of Directors may designate, establish and maintain the District Office at such location outside of the District.

If the Board of Directors establishes the District Office outside the District, it shall give notice of the location of the District Office by filing a true copy of its resolution establishing the location of the District Office with the Texas Water Rights Commission, by filing a true copy in the Water Control and Improvement District records of Galveston County and also by publishing the location in a newspaper of general circulation in Galveston County.

If location of the District Office is thereafter changed, notice of such change shall be given in the same manner.

Sec. 11. The provisions of Section 10, Chapter 280, Acts of the 41st Legislature of Texas, Regular Session, 1929 (codified as Article 7880—77b, Vernon's Texas Civil Statutes), shall apply to the District; however, it shall be within the discretion of the Board of Directors to hold a hearing on the question of the dissolution of the District if a construction bond election fails and the Board of Directors shall not be required to hold a hearing on the question of the dissolution of the District unless twenty per cent of the qualified voters of the District petition the Board for such a hearing in the manner provided in Article 7880—77b.

For Annotations and Historical Notes, see V.A.T.S.

Sec. 12. The bonds of the District shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, trustees, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas, and any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their value, when accompanied by all unmatured coupons appurtenant thereto.

Sec. 13. Upon the adoption of this Act, said District shall be a fully created and established water control and improvement district and it shall not be necessary to hold a confirmation election. The ad valorem basis or plan of taxation shall be used by said District, and it shall not be necessary for the Board of Directors to hold a hearing on the adoption of a plan of taxation.

Sec. 14. As soon as practicable after the qualification of the first Board of Directors of said District, the Board shall by resolution designate one or more banks within or without the District to serve as the District's depository, and all funds of said District shall be secured in the manner now provided for the security of County funds. Such bank or banks shall serve for a period of two (2) years and until a successor has been appointed by the Board and has qualified.

Sec. 15. The Legislature hereby exercises the authority conferred upon it by Section 59 of Article XVI, Constitution of Texas, and declares that the District created by this Act is essential to the accomplishment of the purposes of said constitutional provisions; finds that all of the land and other property included therein are, and will be, benefited thereby and by the improvements that the District will purchase, construct, or otherwise acquire; and declares the District to be a governmental agency, a body politic and corporate, and a municipal corporation.

Sec. 16. If any word, phrase, clause, sentence, paragraph, section or other part of this Act or the application thereof to any person or circumstance, shall ever be held by a court of competent jurisdiction to be invalid or unconstitutional, the remainder of the Act and the application of such word, phrase, clause, sentence, paragraph, section, or other part of this Act to other persons or circumstances shall not be affected thereby.

Sec. 17. It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published at least thirty (30) days and not more than ninety (90) days prior to the introduction of this Act in the Legislature of Texas, in a newspaper having general circulation in Galveston County, Texas; that a copy of such notice and a copy of this Act have been delivered to the Governor of Texas who has submitted such notice and act to the Texas Water Rights Commission, and said Texas Water Rights Commission had filed its recommendation as to such Act with the Governor, Lieutenant Governor and Speaker of the House of Representatives of Texas within thirty (30) days from the date such notice and Act were received by the Texas Water Rights Commission; and that all the requirements and provisions of Article XVI, Section 59(d) of the Constitution of the State of Texas have been fulfilled and accomplished as therein provided.

Acts 1967, 60th Leg., p. 1360, ch. 592, emerg. eff. June 16, 1967.

Title of Act:

An Act creating a conservation and reclamation district under the provisions of Section 59, Article XVI, Constitution of Texas, to be known as "Sweetwater Lake

Municipal Utility District of Galveston County, Texas"; prescribing its rights, powers, privileges, and duties; providing the District shall bear the sole expense of the relocation of certain facilities under

the provisions of this Act; providing for its governing body; containing provisions that its bonds are legal and authorized investments; providing for selection of a depository; adopting the ad valorem basis of taxation; providing a procedure to change

its name; requiring the District to establish an office; containing other provisions relating to the subject; providing a severability clause; and declaring an emergency. Acts 1967, 60th Leg., p. 1360, ch. 592.

Art. 8280—354. Spanish Grant Municipal Utility District

Section 1. Under and pursuant to the provisions of Section 59 of Article XVI, Constitution of Texas, a Conservation and Reclamation District is hereby created and incorporated in Galveston County, Texas, to be known as "Spanish Grant Municipal Utility District of Galveston County, Texas" (hereinafter referred to as the "District"). The District shall be a body politic and corporate.

Sec. 2. The boundaries of the District shall be as follows:
Description of 94.8 acre portion of the Wayman Ranch out of the Trimble & Lindsay Survey, Section 2—Galveston County, Texas:

BEGINNING at the point of intersection of the Northwesterly line of Stewart Road with the Southwesterly line of Lot 394, same being the Northeasterly line of a Fifty foot (50') Road out of the Trimble and Lindsay Survey, Section 2, Galveston County, Texas;

THENCE, North Twenty-five (25) degrees West, along the said Northeasterly line of a Fifty foot (50') Road, same being the Southwesterly line of Lots 394, 393 and 392, a distance of Three Thousand One Hundred Nineteen and Seventy One-hundredths feet (3,119.70') to a point for corner in the Southwesterly line of said Lot 392 being One Hundred Twelve and Eighty-seven One-hundredths feet (112.87') Southeasterly of the Northwesterly corner of said Lot 392;

THENCE, North Sixty-five (65) degrees East, along a line One Hundred Twelve and Eighty-seven One-hundredths feet (112.87') Southeasterly of and parallel to the Northwesterly line of Lots 392, 384, 376 and 366, a distance of One Thousand Three Hundred Seventy feet (1,370') to a point for corner in the Northeasterly line of said Lot 366, same being the Southwesterly line of a Fifty foot (50') Road;

THENCE, South Twenty-five (25) degrees East, along the said Southwesterly line of a Fifty foot (50') Road, same being the Northeasterly line of Lots 366, 365, and 364, a distance of Two Thousand and Eight Hundred Twenty-seven and Twenty-one One-hundredths feet (2,827.21') to a point for corner in the said Northwesterly line of Stewart Road;

THENCE, South Forty-five (45) degrees Fifty-five (55) minutes West, along the said Northwesterly line of Stewart Road a distance of Six Hundred Fifty-one and Forty-two One-hundredths feet (651.42') to a point for corner;

THENCE, South Fifty-eight (58) degrees Fifty-nine (59) minutes West, continuing along the said Northwesterly line of Stewart Road, a distance of Seven Hundred Fifty-eight and Fifty-six One-hundredths feet (758.56') to the point of beginning.

Contains: 94.8 acres, more or less.

Sec. 3. It is expressly determined, and the Legislature hereby finds that the boundaries of the District form a closure, and if any mistake is made in copying the field notes in the legislative process, or otherwise a mistake is found to have occurred in the field notes, it shall in no way or manner affect the organization, existence or validity of the District, or its right to issue bonds or refunding bonds, or to pay the principal and interest thereon, or the right to assess, levy and collect taxes, or in any other manner affect the legality or operation of the District or its governing body.

Sec. 4. The District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges and duties conferred and imposed

by the General Laws of the State of Texas now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Section 59 of Article XVI, Constitution of Texas, and such General Laws are hereby incorporated by reference with the same effect as if incorporated in full in this Act, but to the extent that the provisions of such General Laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. Without in any way limiting the generalization of the foregoing, it is expressly provided that the District shall have and exercise and is hereby vested with, all of the rights, powers, privileges, authorities and functions conferred and imposed by Chapter 3A of Title 128, Revised Civil Statutes of Texas, 1925, together with all amendments thereof and additions thereto, including all powers and authority relating to the navigation of its coastal and inland waters, the reclamation and drainage of its overflowed lands, and other lands needing drainage in the District, and the collection, transportation, processing, disposal and control of all domestic, industrial or communal waste; provided, however, that the exercise of the power of eminent domain shall not extend beyond the boundaries of the District.

Not by way of limitation, the District shall have and is hereby expressly granted the following rights, powers, privileges and functions:

(a) The power and authority to make, purchase, construct, lease, or otherwise acquire property, works, facilities and improvements (whether previously existing or to be made, constructed or acquired) within or without the boundaries of the District necessary or useful to carry out the powers and authority granted by this Act and the General Laws.

(b) The right, power and authority to purchase, construct, maintain and operate navigable canals or waterways, including bulkheads therefor, and all navigational systems or facilities auxiliary thereto necessary or useful in the operation or development of the District's ports and waterways or in aid to navigation thereon.

(c) The right, power and authority to enter into contracts of not exceeding forty (40) years duration with persons, corporations, public or private, municipal corporations, political subdivisions of the State of Texas, and others, and on such terms and conditions as the Board of Directors may deem desirable, fair and advantageous for:

(1) the purchase and sale of water, or either;

(2) the transportation, treatment and disposal of its domestic, industrial or communal wastes or the transportation, treatment and disposal of domestic, industrial or communal wastes of others; and

(3) the performance of any of the rights or powers granted by this Act and the General Laws.

In the event that the District in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, re-routing or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telephone or telegraph properties and facilities, or pipeline, all such necessary relocation, raising, re-routing, changing of grade or alteration of construction shall be accomplished at the sole expense of the District. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, re-routing, or change in grade or alteration of construction in providing comparable replacement without enhancement of such facilities after deducting therefrom the net salvage value derived from the old facility.

The powers and duties herein granted to the District shall be subject to the continuing right of supervision of the State, to be exercised by and through the Texas Water Rights Commission.

Sec. 5. The management and control of the District is hereby vested in a Board of five (5) Directors which shall have all of the powers and

authority and duties conferred and imposed upon boards of directors of water control and improvement districts organized under the provisions of Chapter 3A of Title 128, Revised Civil Statutes of Texas, 1925, together with all amendments thereof and additions thereto. The members of the first Board of Directors shall be Jack Wilson, Joe Cobb, Walter Grover, Suzie Schuler, and J. C. Joy. Said members shall become Directors immediately after this Act becomes effective, and shall meet and organize as soon as practicable after the effective date of this Act, and shall file their official bonds and subscribe to the Constitutional oath of office. If any of the aforementioned members of the first Board of Directors shall die, become incapacitated or otherwise not qualify to assume their duties under this Act, the remaining members of said Board of Directors shall appoint his or their successors; provided, however, if none of the members of the first Board of Directors qualify by the second Tuesday in January, 1969, the County Judge shall, upon the petition of any landowner in the District, call an election for the purpose of electing a Board of Directors for the District to serve until the next general election for directors. The manner of holding such election, the notice of such election, and the time of holding such election shall be governed by the provisions of Chapter 3A, Title 128, relating to Director elections with the exception that the County Judge shall canvass the results of said election. With the exception of the first Board of Directors, the Board of Directors shall be selected as provided by the General Laws for water control and improvement districts. The first election of Directors of such District shall be held on the second Tuesday in January, 1969, and in accordance with Article 7880—37, Revised Civil Statutes of Texas, 1925. Thereafter, Directors of the District shall be chosen, and elections for Directors shall be held in accordance with the provisions of the General Laws relating to water control and improvement districts.

Sec. 6. The District is hereby authorized to issue its negotiable tax bonds, revenue bonds, or tax and revenue bonds to provide funds for any or all of the purposes set out or incorporated by reference in Section 4 hereof, including the acquisition of land therefor, and said bonds shall be issued in the manner provided and as authorized by Article 7880—90a, Vernon's Texas Civil Statutes and Chapter 3A of Title 128, Vernon's Texas Civil Statutes, as presently or hereafter amended, provided however that bonds payable solely from net revenues may be issued by resolution or order of the Board of Directors and no election therefor shall be necessary. Nothing contained herein shall relieve the District from complying with the provisions of Article 7880—139, Vernon's Texas Civil Statutes.

The bonds issued hereunder may be payable from all or any designated part or parts of the revenues of the District's properties and facilities or under specific contracts, as may be provided in the orders or resolutions authorizing the issuance of such bonds; and, except as the same may be inconsistent or in conflict with the provisions of this Act, the provisions of said Chapter 3A of Title 128, as presently or hereafter amended, shall apply to all bonds issued under the provisions of this Act (the provisions of this Act to govern and take precedence in the event of any such inconsistency or conflict).

Such bonds, within the discretion of the Board of Directors, may be additionally secured by a deed of trust or mortgage lien upon part or all of the physical properties of the District, and franchises, easements, water rights and appropriation permits, leases, and contracts and all rights appurtenant to such properties, vesting in the trustee power to sell such properties for payment of the indebtedness, power to operate the properties and all other powers and authority for the further security of the bonds. Such trust indenture, regardless of the existence of the deed of trust or mortgage lien on the properties, may contain provisions prescribed

For Annotations and Historical Notes, see V.A.T.S.

by the Board of Directors for the security of the bonds and the preservation of the trust estate, and may make provisions for amendment or modification thereof and the issuance of bonds to replace lost or mutilated bonds, and may condition the right to expend District money or sell District property upon approval of a registered professional engineer selected as provided therein and may make provision for investment of funds of the District. Any purchaser under a sale under the deed of trust or mortgage lien, where one is given, shall be absolute owner of the properties, facilities and rights so purchased and shall have the right to maintain and operate same.

In the orders or resolutions authorizing the issuance of any revenue, tax-revenue, revenue refunding, or tax-revenue refunding bonds authorized hereunder, the District's Board of Directors may provide for the flow of funds, the establishment and maintenance of the interest and sinking fund or funds, reserve fund or funds, and other funds, and may make additional covenants with respect to the bonds and the pledged revenues and the operation and maintenance of those improvements and facilities (the revenues of which are pledged), including provisions for the operation or for the leasing of all or any part of said improvements and facilities and the use or pledge of moneys derived from such operation contracts and leases, as such Board may deem appropriate. Such orders or resolutions may also prohibit the further issuance of bonds or other obligations payable from the pledged revenues, or may reserve the right to issue additional bonds to be secured by a pledge of and payable from said revenues on a parity with, or subordinate to, the lien and pledge in support of the bonds being issued, subject to such conditions as are set forth in such orders or resolutions. Such orders or resolutions may contain other provisions and covenants, as the District's Board may determine, not prohibited by the Constitution of Texas or by this Act, and said Board may adopt and cause to be executed any other proceedings or instruments necessary and/or convenient in the issuance of any such bonds.

From the proceeds of sale of any bonds issued hereunder, the District may appropriate or set aside out of the bond proceeds an amount for the payment of interest, administrative and operating expenses expected to accrue during the period of construction, as may be provided in the bond orders or resolutions, and an amount necessary to pay all expenses incurred and to be incurred in the issuance, sale and delivery of the bonds. Moneys in the interest and sinking fund or funds, and the reserve fund or funds, and in the other fund or funds established or provided for in the bond orders or resolutions may be invested in such manner and in such securities as may be provided in the bond order or orders or may be placed on interest-bearing time deposit. Such bonds may be in the denomination of \$100, or in multiples thereof, and until such time as the bond proceeds are needed to carry out the bond purpose, such proceeds may be invested in securities of the United States Government or any agency thereof or may be placed on interest-bearing time deposit, either or both. Any such revenue bonds, tax-revenue, revenue refunding bonds, or tax-revenue refunding bonds hereinafter mentioned may be registrable as to principal, or as to both principal and interest.

By orders or resolutions adopted by its Board of Directors, said District shall have the power and authority to issue revenue refunding bonds or tax-revenue refunding bonds to refund revenue bonds or tax-revenue bonds (either original bonds or refunding bonds) theretofore issued by such District. Said refunding bonds shall be approved by the Attorney General as in the case of original bonds, and shall be registered by the Comptroller of Public Accounts upon the surrender and cancellation of the bonds to be refunded, but in lieu thereof, the orders or resolutions authorizing their issuance may provide that they shall be sold and the proceeds thereof deposited in the place or places where the underlying

bonds are payable, in which case the refunding bonds may be issued provided an amount sufficient to pay the interest and principal on the underlying bonds to their maturity dates, or to their option dates if said bonds have been duly called for payment prior to maturity according to their terms, has been so deposited in the place or places where said underlying bonds are payable, and the Comptroller of Public Accounts shall register them without the surrender and cancellation of the underlying bonds.

After any bonds have been authorized by the District hereunder, such bonds and the record relating to their issuance shall be submitted to the Attorney General of the State of Texas for his examination as to the validity thereof, and after said Attorney General has approved the same, such bonds shall be registered by the Comptroller of Public Accounts of the State of Texas. When such bonds have been approved by the Attorney General, registered by the Comptroller of Public Accounts, and delivered to the purchasers, they shall thereafter be incontestable except for forgery or fraud. When any bonds recite that they are secured partially or otherwise by a pledge of the proceeds of a contract or contracts made between the District and another party or parties (private or public) a copy of such contract or contracts and the proceedings authorizing the same may or may not be submitted to the Attorney General along with the bond record and, if so submitted, the approval by the Attorney General of the bonds shall constitute an approval of such contract or contracts, and thereafter the contract or contracts shall be incontestable for any cause except for forgery or fraud.

Sec. 7. Land contiguous or adjacent to the District may be added to the District in the manner provided by Art. 7880—75, Vernon's Texas Civil Statutes, as now or hereafter amended, provided, however, that the Board of Directors may require the petitioners to assume their pro rata share of the voted but unissued bonds of the District and authorize the Board to levy a tax on their property in payment for such unissued bonds, when issued. If the petitioners consent, the District shall be authorized to issue its voted but unissued tax or tax-revenue bonds even though the boundaries of the District have been changed since the voting or authorization of such bonds. Land may be added to the District only as provided herein.

Sec. 8. It shall not be necessary for the District to call or hold, prior to voting any bonds or taxes, a hearing on the exclusion of land or other property from the District; provided, however, that the Board of Directors shall hold such hearing upon the written request of any land or other property owner within the District filed with the Secretary of the Board prior to the time the Board calls the first bond election for the District. Nothing in this section shall be construed to prevent the Board on its own motion from calling and holding an exclusions hearing or hearings pursuant to the provisions of the General Law.

Sec. 9. If a majority of the Board of Directors shall determine that the name of the District needs changing, the Board may change the name of the District to any name which is descriptive of the locale of the District and descriptive of the principal powers to be exercised by such District; provided, however, that the word "District" shall be included in the designation and a consecutive number shall be used if other districts of the same name have been created in the county. Notice of the change in name shall be given to the Texas Water Rights Commission by sending a certified copy of the resolution changing the District's name to the Secretary of the Texas Water Rights Commission. Notice shall also be given by filing a certified copy of the resolution in the Water Control and Improvement District records of the County. The District, under its changed name, shall be deemed to be a continuation of the District as formerly named, for all purposes.

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Sec. 10. The Board of Directors shall designate, establish and maintain a District Office as provided by Article 7880—44. The minutes, contracts, notices, accounts, receipts and records of all kinds of the District shall be kept in a fireproof vault or safe at such District Office and shall be subject to public inspection at all reasonable hours. The District Office shall be established and maintained within the District, provided, however, if the Board of Directors finds that a location outside of the District is better suited for the transaction of the business of the District, the Board of Directors may designate, establish and maintain the District Office at such location outside of the District.

If the Board of Directors establishes the District Office outside the District, it shall give notice of the location of the District Office by filing a true copy of its resolution establishing the location of the District Office with the Texas Water Rights Commission, by filing a true copy in the Water Control and Improvement District records of Galveston County and also by publishing the location in a newspaper of general circulation in Galveston County.

If location of the District Office is thereafter changed, notice of such change shall be given in the same manner.

Sec. 11. The provisions of Section 10, Chapter 280, Acts of the 41st Legislature of Texas, Regular Session, 1929 (codified as Article 7880—77b, Vernon's Texas Civil Statutes), shall apply to the District; however, it shall be within the discretion of the Board of Directors to hold a hearing on the question of the dissolution of the District if a construction bond election fails and the Board of Directors shall not be required to hold a hearing on the question of the dissolution of the District unless twenty per cent of the qualified voters of the District petition the Board for such a hearing in the manner provided in Article 7880—77b.

Sec. 12. The bonds of the District shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, trustees, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas, and any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their value, when accompanied by all unmatured coupons appurtenant thereto.

Sec. 13. Upon the adoption of this Act, said District shall be a fully created and established water control and improvement district and it shall not be necessary to hold a confirmation election. The ad valorem basis or plan of taxation shall be used by said District; and it shall not be necessary for the Board of Directors to hold a hearing on the adoption of a plan of taxation.

Sec. 14. As soon as practicable after the qualification of the first Board of Directors of said District, the Board shall by resolution designate one or more banks within or without the District to serve as the District's depository, and all funds of said District shall be secured in the manner now provided for the security of County funds. Such bank or banks shall serve for a period of two (2) years and until a successor has been appointed by the Board and has qualified.

Sec. 15. The Legislature hereby exercises the authority conferred upon it by Section 59 of Article XVI, Constitution of Texas, and declares that the District created by this Act is essential to the accomplishment of the purposes of said constitutional provisions; finds that all of the land and other property included therein are, and will be, benefited thereby and by the improvements that the District will purchase, construct, or

otherwise acquire; and declares the District to be a governmental agency, a body politic and corporate, and a municipal corporation.

Sec. 16. If any word, phrase, clause, sentence, paragraph, section or other part of this Act or the application thereof to any person or circumstance, shall ever be held by a court of competent jurisdiction to be invalid or unconstitutional, the remainder of the Act and the application of such word, phrase, clause, sentence, paragraph, section, or other part of this Act to other persons or circumstances shall not be affected thereby.

Sec. 17. It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published at least thirty (30) days and not more than ninety (90) days prior to the introduction of this Act in the Legislature of Texas, in a newspaper having general circulation in Galveston County, Texas; that a copy of such notice and a copy of this Act have been delivered to the Governor of Texas who has submitted such notice and act to the Texas Water Rights Commission, and said Texas Water Rights Commission had filed its recommendation as to such Act with the Governor, Lieutenant Governor and Speaker of the House of Representatives of Texas within thirty (30) days from the date such notice and Act were received by the Texas Water Rights Commission; and that all the requirements and provisions of Article XVI, Section 59(d) of the Constitution of the State of Texas have been fulfilled and accomplished as therein provided. Acts 1967, 60th Leg., p. 1367, ch. 593, emerg. eff. June 16, 1967.

Title of Act:

An Act creating a conservation and reclamation district under the provisions of Section 59, Article XVI, Constitution of Texas, to be known as "Spanish Grant Municipal Utility District of Galveston County, Texas"; prescribing its rights, powers, privileges, and duties; providing the District shall bear the sole expense of the relocation of certain facilities under the provisions of this Act; providing for its

governing body; containing provisions that its bonds are legal and authorized investments; providing for selection of a depository; adopting the ad valorem basis of taxation; providing a procedure to change its name; requiring the District to establish an office; containing other provisions relating to the subject; providing a severability clause; and declaring an emergency. Acts 1967, 60th Leg., p. 1367, ch. 593.

Art. 8280—355. Coastal Industrial Water Authority

Section 1. Under and pursuant to the provisions of Section 59 of Article XVI of the Constitution of Texas, a conservation and reclamation district is hereby created and incorporated within the State of Texas, in addition to all other districts into which the state has heretofore been divided, to be known as "Coastal Industrial Water Authority" (hereinafter referred to as the "Authority"). The Authority shall be a governmental agency and a body politic and corporate.

Sec. 2. The boundaries of the Authority shall be as follows:

Being part of the West portion of Liberty County, Texas, part of the West portion of Chambers County, Texas, and all of Harris County, Texas, except incorporated areas (other than the City of Houston) as hereinafter expressly excluded, bounded as follows:

BEGINNING at a point in the John A. Williams League, A-119 of Liberty County, Texas, on the West bank of the Trinity River, which point is South 0 .07' West 1340 feet from the Northeast corner of said John A. Williams League;

THENCE West along a line parallel to the North line of said Williams League to the West line of said Williams League;

THENCE Westerly to the Northwest corner of the Angus McNeil League, A-77;

THENCE South on the West line of the Angus McNeil League to the Northeast corner of the H. H. Beckwith Survey, A-793;

THENCE West on the North line of said Beckwith Survey and the North lines of the Lewis Latham Survey, A-61, and the J. T. Ballard

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Survey, A-148 of Liberty County, to the common Harris-Liberty County line;

THENCE Northerly, along said Harris-Liberty County line to the Montgomery County line;

THENCE Southwesterly, with the Harris-Montgomery County line, crossing the San Jacinto River, to Spring Creek;

THENCE Northwesterly, with said Creek, same being the Harris-Montgomery County line to the Waller County line;

THENCE Southeasterly, with the Harris-Waller County line to the Fort Bend County line;

THENCE Southeasterly, with the Harris-Fort Bend County line to the Brazoria County line;

THENCE Easterly and Southeasterly, with the Harris-Brazoria County line, and the meanders of Clear Creek to the Galveston County line;

THENCE continuing Easterly with the Harris-Galveston County line and the meanders of Clear Creek to the shore of Galveston Bay, and the intersection with Chambers County line;

THENCE Northerly along said shoreline of Galveston Bay, being the Harris-Chambers common county line, and thence Easterly across San Jacinto Bay, continuing along said common county line to the center line of Cedar Bayou;

THENCE Southerly to the most Westerly point of the John Ijams Survey, A-15, Chambers County, Texas, on the shore of Galveston Bay at the mouth of Cedar Bayou;

THENCE Southerly, Easterly, and Northeasterly along the shoreline of Galveston and Trinity Bays to the Southeast corner of the Joseph Lawrence Survey, A-168, Chambers County, Texas, being also the Southwest corner of the W. Stubbs Survey, A-230, Chambers County, Texas;

THENCE Northerly along the West line of the aforesaid Stubbs Survey and the East line of the aforesaid Lawrence Survey to the Northern corner of the Stubbs and the Northeast corner of the Lawrence, the common point on the West bank of the Trinity River;

THENCE Northerly along the West bank of the Trinity River to its intersection with the North right-of-way line of Interstate Highway 10;

THENCE West along the North right-of-way line of said Interstate Highway 10 to its intersection with the East right-of-way line of State Farm to Market Road 565;

THENCE Northerly along the East right-of-way line of State Farm to Market Road 565 to its intersection with the East right-of-way line of State Farm to Market Road 1409;

THENCE Northerly along the East right-of-way line of State Farm to Market Road 1409 to its intersection with the South line of said John A. Williams League;

THENCE East along the South line of said Williams League to its Southeast corner on the bank of the Trinity River;

THENCE Northerly along the West Bank of the Trinity River to the PLACE OF BEGINNING. But there is expressly excluded from the territory within the Authority all land situated within Harris County which is within the corporate limits of every incorporated city (other than the City of Houston), town and village situated in whole or in part in Harris County, as such corporate limits were fixed and established on January 1, 1967. There is further expressly excluded from the territory within the Authority all land situated within the boundaries and corporate limits of Chambers County Water Control and Improvement District No. 1 and the City of Mont Belvieu and the City of Beach City, all in Chambers Coun-

ty, Texas, as such boundaries and corporate limits were fixed and established on January 1, 1967.

Sec. 3. The Authority shall have and exercise and is hereby vested with all of the rights, powers and privileges, authorities and functions conferred and imposed by the general laws of this state now in force or hereafter enacted applicable to water control and improvement districts created under authority of Section 59 of Article XVI, Constitution of Texas, but to the extent that the provisions of such general laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such general laws are hereby adopted and incorporated by reference with the same effect as if incorporated in full in this Act. Without in any way limiting the generalization of the foregoing, it is expressly provided that the Authority shall have and exercise, and is hereby vested with, all of the rights, powers and privileges, authorities and functions conferred by Chapter 3A, Title 128, Vernon's Texas Civil Statutes, together with all amendments thereof and additions thereto. The Authority shall have the power to make, construct, or otherwise acquire improvements either within or without the boundaries thereof necessary to carry out the powers and authority granted by this Act and said general laws. Not by way of limitation, the Authority shall be authorized and empowered to conserve, store, transport, treat and purify; distribute, sell and deliver water, both surface and underground, to persons, corporations, both public and private, political subdivisions of the state and others, and may purchase, construct or lease all property, works and facilities, both within and without the Authority, necessary for such purposes. The Authority is expressly authorized to acquire water supplies from sources both within and without the boundaries of the Authority and to sell, transport and deliver water to customers situated within and without the Authority and to acquire all properties and facilities necessary for such purposes, and for any and all of such purposes may enter into contracts with persons, with municipal, public and private corporations, including the City of Houston, and any political subdivision of the state for such periods of time, not exceeding forty (40) years, and on such terms and conditions as its Board of Directors may deem desirable, fair and advantageous and to which the parties may agree; provided, that such contracts may provide that they shall continue in effect until bonds issued by the Authority to finance the cost of water system facilities, and refunding bonds issued in lieu thereof, are paid. In addition, the Authority shall have the power to contract with others to transport their water and the power to act jointly with others in the performance of all functions and purposes of the Authority. The Authority shall comply with the provisions of Chapter 1, Title 128, Revised Civil Statutes of Texas, 1925, as amended. Nothing herein contained shall preclude the Authority from acquiring water rights under any law or permits heretofore or hereafter issued, provided acquisition of the same is approved by order or subsequent permit from the Texas Water Rights Commission.

Sec. 4. The Authority shall have no power or authority to levy and collect taxes on any property, real, personal or mixed, nor shall the Authority have power and authority to issue bonds or create indebtedness which would in any way be payable from ad valorem taxes levied upon property within the Authority. The Authority shall have no power or authority to limit, regulate or control the pumping, withdrawal or use of subsurface ground water by any person, firm or corporation, nor shall the authority be authorized to construct, acquire, own or operate facilities for the navigation of public waters.

The enactment of this law shall not have the effect of preventing the organization of conservation districts or of preventing boundary changes of such districts within the boundaries of the Authority as authorized in Article XVI, Section 59 and Article III, Section 52 of the Constitution of Texas.

For Annotations and Historical Notes, see V.A.T.S.

Sec. 5. The management and control of the Authority is hereby vested in a board of seven (7) directors who shall be at least twenty-one (21) years of age and shall be residents and landowners of Harris County or that part of Chambers and Liberty Counties which are within the boundaries of the Authority. Four (4) of such directors and their successors, being positions numbered one (1) to four (4) inclusive, shall be appointed by the mayor of the City of Houston with the advice and consent of the governing body of such city. The remaining three (3) directors and their successors, being positions numbered five (5) to seven (7) inclusive shall be appointed by the Governor of Texas with the advice and consent of the Senate, one of whom shall be a resident of Chambers County, one a resident of Liberty County and one a resident of Harris County.

The directors first appointed shall meet and organize as soon as practicable after the effective date of this Act, and shall file their official bonds and subscribe to the Constitutional Oath of Office. The directors first appointed shall serve until April 1, 1969, and all terms of office thereafter shall be for a period of two (2) years except for the first term of office after April 1, 1969, for positions one (1), two (2) and six (6) which shall be for a term of one (1) year. No member of the governing body of the City of Houston and no employee of the City of Houston shall be appointed as a director.

Sec. 6. The Authority is hereby authorized to issue its negotiable revenue bonds to provide funds for any or all of the purposes set out or incorporated by reference in Section 3 hereof, including the acquisition of land therefor, and said bonds shall be issued in the manner provided and as authorized by said Chapter 3A of Title 128, as presently or hereafter amended, except as provided herein. Such revenue bonds may be issued by authorization of the Authority's Board of Directors and no election therefor shall be necessary.

The bonds issued hereunder may be payable from all or any designated part or parts of the revenues of the Authority's properties and facilities or under specific contracts, as may be provided in the orders or resolutions authorizing the issuance of such bonds; and, except as the same may be inconsistent or in conflict with the provisions of this Act, the provisions of said Chapter 3A of Title 128, as presently or hereafter amended, shall apply to revenue bonds issued under the provisions of this Act (the provisions of this Act to govern and take precedence in the event of any such inconsistency or conflict). The provisions of Section 139 of the Acts of 1925, 39th Legislature, Chapter 25, page 131, as amended by Section 3 of the Acts of 1961, 57th Legislature, Chapter 336, page 711, relating to Texas Water Rights Commission approval of plans and specifications for projects to be financed by the sale of bonds, applies to the sale of bonds under this Act.

Such bonds, within the discretion of the Board of Directors, may be additionally secured by a deed of trust or mortgage lien upon part or all of the physical properties of the Authority, and franchises, easements, water rights and appropriation permits, leases, and contracts and all rights appurtenant to such properties, vesting in the trustee power to sell such properties for payment of the indebtedness, power to operate the properties and all other powers and authority for the further security of the bonds. Such trust indenture, regardless of the existence of the deed of trust or mortgage lien on the properties, may contain provisions prescribed by the Board of Directors for the security of the bonds and the preservation of the trust estate, and may make provisions for amendment or modification thereof and the issuance of bonds to replace lost or mutilated bonds, and may condition the right to expend Authority money or sell Authority property upon approval of a registered professional engineer selected as provided therein and may make provision for investment of funds of the Authority. Any purchaser under a sale under the deed

of trust or mortgage lien, where one is given, shall be absolute owner of the properties, facilities and rights so purchased and shall have the right to maintain and operate same.

In the orders or resolutions authorizing the issuance of any revenue or revenue refunding bonds authorized hereunder, the Authority's Board of Directors may provide for the flow of funds, the establishment and maintenance of the interest and sinking fund or funds, reserve fund or funds, and other funds, and may make additional covenants with respect to the bonds and the pledged revenues and the operation and maintenance of those improvements and facilities (the revenues of which are pledged), including provisions for the operation or for the leasing of all or any part of said improvements and facilities and the use or pledge of moneys derived from such operation contracts and leases, as such Board may deem appropriate. Such orders or resolutions may also prohibit the further issuance of bonds or other obligations payable from the pledged revenues, or may reserve the right to issue additional bonds to be secured by a pledge of and payable from said revenues on a parity with, or subordinate to, the lien and pledge in support of the bonds being issued, subject to such conditions as are set forth in such orders or resolutions. Such orders or resolutions may contain other provisions and covenants, as the Authority's Board may determine, not prohibited by the Constitution of Texas or by this Act, and said Board may adopt and cause to be executed any other proceedings or instruments necessary and/or convenient in the issuance of any such bonds.

From the proceeds of sale of any bonds issued hereunder, the Authority may appropriate or set aside out of the bond proceeds an amount for the payment of interest and administrative expenses expected to accrue during the period of construction, an amount or amounts to be deposited into the reserve fund or funds as may be provided in the bond orders or resolutions, and an amount necessary to pay all expenses incurred and to be incurred in the issuance, sale and delivery of the bonds. Moneys in the interest and sinking fund or funds, and the reserve fund or funds, and in the other fund or funds established or provided for in the bond orders or resolutions may be invested in such manner and in such securities as may be provided in the bond order or orders or may be placed on interest-bearing time deposit. Such bonds may be in the denomination of \$100, or in multiples thereof, and until such time as the bond proceeds are needed to carry out the bond purpose, such proceeds may be invested in direct obligations of the United States of America or may be placed on interest-bearing time deposit, either or both. Any such revenue bonds or the revenue refunding bonds hereinafter mentioned may be registrable as to principal, or as to both principal and interest.

By orders or resolutions adopted by its Board of Directors, said Authority shall have the power and authority to issue revenue refunding bonds to refund revenue bonds (either original bonds or refunding bonds) theretofore issued by such Authority, and such refunding bonds shall bear interest at the same or lower rate or rates than that of the bonds refunded unless it is shown mathematically that a saving will result in the total amount of interest to be paid. Said refunding bonds shall be approved by the Attorney General as in the case of original bonds, and shall be registered by the Comptroller of Public Accounts upon the surrender and cancellation of the bonds to be refunded, but in lieu thereof, the orders or resolutions authorizing their issuance may provide that they shall be sold and the proceeds thereof deposited in the place or places where the underlying bonds are payable, in which case the refunding bonds may be issued in an amount sufficient to pay the interest on the underlying bonds to their option or maturity date, and the Comptroller of Public Accounts shall register them without the surrender and cancellation of the underlying bonds.

For Annotations and Historical Notes, see V.A.T.S.

After any revenue or revenue refunding bonds have been authorized by the Authority hereunder, such bonds and the record relating to their issuance shall be submitted to the Attorney General of the State of Texas for his examination as to the validity thereof, and after said Attorney General has approved the same, such revenue or revenue refunding bonds shall be registered by the Comptroller of Public Accounts of the State of Texas. When such revenue or revenue refunding bonds have been approved by the Attorney General, registered by the Comptroller of Public Accounts, and delivered to the purchasers, they shall thereafter be incontestable except for forgery or fraud. When any bonds recite that they are secured partially or otherwise by a pledge of the proceeds of a contract or contracts made between the Authority and another party or parties (private or public) a copy of such contract or contracts and the proceedings authorizing the same may or may not be submitted to the Attorney General along with the bond record and, if so submitted, the approval by the Attorney General of the bonds shall constitute an approval of such contract or contracts, and thereafter the contract or contracts shall be incontestable for any cause except for forgery or fraud. The owners or holders of such revenue or revenue refunding bonds shall never have the right to demand payment of either the principal or interest on such bonds out of any funds raised or to be raised by taxation.

Sec. 7. The Authority shall have the right and power to construct, lay, maintain, and operate canals, laterals, ditches, levees, pipelines and all other facilities for the transportation and distribution of water, together with service roads and all other facilities incidental to and designed for use in connection with such transportation and distribution of water, along, across and under any railroad, railroad right-of-way, canal, stream, pipeline, utility line, and under, along and across streets or alleys in cities, towns and villages, subject to reasonable regulation by such cities, towns and villages, and under, along and across public roads and highways, but such crossings shall not impair the uses of the facilities crossed, and such facilities shall be promptly restored to their former condition of usefulness. In the event that the Authority, in the exercise of the power of eminent domain or power of relocation, or any other power, makes necessary the relocation, raising, rerouting or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telephone or telegraph properties and facilities, or pipeline, all such necessary relocation, raising, rerouting, changing of grade or alteration of construction shall be accomplished at the sole expense of the Authority. The term "sole expense" shall mean the actual cost of such relocation, raising, rerouting, or change in grade or alteration of construction and providing comparable replacement without enhancement of such facilities after deducting therefrom the net salvage value derived from the old facility.

The Authority shall not be required to give bond for appeal or bond for costs in any condemnation suit or other suit to which it may be a party.

Sec. 8. The Legislature hereby exercises the authority conferred upon it by Section 59 of Article XVI, Constitution of Texas, and declares that the Authority created by this Act is essential to the accomplishment of the purposes of said constitutional provision; finds that all of the land and other property included in the area and boundaries of the Authority are, and will be, benefited by the improvements which the Authority will purchase, construct or otherwise acquire; and that the Authority is created to serve a public use and benefit; and declares the Authority to be a governmental agency, a body politic and corporate. The powers and duties herein granted to the Authority shall be subject to the continuing right of supervision of the state, to be exercised by and through the Texas Water Rights Commission.

Sec. 9. It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published at least thirty (30) days and not more than ninety (90) days prior to the introduction of this Act in the Legislature of Texas, in a newspaper having general circulation in Harris, Chambers and Liberty Counties, Texas; that a copy of such notice and a copy of this Act have been delivered to the Governor of Texas who has submitted such notice and Act to the Texas Water Rights Commission, and said Texas Water Rights Commission has filed its recommendation as to such Act with the Governor, Lieutenant Governor and Speaker of the House of Representatives of Texas within thirty (30) days from the date such notice and Act were received by the Texas Water Rights Commission; and that all the requirements and provisions of Article XVI, Section 59(d) of the Constitution of the State of Texas have been fulfilled and accomplished as therein provided.

Sec. 10. If any word, phrase, clause, sentence, paragraph, section or other part of this Act or the application thereto to any person or circumstance shall ever be held to be invalid or unconstitutional, the remainder of the Act and the application of such word, phrase, clause, sentence, paragraph, section or other part of this Act to other persons or circumstance shall not be affected thereby.

Acts 1967, 60th Leg., p. 1381, ch. 601, emerg. eff. June 16, 1967.

Title of Act:

An Act creating a conservation and reclamation district to be known as Coastal Industrial Water Authority; prescribing its boundaries, governing body, powers, authority, privileges, duties, functions, and

restrictions; providing that said Authority shall have no power to levy taxes; providing a severability clause; and declaring an emergency. Acts 1967, 60th Leg., p. 1381, ch. 601.

Art. 8280—356. Westheimer Road Municipal Utility District

Section 1. Under and pursuant to the provisions of Article 16, Section 59 of the Constitution of Texas, a conservation and reclamation district is hereby created and established in Harris County, Texas, to be known as "Westheimer Road Municipal Utility District," hereinafter called the "district," which shall be a governmental agency and a body politic and corporate. The creation and establishment of the district is hereby declared to be essential to the accomplishment of the purposes of Article 16, Section 59, Constitution of Texas.

Sec. 2. The district shall comprise all of the territory contained within the following described area:

Lying wholly in Harris County, Texas, and being 219.4738 acres of land, more or less, out of the Joel Wheaton Survey, A-80, more particularly described by metes and bounds as follows:

BEGINNING at a concrete monument marking the intersection of the north right-of-way line of the 120-foot-wide Westheimer (Beeler) Road (F.M. 1093) and the east right-of-way line of the 160-foot-wide Addicks-Howell Road (F.M. 1960), and being 130 feet east of the west line of the Joel Wheaton Survey, A-80, Harris County, Texas.

THENCE, N 2° 19' 47" W, 1699.30 feet along a fence on the east right-of-way line of said Addicks-Howell Road to a concrete monument marking a point of curvature to the left.

THENCE, in a northwesterly direction, 172.40 feet along a fence on the east right-of-way line of said Addicks-Howell Road, following the arc of a curve to the left having a radius of 3899.80 feet and a central angle of 2° 32' 00" to a point in the south line of a 70-acre tract of land conveyed to Joseph I. Moody by deed recorded in Volume 80, Page 564 of the Deed Records of Harris County, Texas, said point being S 4° 52' 20" E, 1.26 feet from a fence corner.

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THENCE, N 87° 54' 07" E, at 1337.39 feet pass a fence corner on the south line of said Joseph I. Moody 70-acre tract, and in all 1372.42 feet to the southeast corner of said Joseph I. Moody 70-acre tract.

THENCE, N 2° 19' 47" W, 1561.36 feet along the east line of said Joseph I. Moody 70-acre tract to a point for corner in a fence, said point being N 87° 50' 38" E, 25.49 feet from a fence corner and S 2° 19' 47" E, 38.41 feet from the southwest corner of a 16-acre tract of land conveyed to John D. Cook by deed recorded in Volume 186, Page 295 of the Deed Records of Harris County, Texas.

THENCE, N 87° 50' 38" E, 1442.53 feet along a fence to a fence corner, said fence corner being S 2° 06' 16" E, 48.46 feet and S 87° 50' 38" W, 12.36 feet from the southeast corner of said John D. Cook 16-acre tract which lies on the west line of a 56-acre tract of land conveyed to John D. Cook by deed recorded in Volume 80, Page 563 of the Deed Records of Harris County, Texas.

THENCE, S 2° 06' 16" E, 1566.72 feet along a fence to a fence corner, said fence corner being S 2° 06' 16" E, 14.30 feet and S 87° 54' 24" W, 25.53 feet from the southwest corner of said John D. Cook 56-acre tract.

THENCE, N 87° 54' 24" E, 1144.14 feet along a fence to a fence corner, said fence corner being S 2° 32' 00" E, 24.34 feet and S 87° 54' 24" W, 54.89 feet from the southeast corner of said John D. Cook 56-acre tract which lies on the dividing line between Lots 1 and 2, Bringhurst Subdivision, Joe Wheaton Survey.

THENCE, S 2° 32' 00" E, 1837.84 feet along a fence to a fence corner on the north right-of-way line of the 120-foot-wide Westheimer (Beeler) Road, said fence corner being S 87° 28' 10" W, 55.77 feet from the intersection of the north right-of-way line of said Westheimer Road with the dividing line between Lots 1 and 2, Bringhurst Subdivision.

THENCE, S 87° 28' 10" W, 3785.64 feet along a fence on the north right-of-way line of said Westheimer Road to a ¾-inch iron pipe marking the southeast corner of a tract of land conveyed to Humble Oil & Refining Company by deed recorded in Volume 5893, Page 212 of the Deed Records of Harris County, Texas.

THENCE, N 2° 19' 47" W, 150.00 feet to a ¾-inch iron pipe marking the northeast corner of said Humble Oil & Refining Company tract.

THENCE, S 87° 28' 10" W, 150.00 feet to a ¾-inch iron pipe marking the northwest corner of said Humble Oil & Refining Company tract.

THENCE, S 2° 19' 47" E, 150.00 feet to a ¾-inch iron pipe marking the southwest corner of said Humble Oil & Refining Company tract in the north right-of-way line of said Westheimer Road.

THENCE, S 87° 28' 10" W, 20.00 feet along a fence on the north right-of-way line of said Westheimer Road to the point of beginning.

Containing 219.4738 acres of land, more or less.

Sec. 3. It is determined and found that the boundaries and field notes of the district form a closure; and if any mistake is made in copying the field notes in the legislative process, or otherwise a mistake is made in the field notes, it shall in no way or manner affect the organization, existence, and validity of the district, or the right of the district to issue any type of bonds or refunding bonds for the purposes for which the district is created, or to pay the principal and interest thereon, or the right to assess, levy, and collect taxes, or the legality or operation of the district or its governing body.

Sec. 4. It is determined and found that all of the land and other property included within the area and boundaries of the district will be benefited by the works and project which are to be accomplished by the district pursuant to the powers conferred by the provisions of Article 16, Section 59, Constitution of Texas, and that said district was and is created to serve a public use and benefit.

Sec. 5. The district shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, authority, and duties conferred and imposed by the general laws of this State now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Article 16, Section 59, Constitution of Texas; but to the extent that the provisions of any such general laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such general laws are hereby adopted and incorporated by reference with the same effect as if incorporated in full in this Act. The powers and duties herein granted to the district shall be subject to the continuing right of supervision of the State, to be exercised by and through the Texas Water Rights Commission.

Sec. 6. It shall not be necessary for the board of directors to call or hold a confirmation election for the confirmation of the district.

Sec. 7. It shall not be necessary for the board of directors to call or hold a hearing on the exclusions of land or other property from the district; provided, however, that the board shall hold such hearing upon the written request of any landowner or other property owner within the district filed with the secretary of the board prior to the calling of the first bond election for the district. The board on its own motion may call and hold an exclusions hearing or hearings in the manner provided by the general law.

Sec. 8. It shall not be necessary for the board of directors to call or hold a hearing on the adoption of a plan of taxation, but the ad valorem plan of taxation shall be used by the district.

Sec. 9. All powers of the district shall be exercised by a board of five directors. Each director shall serve for his term of office as herein provided, and thereafter until his successor shall be elected or appointed and qualified. No person shall be appointed a director unless he is 21 years of age or over and a resident of the State of Texas. Such director shall not be required to reside within the boundaries of the district. Each director shall qualify by subscribing to the oath of office and giving bond in the amount of \$5,000 for the faithful performance of his duties. The cost of such bond shall be paid by the district. Such bond shall be filed in the office of the county clerk and approved by the county judge or the commissioner's court of the county within which district is situated. Such oath shall be filed with the secretary of the district's board of directors after his selection. The bonds of directors elected or appointed after the directors named below shall be approved by the district's board of directors, filed for record in the office of the county clerk of the county in which the district is located and shall be recorded in a record kept for that purpose in the office of the district and be filed for safekeeping in the depository of the district. Immediately after this Act becomes effective, the following named persons, all of whom are 21 years of age or over and residents of the State of Texas, shall be the directors of the district and shall constitute the board of directors of the district:

Bob Davis
Lafayette B. Herring
Clarence Estes
Harry B. Terry
Glen Hefner

Said persons shall qualify as directors within 30 days, or as soon thereafter as practicable, from the effective date of this Act. If any of the aforementioned persons shall fail or refuse to qualify or to serve, or shall die or become incapacitated, or otherwise not be qualified to assume the duties of a director of the district under this Act, a majority of the remaining directors shall appoint a successor or successors. The directors named above or their duly appointed successor or successors shall serve until the

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second Tuesday in January 1969. Succeeding directors shall be elected or appointed and shall serve for the term and in the manner provided for by Article 7880—37, Vernon's Texas Civil Statutes. The annual elections shall be ordered by the board of directors. Any vacancy occurring in the board of directors shall be filled for the unexpired term by a majority of the remaining directors. The board of directors shall elect from its number a president, a vice president, and a secretary of the board of directors and of the district, and such other officers as in the judgment of the board are necessary. Three directors shall constitute a quorum at any meeting, and a concurrence of three shall be sufficient in all matters pertaining to the business of the district including the letting of construction contracts and the drawing of warrants in payment for construction work, the purchase of existing facilities, and matters relating to construction work. Warrants to pay current expenses, salaries, and accounts may be drawn and signed by an officer or employee, designated by standing order entered on the minutes of the board of directors, when such accounts have been contracted and ordered paid by the directors. The president may execute all contracts, construction or otherwise, entered into by the board of directors on behalf of the district. The vice president shall perform all duties and exercise all power conferred by this Act or the general law upon the president when the president is absent or fails or declines to act. Any order adopted or other action taken at a meeting of the board of directors at which the president is absent may be signed by the vice president, or the board may authorize the president to sign such order or other action. The secretary shall keep and sign the minutes of the meetings of the board of directors; and in his absence at any board meeting, a secretary pro tem shall be named for that meeting who may exercise all the duties and powers of the secretary for such meeting, and shall sign the minutes thereof, and may attest all orders passed or other action taken at such meeting, or the board may authorize the secretary to attest such orders or other action. The secretary shall be the custodian of all minutes and records of the district. The board shall appoint all necessary engineers, attorneys, auditors, and other employees. The board shall adopt a seal for the district.

Sec. 10. Before issuing any construction bonds, the district shall submit plans and specifications therefor to the Texas Water Rights Commission for approval in the manner required by Article 7880—139, Revised Civil Statutes of Texas, 1925; and the district's project and improvements during the course of construction shall be subject to inspection in the manner provided by said Article 7880—139.

Sec. 11. When any kind of bonds or refunding bonds have been approved by the Attorney General of Texas, registered by the Comptroller of Public Accounts of the State of Texas, and issued by the district, such bonds or refunding bonds shall be negotiable, legal, valid, and binding obligations of the district and shall be incontestable for any cause.

Sec. 12. The power of eminent domain of the district shall be limited to the county or counties in which the district is situated. In the event that the district, in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, rerouting or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telegraph or telephone properties and facilities, or pipeline, all such necessary relocation, raising, rerouting, changing of grade, or alteration of construction shall be accomplished at the sole expense of the district. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, rerouting, or change in grade, or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

Sec. 13. This district is hereby created notwithstanding any of the provisions of the Municipal Annexation Act (Article 970a, Revised Civil Statutes of Texas, 1925), as amended, and to the extent of the creation of the district only, said Article 970a shall have no application. In all other respects, the district hereby created is expressly made subject to all provisions of said Article 970a.

Sec. 14. It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published at least 30 days and not more than 90 days prior to the introduction of this Act in the Legislature of Texas, in a newspaper having a general circulation in the county or counties in which this district or any part thereof is situated; that a copy of such notice and a copy of this Act have been delivered to the Governor of Texas, who has submitted such notice and Act to the Texas Water Rights Commission, and said Texas Water Rights Commission has filed its recommendation as to such Act with the Governor, Lieutenant Governor and Speaker of the House of Representatives of Texas within 30 days from the date such notice and Act were received by the Texas Water Rights Commission; and that all the requirements and provisions of Article 16, Section 59(d), Constitution of the State of Texas, have been fulfilled and accomplished as therein provided.

Sec. 15. The board of directors of the district shall select any bank or trust company in the State of Texas to act as depository of the proceeds of the bonds or revenues derived from the operation of the facilities of the district, and said depository shall furnish such indemnity bonds or pledge such securities or meet such other requirements as determined by the board of directors of the district. The district may select one or more depositories.

Sec. 16. In no manner limiting the right, power, or authority of the district, as heretofore granted, the district is specifically granted the right, power, and authority to purchase and construct, or to purchase or construct, or otherwise to acquire waterworks systems, sanitary sewer systems, storm sewer systems and drainage facilities, or parts of such systems or facilities, and to make any and all necessary purchases, constructions, improvements, extension, additions, and repairs thereto, and to purchase or acquire all necessary land, rights-of-way, easements, sites, equipment, buildings, plants, structures, and facilities therefor and to operate and maintain same, and to sell water and other services. The district may exercise any of the rights, powers, and authorities granted in this Act within or without the boundaries of the district and is specifically authorized to exercise any of said rights, powers, and authorities in order to provide water and sewerage services to areas within or without the boundaries of the district. The district may vote and issue any kind of bonds or refunding bonds for any or all of such purposes herein provided, for contiguous or noncontiguous areas, and provide and make payment therefor and for necessary expenses in connection therewith.

Sec. 17. Bonds of the district, other than refunding bonds, may be sold at a price and upon the terms determined by the board of directors of the district, except that such bonds shall not be sold for a less amount than provided by law. Such bonds or refunding bonds may be sold in denominations of \$1,000 each or multiples thereof. Refunding bonds shall be sold at a price and under the terms of the general law applicable to water control and improvement districts. The district may exchange bonds or refunding bonds for property acquired by purchase, or in payment of the contract price of work done or materials furnished or services furnished for the use and benefit of the district; provided that no notice given pursuant to Article 7880—117, Revised Civil Statutes of Texas, 1925, as amended, shall be predicated upon or require the exchange of bonds or refunding bonds, and said article shall otherwise be applicable to this district in all respects.

For Annotations and Historical Notes, see V.A.T.S.

Sec. 18. The provisions of Article 7880—77b, Revised Civil Statutes of Texas, 1925, as amended, or any other general law, pertaining to the calling of a hearing for the determination of the dissolution of a district where a bond election has failed shall be inapplicable to this district, and this district shall continue to exist and shall have full power to function and operate regardless of the outcome of any bond election. Upon the failure of any bond election, a subsequent bond election may be called after the expiration of six months from the date of the bond election which failed.

Sec. 19. Notice of all elections may be given under the hand of either the president or the secretary of the district.

Sec. 20. The returns of all elections may be canvassed by the board of directors of the district at any time within seven days after the holding of an election, or as soon thereafter as reasonably practicable. The election returns of the annual election of directors may be canvassed by the board of directors as it was composed at the time of such election, or by the directors elected at such election, or by a combination of both. At the board of directors meeting at which the returns are canvassed, composed as aforesaid, any director newly elected at such election may qualify by filing his official bond and taking the oath of office, either before or after the returns are canvassed, and upon the filing of such bond the board, composed as aforesaid, may approve same.

Sec. 21. The accomplishment of the purposes stated in this Act being for the benefit of the people of this state and for the improvement of their properties and industries, the district in carrying out the purposes of this Act will be performing an essential public function under the Constitution, and the district shall not be required to pay any tax or assessment on the project or any part thereof or on any purchases made by the district, and the bonds issued hereunder and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this state.

Sec. 22. All bonds and refunding bonds of the district shall be and are hereby declared to be legal, eligible, and authorized investments for banks, savings and loan associations, insurance companies, fiduciaries, trustees, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds and refunding bonds shall be eligible to secure the deposit of any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their face value, when accompanied by all unmatured coupons appurtenant thereto.

Sec. 23. If any word, phrase, clause, paragraph, sentence, part, portion, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act shall nevertheless be valid, and the Legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion, or provision.

Acts 1967, 60th Leg., p. 1388, ch. 602, emerg. eff. June 16, 1967.

Title of Act:

An Act creating and establishing a conservation and reclamation district under Article 16, Section 59, Constitution of Texas, known as "Westheimer Road Municipal Utility District"; declaring district a governmental agency, body politic and corporate; defining the boundaries; finding the field notes and boundaries form a closure, and related matters; finding a benefit to all land and other property within the dis-

trict; finding that district is created to serve a public use and benefit; conferring on district the rights, powers, privileges, authority, and duties of the general laws of Texas applicable to water control and improvement districts created under Article 16, Section 59, Constitution of Texas, where not in conflict with this Act and adopting same by reference; providing for continuing supervision by the State through the Texas Water Rights Commission; pro-

viding for no election for confirmation; providing for no hearing for exclusions, except on written request or the board of directors' own motion; providing for no hearing on plan of taxation and adopting ad valorem plan of taxation for district; providing for governing body of district; providing for qualifications and bonds of directors; naming first board of directors; providing for directors to fill vacancies; providing for terms and election of directors and notice of directors' elections, and related matters; providing for organization of board of directors; providing for the letting of construction contracts and the drawing of warrants; providing for the execution of contracts by the president; providing for a vice president, a secretary, and a secretary pro tem and outlining their duties; providing for employment of engineers, attorneys, auditors, and other employees; providing for a seal for the district; providing for approval of district's plans and specifications by the Texas Water Rights Commission and inspection during construction by said Commission; providing for bonds and refunding bonds to be approved by the Attorney General of Texas and registered by the Comptroller of Public Accounts of Texas, and providing for negotiability, legality, validity, obligation, and incontestability of the bonds and refunding bonds; providing the power of eminent domain shall be limited to the county or counties within which district is situated; providing district shall bear expenses of relocating, raising, or re-routing any highway, railroad, or utility

lines or pipelines made necessary by its exercise of the power of eminent domain; defining "sole expense"; providing that the Municipal Annexation Act shall have no application to the creation of this district; determining and finding the requirements of Article 16, Section 59(d), Constitution of Texas, as to notice of intention to introduce this Act have been fulfilled and accomplished; providing for the selection of a depository or depositories for the district and related matters; providing additional powers of district within and without the boundaries of district; providing for the voting and issuing of bonds to serve areas within or without the boundaries of district; providing for the sale of bonds of the district in denominations of \$1,000 or multiples thereof, for the exchange of bonds for property and services, and for the minimum price of bonds at such sale or exchange; providing that Article 7880-77b (Vernon's Texas Civil Statutes), shall not be applicable to this district, and related matters; providing that notice of all elections shall be under the hand of the president or secretary; providing for canvassing of election returns; providing the bonds of this district and their transfer and income therefrom and profits thereon and purchases made by district shall be tax-free in this State; providing the bonds and refunding bonds of this district shall be eligible investments; enacting other provisions related to the aforementioned subjects; providing for a severability clause; and declaring an emergency. Acts 1967, 60th Leg., p. 1388, ch. 602.

Art. 8280—357. Deer Municipal Utility District

Section 1. Under and pursuant to the provisions of Article 16, Section 59 of the Constitution of Texas, a conservation and reclamation district is hereby created and established in Harris County, Texas, to be known as "Deer Municipal Utility District," hereinafter called the "district," which shall be a governmental agency and a body politic and corporate. The creation and establishment of the district is hereby declared to be essential to the accomplishment of the purposes of Article 16, Section 59, Constitution of Texas.

Sec. 2. The district shall comprise all of the territory contained within the following described area:

A tract of land lying wholly in Harris County, Texas, and being 207.81 acres of land, more or less, out of the F. H. Rankin Survey, A-57; and also being parts of Lots 2, 3 and 9 of the Howard Dunks Subdivision of the south one-half of said Rankin Survey, a plat of which is recorded in Volume 5, Page 26 of the Harris County Map Records; and also being a portion of the land described in deed from Ruby Dunks Bossier et vir to Statewide Trust Company, recorded in Volume 5864, Page 390 of the Deed Records of Harris County, Texas; the said 207.81 acres, more or less, being more particularly described by metes and bounds as follows:

BEGINNING at the point of intersection of the west right-of-way line of State FM Highway 2100, 100 feet wide, with the south line of said Lot 2 of the Howard Dunks Subdivision, for the southeast corner of the tract herein described, from which an old 3/4-inch iron pipe in a fence line bears East 0.87 foot; said point of beginning being about 2.73 miles south of the intersection of said FM 2100 with FM 1960 at Huffman, Texas.

For Annotations and Historical Notes, see V.A.T.S.

THENCE, S 87° 09' 00" W, 4143.89 feet with the south line of said Lot 2 to an old railroad rail at the common corner of Lots 1, 2, 7 and 8 of the Dunks Subdivision.

THENCE N 13° 24' 51" W 1044.68 feet with the west line of said Lot 2 to an old ¾-inch iron pipe at the common corner of Lots 2, 3, 8 and 9 of said Subdivision.

THENCE, S 86° 16' 45" W with the south line of Lot 9, at 693.58 feet cross United Gas Corporation's pipe line; at 1622.57 feet pass a 1½-inch iron pipe 0.14 foot south of pipe line, in all 2101.93 feet to the center line of the combined 80-foot-wide pipe line easements to Sinclair Pipe Line Company and Service Pipeline Company (the said center line being the city limits of the City of Houston as set out in Houston City Ordinance No. 65-1556 AR), for the most westerly southwest corner of this tract, from which an old 2-inch drill stem in timber line bears about N 87° 40' 00" E 48.71 feet, and an old iron bed bar in timber line bears about S 84° 32' 00" W 61.33 feet.

THENCE, N 90° 05' 30" E 848.14 feet with the said center line of said 80-foot-wide pipeline easement and the said city limits line to the north line of said tract described in deed recorded in Volume 5864, Page 390 of the Deed Records of Harris County, Texas, for the northwest corner of this tract.

THENCE, N 87° 24' 33" E with said north line, along a fence, being also the south line of the Andrew Peterson tract of land, following a previous survey line, at 211.59 feet an old ¾-inch iron pipe on line; at 1211.66 feet another old ¾-inch iron pipe on line; at 1524.46 feet cross United Gas Corporation's pipe line; at 2113.00 feet another old ¾-inch iron pipe on line; at 4045.33 feet cross the Shell Pipeline Company's pipe line; in all 5917.19 feet to the southeast corner of said Peterson tract in the west right-of-way line of FM 2100 for the northeast corner of this tract, from which an old fence corner bears South 0.4 foot and a highway right-of-way monument bears N 13° 41' 45" W 554.07 feet.

THENCE, S 13° 41' 45" E with the west right-of-way line of the said FM 2100, at 829.74 feet pass the northeast corner of a 100-foot drainage ditch right-of-way; at 933.26 feet pass the southeast corner of said ditch right of way; at 1646.36 feet pass a highway right-of-way monument; in all 1830.74 feet to the place of beginning.

Containing 207.81 acres of land, more or less.

(Bearings are referred to Grid North-Texas Plane Co-ordinate System.)

Sec. 3. It is determined and found that the boundaries and field notes of the district form a closure; and if any mistake is made in copying the field notes in the legislative process, or otherwise a mistake is made in the field notes, it shall in no way or manner affect the organization, existence, and validity of the district, or the right of the district to issue any type of bonds or refunding bonds for the purposes for which the district is created, or to pay the principal and interest thereon, or the right to assess, levy, and collect taxes, or the legality or operation of the district or its governing body.

Sec. 4. It is determined and found that all of the land and other property included within the area and boundaries of the district will be benefited by the works and project which are to be accomplished by the district pursuant to the powers conferred by the provisions of Article 16, Section 59, Constitution of Texas, and that said district was and is created to serve a public use and benefit.

Sec. 5. The district shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, authority, and duties conferred and imposed by the general laws of this State now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Article 16, Section 59, Constitution of Texas; but to the

extent that the provisions of any such general laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such general laws are hereby adopted and incorporated by reference with the same effect as if incorporated in full in this Act. The powers and duties herein granted to the district shall be subject to the continuing right of supervision of the State, to be exercised by and through the Texas Water Rights Commission.

Sec. 6. It shall not be necessary for the board of directors to call or hold a confirmation election for the confirmation of the district.

Sec. 7. It shall not be necessary for the board of directors to call or hold a hearing on the exclusions of land or other property from the district; provided, however, that the board shall hold such hearing upon the written request of any landowner or other property owner within the district filed with the secretary of the board prior to the calling of the first bond election for the district. The board on its own motion may call and hold an exclusions hearing or hearings in the manner provided by the general law.

Sec. 8. It shall not be necessary for the board of directors to call or hold a hearing on the adoption of a plan of taxation, but the ad valorem plan of taxation shall be used by the district.

Sec. 9. All powers of the district shall be exercised by a board of five directors. Each director shall serve for his term of office as herein provided, and thereafter until his successor shall be elected or appointed and qualified. No person shall be appointed a director unless he is 21 years of age or over and a resident of the State of Texas. Such director shall not be required to reside within the boundaries of the district. Each director shall qualify by subscribing to the oath of office and giving bond in the amount of \$5,000 for the faithful performance of his duties. The cost of such bond shall be paid by the district. Such bond shall be filed in the office of the county clerk and approved by the county judge or the commissioner's court of the county within which district is situated. Such oath shall be filed with the secretary of the district's board of directors after his selection. The bonds of directors elected or appointed after the directors named below shall be approved by the district's board of directors, filed for record in the office of the county clerk of the county in which the district is located and shall be recorded in a record kept for that purpose in the office of the district and be filed for safekeeping in the depository of the district. Immediately after this Act becomes effective, the following named persons, all of whom are 21 years of age or over and residents of the State of Texas, shall be the directors of the district and shall constitute the board of directors of the district:

J. D. McInturff
Sybil Burcalow
Ed Fick
Kay Tyra
Roberta Tyra

Said persons shall qualify as directors within 30 days, or as soon thereafter as practicable, from the effective date of this Act. If any of the aforementioned persons shall fail or refuse to qualify or to serve, or shall die or become incapacitated, or otherwise not be qualified to assume the duties of a director of the district under this Act, a majority of the remaining directors shall appoint a successor or successors. The directors named above or their duly appointed successor or successors shall serve until the second Tuesday in January 1969. Succeeding directors shall be elected or appointed and shall serve for the term and in the manner provided for by Article 7880—37, Vernon's Texas Civil Statutes. The annual elections shall be ordered by the board of directors. Any vacancy occurring in the board of directors shall be filled for the unexpired term by a ma-

majority of the remaining directors. The board of directors shall elect from its number a president, a vice president, and a secretary of the board of directors and of the district, and such other officers as in the judgment of the board are necessary. Three directors shall constitute a quorum at any meeting, and a concurrence of three shall be sufficient in all matters pertaining to the business of the district including the letting of construction contracts and the drawing of warrants in payment for construction work, the purchase of existing facilities, and matters relating to construction work. Warrants to pay current expenses, salaries, and accounts may be drawn and signed by an officer or employee, designated by standing order entered on the minutes of the board of directors, when such accounts have been contracted and ordered paid by the directors. The president may execute all contracts, construction or otherwise, entered into by the board of directors on behalf of the district. The vice president shall perform all duties and exercise all power conferred by this Act or the general law upon the president when the president is absent or fails or declines to act. Any order adopted or other action taken at a meeting of the board of directors at which the president is absent may be signed by the vice president, or the board may authorize the president to sign such order or other action. The secretary shall keep and sign the minutes of the meetings of the board of directors; and in his absence at any board meeting, a secretary pro tem shall be named for that meeting who may exercise all the duties and powers of the secretary for such meeting, and shall sign the minutes thereof, and may attest all orders passed or other action taken at such meeting, or the board may authorize the secretary to attest such orders or other action. The secretary shall be the custodian of all minutes and records of the district. The board shall appoint all necessary engineers, attorneys, auditors, and other employees. The board shall adopt a seal for the district.

Sec. 10. Before issuing any construction bonds, the district shall submit plans and specifications therefor to the Texas Water Rights Commission for approval in the manner required by Article 7880—139, Revised Civil Statutes of Texas, 1925; and the district's project and improvements during the course of construction shall be subject to inspection in the manner provided by said Article 7880—139.

Sec. 11. When any kind of bonds or refunding bonds have been approved by the Attorney General of Texas, registered by the Comptroller of Public Accounts of the State of Texas, and issued by the district, such bonds or refunding bonds shall be negotiable, legal, valid, and binding obligations of the district and shall be incontestable for any cause.

Sec. 12. The power of eminent domain of the district shall be limited to the county or counties in which the district is situated. In the event that the district, in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, rerouting or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telegraph or telephone properties and facilities, or pipeline, all such necessary relocation, raising, rerouting, changing of grade, or alteration of construction shall be accomplished at the sole expense of the district. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, rerouting, or change in grade, or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

Sec. 13. This district is hereby created notwithstanding any of the provisions of the Municipal Annexation Act (Article 970a, Revised Civil Statutes of Texas, 1925), as amended, and to the extent of the creation of the district only, said Article 970a shall have no application. In all other respects, the district hereby created is expressly made subject to all provisions of said Article 970a.

Sec. 14. It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published at least 30 days and not more than 90 days prior to the introduction of this Act in the Legislature of Texas, in a newspaper having a general circulation in the county or counties in which this district or any part thereof is situated; that a copy of such notice and a copy of this Act have been delivered to the Governor of Texas, who has submitted such notice and Act to the Texas Water Rights Commission, and said Texas Water Rights Commission has filed its recommendation as to such Act with the Governor, Lieutenant Governor and Speaker of the House of Representatives of Texas within 30 days from the date such notice and Act were received by the Texas Water Rights Commission; and that all the requirements and provisions of Article 16, Section 59(d), Constitution of the State of Texas, have been fulfilled and accomplished as therein provided.

Sec. 15. The board of directors of the district shall select any bank or trust company in the State of Texas to act as depository of the proceeds of the bonds or revenues derived from the operation of the facilities of the district, and said depository shall furnish such indemnity bonds or pledge such securities or meet such other requirements as determined by the board of directors of the district. The district may select one or more depositories.

Sec. 16. In no manner limiting the right, power, or authority of the district, as heretofore granted, the district is specifically granted the right, power, and authority to purchase and construct, or to purchase or construct, or otherwise to acquire waterworks systems, sanitary sewer systems, storm sewer systems and drainage facilities, or parts of such systems or facilities, and to make any and all necessary purchases, constructions, improvements, extension, additions, and repairs thereto, and to purchase or acquire all necessary land, rights-of-way, easements, sites, equipment, buildings, plants, structures, and facilities therefor and to operate and maintain same, and to sell water and other services. The district may exercise any of the rights, powers, and authorities granted in this Act within or without the boundaries of the district and is specifically authorized to exercise any of said rights, powers, and authorities in order to provide water and sewerage services to areas within or without the boundaries of the district. The district may vote and issue any kind of bonds or refunding bonds for any or all of such purposes herein provided, for contiguous or noncontiguous areas, and provide and make payment therefor and for necessary expenses in connection therewith.

Sec. 17. Bonds of the district, other than refunding bonds, may be sold at a price and upon the terms determined by the board of directors of the district, except that such bonds shall not be sold for a less amount than provided by law. Such bonds or refunding bonds may be sold in denominations of \$1,000 each or multiples thereof. Refunding bonds shall be sold at a price and under the terms of the general law applicable to water control and improvement districts. The district may exchange bonds or refunding bonds for property acquired by purchase, or in payment of the contract price of work done or materials furnished or services furnished for the use and benefit of the district; provided that no notice given pursuant to Article 7880—117, Revised Civil Statutes of Texas, 1925, as amended, shall be predicated upon or require the exchange of bonds or refunding bonds, and said article shall otherwise be applicable to this district in all respects.

Sec. 18. The provisions of Article 7880—77b, Revised Civil Statutes of Texas, 1925, as amended, or any other general law, pertaining to the calling of a hearing for the determination of the dissolution of a district where a bond election has failed shall be inapplicable to this district, and this district shall continue to exist and shall have full power to function

For Annotations and Historical Notes, see V.A.T.S.

and operate regardless of the outcome of any bond election. Upon the failure of any bond election, a subsequent bond election may be called after the expiration of six months from the date of the bond election which failed.

Sec. 19. Notice of all elections may be given under the hand of either the president or the secretary of the district.

Sec. 20. The returns of all elections may be canvassed by the board of directors of the district at any time within seven days after the holding of an election, or as soon thereafter as reasonably practicable. The election returns of the annual election of directors may be canvassed by the board of directors as it was composed at the time of such election, or by the directors elected at such election, or by a combination of both. At the board of directors meeting at which the returns are canvassed, composed as aforesaid, any director newly elected at such election may qualify by filing his official bond and taking the oath of office, either before or after the returns are canvassed, and upon the filing of such bond the board, composed as aforesaid, may approve same.

Sec. 21. The accomplishment of the purposes stated in this Act being for the benefit of the people of this state and for the improvement of their properties and industries, the district in carrying out the purposes of this Act will be performing an essential public function under the Constitution, and the district shall not be required to pay any tax or assessment on the project or any part thereof or on any purchases made by the district, and the bonds issued hereunder and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this state.

Sec. 22. All bonds and refunding bonds of the district shall be and are hereby declared to be legal, eligible, and authorized investments for banks, savings and loan associations, insurance companies, fiduciaries, trustees, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds and refunding bonds shall be eligible to secure the deposit of any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their face value, when accompanied by all unmatured coupons appurtenant thereto.

Sec. 23. If any word, phrase, clause, paragraph, sentence, part, portion, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act shall nevertheless be valid, and the Legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion, or provision.

Acts 1967, 60th Leg., p. 1395, ch. 603, emerg. eff. June 16, 1967.

Title of Act:

An Act creating and establishing a conservation and reclamation district under Article 16, Section 59, Constitution of Texas, known as "Deer Municipal Utility District"; declaring district a governmental agency, body politic and corporate; defining the boundaries; finding the field notes and boundaries form a closure, and related matters; finding a benefit to all land and other property within the district; finding that district is created to serve a public use and benefit; conferring on district the rights, powers, privileges, authority and duties of the general laws of Texas applicable to water control and improvement districts created under Article 16,

Section 59, Constitution of Texas, where not in conflict with this Act and adopting same by reference; providing for continuing supervision by the State through the Texas Water Rights Commission; providing for no election for confirmation; providing for no hearing for exclusions, except on written request or the board of directors' own motion; providing for no hearing on plan of taxation and adopting ad valorem plan of taxation for district; providing for governing body of district; providing for qualifications and bonds of directors; naming first board of directors; providing for directors to fill vacancies; providing for terms and election of directors and notice of directors' elections, and

related matters; providing for organization of board of directors; providing for the letting of construction contracts and the drawing of warrants; providing for the execution of contracts by the president; providing for a vice president, a secretary, and a secretary pro tem and outlining their duties; providing for employment of engineers, attorneys, auditors, and other employees; providing for a seal for the district; providing for approval of district's plans and specifications by the Texas Water Rights Commission and inspection during construction by said Commission; providing for bonds and refunding bonds to be approved by the Attorney General of Texas and registered by the Comptroller of Public Accounts of Texas, and providing for negotiability, legality, validity, obligation, and incontestability of the bonds and refunding bonds; providing the power of eminent domain shall be limited to the county or counties within which district is situated; providing district shall bear expenses of relocating, raising, or rerouting any highway, railroad, or utility lines or pipelines made necessary by its exercise of the power of eminent domain; defining "sole expense"; providing that the Municipal Annexation Act shall have no application to the creation of this district; determining and finding the requirements

of Article 16, Section 59(d), Constitution of Texas, as to notice of intention to introduce this Act have been fulfilled and accomplished; providing for the selection of a depository or depositories for the district and related matters; providing additional powers of district within and without the boundaries of district; providing for the voting and issuing of bonds to serve areas within or without the boundaries of district; providing for the sale of bonds of the district in denominations of \$1,000 or multiples thereof, for the exchange of bonds for property and services, and for the minimum price of bonds at such sale or exchange; providing that Article 7880—77b (Vernon's Texas Civil Statutes), shall not be applicable to this district, and related matters; providing that notice of all elections shall be under the hand of the president or secretary; providing for canvassing of election returns; providing the bonds of this district and their transfer and income therefrom and profits thereon and purchases made by district shall be tax-free in this State; providing the bonds and refunding bonds of this district shall be eligible investments; enacting other provisions related to the aforementioned subjects; providing for a severability clause; and declaring an emergency. Acts 1967, 60th Leg., p. 1395, ch. 603.

Art. 8280—358. Tidwell Timbers Municipal Utility District

Section 1. Under and pursuant to the provisions of Article 16, Section 59 of the Constitution of Texas, a conservation and reclamation district is hereby created and established in Harris County, Texas, to be known as "Tidwell Timbers Municipal Utility District," hereinafter called the "district," which shall be a governmental agency and a body politic and corporate. The creation and establishment of the district is hereby declared to be essential to the accomplishment of the purposes of Article 16, Section 59, Constitution of Texas.

Sec. 2. The district shall comprise all of the territory contained within the following described area:

Lying in Harris County, Texas, and being 319.620 acres, more or less, out of the A. J. Holder Survey, A-322, which 319.620 acres, more or less, are more particularly described by metes and bounds as follows:

Beginning at a $\frac{3}{4}$ -inch iron pipe at the southwest corner of the easement for Greens Bayou as described in Volume 2024, Page 375, of the Harris County Deed Records.

THENCE, S 89° 14' 22" W 3811.3 feet along the southerly line of the A. J. Holder Survey, and following a fence line, to a $\frac{3}{4}$ -inch iron pipe for a corner in said southerly line of the Holder Survey.

THENCE, N 0° 09' 13" W 3790.80 feet to a $\frac{3}{4}$ -inch iron pipe for a corner.

THENCE, N 89° 00' 00" E 3073.13 feet along a fence line to a $\frac{3}{4}$ -inch iron pipe for a corner in the westerly line of said easement for Greens Bayou as described in Volume 2024, Page 375, of the Harris County Deed Records.

THENCE, S 57° 20' 21" E 254.98 feet to a $\frac{3}{4}$ -inch iron pipe for a corner.

THENCE, S 69° 45' 38" E 250 feet to a $\frac{3}{4}$ -inch iron pipe for a corner.

THENCE, S 57° 45' 38" E 300 feet to a $\frac{3}{4}$ -inch iron pipe for a corner.

For Annotations and Historical Notes, see V.A.T.S.

THENCE, S 0° 45' 38" E 130 feet to a ¾-inch iron pipe for a corner.

THENCE, S 89° 14' 22" W 165 feet to a ¾-inch iron pipe for a corner.

THENCE, S 0° 45' 38" E 2060 feet to a ¾-inch iron pipe for a corner.

THENCE, N 89° 14' 22" E 165 feet to a ¾-inch iron pipe for a corner.

THENCE, S 0° 45' 38" E 1220 feet to a ¾-inch iron pipe to the place of beginning of the tract herein described.

Containing 319.620 acres, more or less.

Sec. 3. It is determined and found that the boundaries and field notes of the district form a closure; and if any mistake is made in copying the field notes in the legislative process, or otherwise a mistake is made in the field notes, it shall in no way or manner affect the organization, existence, and validity of the district, or the right of the district to issue any type of bonds or refunding bonds for the purposes for which the district is created, or to pay the principal and interest thereon, or the right to assess, levy, and collect taxes, or the legality or operation of the district or its governing body.

Sec. 4. It is determined and found that all of the land and other property included within the area and boundaries of the district will be benefited by the works and project which are to be accomplished by the district pursuant to the powers conferred by the provisions of Article 16, Section 59, Constitution of Texas, and that said district was and is created to serve a public use and benefit.

Sec. 5. The district shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, authority, and duties conferred and imposed by the general laws of this State now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Article 16, Section 59, Constitution of Texas; but to the extent that the provisions of any such general laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such general laws are hereby adopted and incorporated by reference with the same effect as if incorporated in full in this Act. The powers and duties herein granted to the district shall be subject to the continuing right of supervision of the State, to be exercised by and through the Texas Water Rights Commission.

Sec. 6. It shall not be necessary for the board of directors to call or hold a confirmation election for the confirmation of the district.

Sec. 7. It shall not be necessary for the board of directors to call or hold a hearing on the exclusions of land or other property from the district; provided, however, that the board shall hold such hearing upon the written request of any landowner or other property owner within the district filed with the secretary of the board prior to the calling of the first bond election for the district. The board on its own motion may call and hold an exclusions hearing or hearings in the manner provided by the general law.

Sec. 8. It shall not be necessary for the board of directors to call or hold a hearing on the adoption of a plan of taxation, but the ad valorem plan of taxation shall be used by the district.

Sec. 9. All powers of the district shall be exercised by a board of five directors. Each director shall serve for his term of office as herein provided, and thereafter until his successor shall be elected or appointed and qualified. No person shall be appointed a director unless he is 21 years of age or over and a resident of the State of Texas. Such director shall not be required to reside within the boundaries of the district. Each director shall qualify by subscribing to the oath of office and giving bond in the amount of \$5,000 for the faithful performance of his duties. The

costs of such bond shall be paid by the district. Such bond shall be filed in the office of the county clerk and approved by the county judge or the commissioner's court of the county within which district is situated. Such oath shall be filed with the secretary of the district's board of directors after his selection. The bonds of directors elected or appointed after the directors named below shall be approved by the district's board of directors, filed for record in the office of the county clerk of the county in which the district is located and shall be recorded in a record kept for that purpose in the office of the district and be filed for safekeeping in the depository of the district. Immediately after this Act becomes effective, the following named persons, all of whom are 21 years of age or over and residents of the State of Texas, shall be the directors of the district and shall constitute the board of directors of the district:

R. F. Black
Bill Cornelson
James M. Easterling, Jr.
Theodore L. Paul
James D. Heil

Said persons shall qualify as directors within 30 days, or as soon thereafter as practicable, from the effective date of this Act. If any of the aforementioned persons shall fail or refuse to qualify or to serve, or shall die or become incapacitated, or otherwise not be qualified to assume the duties of a director of the district under this Act, a majority of the remaining directors shall appoint a successor or successors. The directors named above or their duly appointed successor or successors shall serve until the second Tuesday in January 1969. Succeeding directors shall be elected or appointed and shall serve for the term and in the manner provided for by Article 7880—37, Vernon's Texas Civil Statutes. The annual elections shall be ordered by the board of directors. Any vacancy occurring in the board of directors shall be filled for the unexpired term by a majority of the remaining directors. The board of directors shall elect from its number a president, a vice president, and a secretary of the board of directors and of the district, and such other officers as in the judgment of the board are necessary. Three directors shall constitute a quorum at any meeting, and a concurrence of three shall be sufficient in all matters pertaining to the business of the district including the letting of construction contracts and the drawing of warrants in payment for construction work, the purchase of existing facilities, and matters relating to construction work. Warrants to pay current expenses, salaries, and accounts may be drawn and signed by an officer or employee, designated by standing order entered on the minutes of the board of directors, when such accounts have been contracted and ordered paid by the directors. The president may execute all contracts, construction or otherwise, entered into by the board of directors on behalf of the district. The vice president shall perform all duties and exercise all power conferred by this Act or the general law upon the president when the president is absent or fails or declines to act. Any order adopted or other action taken at a meeting of the board of directors at which the president is absent may be signed by the vice president, or the board may authorize the president to sign such order or other action. The secretary shall keep and sign the minutes of the meetings of the board of directors; and in his absence at any board meeting, a secretary pro tem shall be named for that meeting who may exercise all the duties and powers of the secretary for such meeting, and shall sign the minutes thereof, and may attest all orders passed or other action taken at such meeting, or the board may authorize the secretary to attest such orders or other action. The secretary shall be the custodian of all minutes and records of the district. The board shall appoint all necessary engineers, attorneys, auditors, and other employees. The board shall adopt a seal for the district.

For Annotations and Historical Notes, see V.A.T.S.

Sec. 10. Before issuing any construction bonds, the district shall submit plans and specifications therefor to the Texas Water Rights Commission for approval in the manner required by Article 7880—139, Revised Civil Statutes of Texas, 1925; and the district's project and improvements during the course of construction shall be subject to inspection in the manner provided by said Article 7880—139.

Sec. 11. When any kind of bonds or refunding bonds have been approved by the Attorney General of Texas, registered by the Comptroller of Public Accounts of the State of Texas, and issued by the district, such bonds or refunding bonds shall be negotiable, legal, valid, and binding obligations of the district and shall be incontestable for any cause.

Sec. 12. The power of eminent domain of the district shall be limited to the county or counties in which the district is situated. In the event that the district, in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, rerouting or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telegraph or telephone properties and facilities, or pipeline, all such necessary relocation, raising, rerouting, changing of grade, or alteration of construction shall be accomplished at the sole expense of the district. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, rerouting, or change in grade, or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

Sec. 13. This district is hereby created notwithstanding any of the provisions of the Municipal Annexation Act (Article 970a, Revised Civil Statutes of Texas, 1925), as amended, and to the extent of the creation of the district only, said Article 970a shall have no application. In all other respects, the district hereby created is expressly made subject to all provisions of said Article 970a.

Sec. 14. It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published at least 30 days and not more than 90 days prior to the introduction of this Act in the Legislature of Texas, in a newspaper having a general circulation in the county or counties in which this district or any part thereof is situated; that a copy of such notice and a copy of this Act have been delivered to the Governor of Texas, who has submitted such notice and Act to the Texas Water Rights Commission, and said Texas Water Rights Commission has filed its recommendation as to such Act with the Governor, Lieutenant Governor and Speaker of the House of Representatives of Texas within 30 days from the date such notice and Act were received by the Texas Water Rights Commission; and that all the requirements and provisions of Article 16, Section 59(d), Constitution of the State of Texas, have been fulfilled and accomplished as therein provided.

Sec. 15. The board of directors of the district shall select any bank or trust company in the State of Texas to act as depository of the proceeds of the bonds or revenues derived from the operation of the facilities of the district, and said depository shall furnish such indemnity bonds or pledge such securities or meet such other requirements as determined by the board of directors of the district. The district may select one or more depositories.

Sec. 16. In no manner limiting the right, power, or authority of the district, as heretofore granted, the district is specifically granted the right, power, and authority to purchase and construct, or to purchase or construct, or otherwise to acquire waterworks systems, sanitary sewer systems, storm sewer systems and drainage facilities, or parts of such systems or facilities, and to make any and all necessary purchases, construc-

tions, improvements, extension, additions, and repairs thereto, and to purchase or acquire all necessary land, rights-of-way, easements, sites, equipment, buildings, plants, structures, and facilities therefor and to operate and maintain same, and to sell water and other services. The district may exercise any of the rights, powers, and authorities granted in this Act within or without the boundaries of the district and is specifically authorized to exercise any of said rights, powers, and authorities in order to provide water and sewerage services to areas within or without the boundaries of the district. The district may vote and issue any kind of bonds or refunding bonds for any or all of such purposes herein provided, for contiguous or noncontiguous areas, and provide and make payment therefor and for necessary expenses in connection therewith.

Sec. 17. Bonds of the district, other than refunding bonds, may be sold at a price and upon the terms determined by the board of directors of the district, except that such bonds shall not be sold for a less amount than provided by law. Such bonds or refunding bonds may be sold in denominations of \$1,000 each or multiples thereof. Refunding bonds shall be sold at a price and under the terms of the general law applicable to water control and improvement districts. The district may exchange bonds or refunding bonds for property acquired by purchase, or in payment of the contract price of work done or materials furnished or services furnished for the use and benefit of the district; provided that no notice given pursuant to Article 7880—117, Revised Civil Statutes of Texas, 1925, as amended, shall be predicated upon or require the exchange of bonds or refunding bonds, and said article shall otherwise be applicable to this district in all respects.

Sec. 18. The provisions of Article 7880—77b, Revised Civil Statutes of Texas, 1925, as amended, or any other general law, pertaining to the calling of a hearing for the determination of the dissolution of a district where a bond election has failed shall be inapplicable to this district, and this district shall continue to exist and shall have full power to function and operate regardless of the outcome of any bond election. Upon the failure of any bond election, a subsequent bond election may be called after the expiration of six months from the date of the bond election which failed.

Sec. 19. Notice of all elections may be given under the hand of either the president or the secretary of the district.

Sec. 20. The returns of all elections may be canvassed by the board of directors of the district at any time within seven days after the holding of an election, or as soon thereafter as reasonably practicable. The election returns of the annual election of directors may be canvassed by the board of directors as it was composed at the time of such election, or by the directors elected at such election, or by a combination of both. At the board of directors meeting at which the returns are canvassed, composed as aforesaid, any director newly elected at such election may qualify by filing his official bond and taking the oath of office, either before or after the returns are canvassed, and upon the filing of such bond the board, composed as aforesaid, may approve same.

Sec. 21. The accomplishment of the purposes stated in this Act being for the benefit of the people of this state and for the improvement of their properties and industries, the district in carrying out the purposes of this Act will be performing an essential public function under the Constitution, and the district shall not be required to pay any tax or assessment on the project or any part thereof or on any purchases made by the district, and the bonds issued hereunder and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this state.

Sec. 22. All bonds and refunding bonds of the district shall be and are hereby declared to be legal, eligible, and authorized investments for

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banks, savings and loan associations, insurance companies, fiduciaries, trustees, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds and refunding bonds shall be eligible to secure the deposit of any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their face value, when accompanied by all unmatured coupons appurtenant thereto.

Sec. 23. If any word, phrase, clause, paragraph, sentence, part, portion, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act shall nevertheless be valid, and the Legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion, or provision.

Acts 1967, 60th Leg., p. 1401, ch. 604, emerg. eff. June 16, 1967.

Title of Act:

An Act creating and establishing a conservation and reclamation district under Article 16, Section 59, Constitution of Texas, known as "Tidwell Timbers Municipal Utility District"; declaring district a governmental agency, body politic and corporate; defining the boundaries; finding the field notes and boundaries form a closure, and related matters; finding a benefit to all land and other property within the district; finding that district is created to serve a public use and benefit; conferring on district the rights, powers, privileges, authority and duties of the general laws of Texas applicable to water control and improvement districts created under Article 16, Section 59, Constitution of Texas, where not in conflict with this Act and adopting same by reference; providing for continuing supervision by the State through the Texas Water Rights Commission; providing for no election for confirmation; providing for no hearing for exclusions, except on written request or the board of directors' own motion; providing for no hearing on plan of taxation and adopting ad valorem plan of taxation for district; providing for governing body of district; providing for qualifications and bonds of directors; naming first board of directors; providing for directors to fill vacancies; providing for terms and election of directors and notice of directors' elections, and related matters; providing for organization of board of directors; providing for the letting of construction contracts and the drawing of warrants; providing for the execution of contracts by the president; providing for a vice president, a secretary, and a secretary pro tem and outlining their duties; providing for employment of engineers, attorneys, auditors, and other employees; providing for a seal for the district; providing for approval of district's plans and specifications by the Texas Water Rights Commission and inspection during construction by said Commission; providing for bonds and refunding bonds to be

approved by the Attorney General of Texas and registered by the Comptroller of Public Accounts of Texas, and providing for negotiability, legality, validity, obligation, and incontestability of the bonds and refunding bonds; providing the power of eminent domain shall be limited to the county or counties within which district is situated; providing district shall bear expenses of relocating, raising, or rerouting any highway, railroad, or utility lines or pipelines made necessary by its exercise of the power of eminent domain; defining "sole expense"; providing that the Municipal Annexation Act shall have no application to the creation of this district; determining and finding the requirements of Article 16, Section 59(d), Constitution of Texas, as to notice of intention to introduce this Act have been fulfilled and accomplished; providing for the selection of a depository or depositories for the district and related matters; providing additional powers of district within and without the boundaries of district; providing for the voting and issuing of bonds to serve areas within or without the boundaries of district; providing for the sale of bonds of the district in denominations of \$1,000 or multiples thereof, for the exchange of bonds for property and services, and for the minimum price of bonds at such sale or exchange; providing that Article 7880—77b (Vernon's Texas Civil Statutes), shall not be applicable to this district, and related matters; providing that notice of all elections shall be under the hand of the president or secretary; providing for canvassing of election returns; providing the bonds of this district and their transfer and income therefrom and profits thereon and purchases made by district shall be tax-free in this State; providing the bonds and refunding bonds of this district shall be eligible investments; enacting other provisions related to the aforementioned subjects; providing for a severability clause; and declaring an emergency. Acts 1967, 60th Leg., p. 1401, ch. 604.

Art. 8280—359. North Forest Municipal Utility District

Section 1. Under and pursuant to the provisions of Article 16, Section 59 of the Constitution of Texas, a conservation and reclamation district is hereby created and established in Harris County, Texas, to be known as "North Forest Municipal Utility District," hereinafter called the "district," which shall be a governmental agency and a body politic and corporate. The creation and establishment of the district is hereby declared to be essential to the accomplishment of the purposes of Article 16, Section 59, Constitution of Texas.

Sec. 2. The district shall comprise all of the territory contained within the following described area:

Lying entirely within Harris County, Texas, and being 162.343 acres, more or less, out of the Manuel Tarin Survey, A-778, and the Christopher Walter Survey, A-868, and being more particularly described by metes and bounds as follows:

Beginning at a ½-inch iron rod, on the west right-of-way line of U. S. Highway 75 (250 feet wide), said point of beginning being the southeast corner of the tract herein described; said corner also being N 12° 49' 27" E 889.25 feet from a 1-inch iron rod in the west line of the Manuel Tarin Survey, A-778; said point also being the southeast corner of the Christopher Walter Survey, A-868 and the northeast corner of the Calvin Richey Survey, A-1021, and being S 70° 00' 00" W 9,000 feet, more or less, from the town of Westfield.

THENCE, along a fence S 58° 53' 54" W, 787.76 feet to a point for corner, said point being an angle point and a fence post in said fence.

THENCE, along a fence N 56° 09' 03" W, 167.06 feet to a ½-inch iron pipe for corner.

THENCE, along a fence S 55° 22' 55" W, 479.60 feet to a ½-inch iron pipe for corner.

THENCE, along a fence S 68° 52' 02" W, 1152.45 feet to a ½-inch iron pipe for corner.

THENCE, along a fence S 58° 32' 39" W, 1877.07 feet to a ¾-inch iron rod, on the east right-of-way line of Medberry Road (40 feet wide), said iron rod being the southwest corner of the tract herein described.

THENCE, along a fence, on the said east right-of-way line of Medberry Road, N 31° 17' 25" W, 1600.43 feet to a ¾-inch iron pipe, for the northwest corner of the herein described tract.

THENCE, N 58° 40' 40" E, along a fence line 3724.49 feet to a point for corner on the westerly right-of-way line of Hafer Road.

THENCE, along the east line of the Christopher Walter Survey, and on the said westerly right-of-way line of Hafer Road (40 feet wide), S 81° 26' 47" E, 699.82 feet to a ¾-inch iron pipe for corner.

THENCE, N 58° 34' 35" E, 40.00 feet to a fence post for a point for corner.

THENCE, N 84° 29' 49" E, 1025.09 feet to a ¾-inch iron rod for corner on the aforesaid westerly right-of-way line of U. S. Highway 75, from which a highway right-of-way monument bears N 7° 41' 33" W at 1376.99 feet.

THENCE, along the said westerly right-of-way line of U. S. Highway 75 (250 feet wide), S 07° 41' 33" E 852.25 feet to the place of beginning, from which a highway right-of-way monument bears S 07° 41' 33" E, at 210.00 feet.

Containing 162.343 acres of land, more or less.

Sec. 3. It is determined and found that the boundaries and field notes of the district form a closure; and if any mistake is made in copying the

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field notes in the legislative process, or otherwise a mistake is made in the field notes, it shall in no way or manner affect the organization, existence, and validity of the district, or the right of the district to issue any type of bonds or refunding bonds for the purposes for which the district is created, or to pay the principal and interest thereon, or the right to assess, levy, and collect taxes, or the legality or operation of the district or its governing body.

Sec. 4. It is determined and found that all of the land and other property included within the area and boundaries of the district will be benefited by the works and project which are to be accomplished by the district pursuant to the powers conferred by the provisions of Article 16, Section 59, Constitution of Texas, and that said district was and is created to serve a public use and benefit.

Sec. 5. The district shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, authority, and duties conferred and imposed by the general laws of this State now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Article 16, Section 59, Constitution of Texas; but to the extent that the provisions of any such general laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such general laws are hereby adopted and incorporated by reference with the same effect as if incorporated in full in this Act. The powers and duties herein granted to the district shall be subject to the continuing right of supervision of the State, to be exercised by and through the Texas Water Rights Commission.

Sec. 6. It shall not be necessary for the board of directors to call or hold a confirmation election for the confirmation of the district.

Sec. 7. It shall not be necessary for the board of directors to call or hold a hearing on the exclusions of land or other property from the district; provided, however, that the board shall hold such hearing upon the written request of any landowner or other property owner within the district filed with the secretary of the board prior to the calling of the first bond election for the district. The board on its own motion may call and hold an exclusions hearing or hearings in the manner provided by the general law.

Sec. 8. It shall not be necessary for the board of directors to call or hold a hearing on the adoption of a plan of taxation, but the ad valorem plan of taxation shall be used by the district.

Sec. 9. All powers of the district shall be exercised by a board of five directors. Each director shall serve for his term of office as herein provided, and thereafter until his successor shall be elected or appointed and qualified. No person shall be appointed a director unless he is 21 years of age or over and a resident of the State of Texas. Such director shall not be required to reside within the boundaries of the district. Each director shall qualify by subscribing to the oath of office and giving bond in the amount of \$5,000 for the faithful performance of his duties. The cost of such bond shall be paid by the district. Such bond shall be filed in the office of the county clerk and approved by the county judge or the commissioner's court of the county within which district is situated. Such oath shall be filed with the secretary of the district's board of directors after his selection. The bonds of directors elected or appointed after the directors named below shall be approved by the district's board of directors, filed for record in the office of the county clerk of the county in which the district is located and shall be recorded in a record kept for that purpose in the office of the district and be filed for safekeeping in the depository of the district. Immediately after this Act becomes effective, the following named persons, all of whom are 21 years of age or over and residents

of the State of Texas, shall be the directors of the district and shall constitute the board of directors of the district:

William S. Cochran, III
Christopher C. King
Vernon G. Henry
Bobby Morrow
William S. Crawford, Jr.

Said persons shall qualify as directors within 30 days, or as soon thereafter as practicable, from the effective date of this Act. If any of the aforementioned persons shall fail or refuse to qualify or to serve, or shall die or become incapacitated, or otherwise not be qualified to assume the duties of a director of the district under this Act, a majority of the remaining directors shall appoint a successor or successors. The directors named above or their duly appointed successor or successors shall serve until the second Tuesday in January 1969. Succeeding directors shall be elected or appointed and shall serve for the term and in the manner provided for by Article 7880—37, Vernon's Texas Civil Statutes. The annual elections shall be ordered by the board of directors. Any vacancy occurring in the board of directors shall be filled for the unexpired term by a majority of the remaining directors. The board of directors shall elect from its number a president, a vice president, and a secretary of the board of directors and of the district, and such other officers as in the judgment of the board are necessary. Three directors shall constitute a quorum at any meeting, and a concurrence of three shall be sufficient in all matters pertaining to the business of the district including the letting of construction contracts and the drawing of warrants in payment for construction work, the purchase of existing facilities, and matters relating to construction work. Warrants to pay current expenses, salaries, and accounts may be drawn and signed by an officer or employee, designated by standing order entered on the minutes of the board of directors, when such accounts have been contracted and ordered paid by the directors. The president may execute all contracts, construction or otherwise, entered into by the board of directors on behalf of the district. The vice president shall perform all duties and exercise all power conferred by this Act or the general law upon the president when the president is absent or fails or declines to act. Any order adopted or other action taken at a meeting of the board of directors at which the president is absent may be signed by the vice president, or the board may authorize the president to sign such order or other action. The secretary shall keep and sign the minutes of the meetings of the board of directors; and in his absence at any board meeting, a secretary pro tem shall be named for that meeting who may exercise all the duties and powers of the secretary for such meeting, and shall sign the minutes thereof, and may attest all orders passed or other action taken at such meeting, or the board may authorize the secretary to attest such orders or other action. The secretary shall be the custodian of all minutes and records of the district. The board shall appoint all necessary engineers, attorneys, auditors, and other employees. The board shall adopt a seal for the district.

Sec. 10. Before issuing any construction bonds, the district shall submit plans and specifications therefor to the Texas Water Rights Commission for approval in the manner required by Article 7880—139, Revised Civil Statutes of Texas, 1925; and the district's project and improvements during the course of construction shall be subject to inspection in the manner provided by said Article 7880—139.

Sec. 11. When any kind of bonds or refunding bonds have been approved by the Attorney General of Texas, registered by the Comptroller of Public Accounts of the State of Texas, and issued by the district, such

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bonds or refunding bonds shall be negotiable, legal, valid, and binding obligations of the district and shall be incontestable for any cause.

Sec. 12. The power of eminent domain of the district shall be limited to the county or counties in which the district is situated. In the event that the district, in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, rerouting or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telegraph or telephone properties and facilities, or pipeline, all such necessary relocation, raising, rerouting, changing of grade, or alteration of construction shall be accomplished at the sole expense of the district. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, rerouting, or change in grade, or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

Sec. 13. This district is hereby created notwithstanding any of the provisions of the Municipal Annexation Act (Article 970a, Revised Civil Statutes of Texas, 1925), as amended, and to the extent of the creation of the district only, said Article 970a shall have no application. In all other respects, the district hereby created is expressly made subject to all provisions of said Article 970a.

Sec. 14. It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published at least 30 days and not more than 90 days prior to the introduction of this Act in the Legislature of Texas, in a newspaper having a general circulation in the county or counties in which this district or any part thereof is situated; that a copy of such notice and a copy of this Act have been delivered to the Governor of Texas, who has submitted such notice and Act to the Texas Water Rights Commission, and said Texas Water Rights Commission has filed its recommendation as to such Act with the Governor, Lieutenant Governor and Speaker of the House of Representatives of Texas within 30 days from the date such notice and Act were received by the Texas Water Rights Commission; and that all the requirements and provisions of Article 16, Section 59(d), Constitution of the State of Texas, have been fulfilled and accomplished as therein provided.

Sec. 15. The board of directors of the district shall select any bank or trust company in the State of Texas to act as depository of the proceeds of the bonds or revenues derived from the operation of the facilities of the district, and said depository shall furnish such indemnity bonds or pledge such securities or meet such other requirements as determined by the board of directors of the district. The district may select one or more depositories.

Sec. 16. In no manner limiting the right, power, or authority of the district, as heretofore granted, the district is specifically granted the right, power, and authority to purchase and construct, or to purchase or construct, or otherwise to acquire waterworks systems, sanitary sewer systems, storm sewer systems and drainage facilities, or parts of such systems or facilities, and to make any and all necessary purchases, constructions, improvements, extension, additions, and repairs thereto, and to purchase or acquire all necessary land, rights-of-way, easements, sites, equipment, buildings, plants, structures, and facilities therefor and to operate and maintain same, and to sell water and other services. The district may exercise any of the rights, powers, and authorities granted in this Act within or without the boundaries of the district and is specifically authorized to exercise any of said rights, powers, and authorities in order to provide water and sewerage services to areas within or without the boundaries of the district. The district may vote and issue any kind of bonds or

refunding bonds for any or all of such purposes herein provided, for contiguous or noncontiguous areas, and provide and make payment therefor and for necessary expenses in connection therewith.

Sec. 17. Bonds of the district, other than refunding bonds, may be sold at a price and upon the terms determined by the board of directors of the district, except that such bonds shall not be sold for a less amount than provided by law. Such bonds or refunding bonds may be sold in denominations of \$1,000 each or multiples thereof. Refunding bonds shall be sold at a price and under the terms of the general law applicable to water control and improvement districts. The district may exchange bonds or refunding bonds for property acquired by purchase, or in payment of the contract price of work done or materials furnished or services furnished for the use and benefit of the district; provided that no notice given pursuant to Article 7880—117, Revised Civil Statutes of Texas, 1925, as amended, shall be predicated upon or require the exchange of bonds or refunding bonds, and said article shall otherwise be applicable to this district in all respects.

Sec. 18. The provisions of Article 7880—77b, Revised Civil Statutes of Texas, 1925, as amended, or any other general law, pertaining to the calling of a hearing for the determination of the dissolution of a district where a bond election has failed shall be inapplicable to this district, and this district shall continue to exist and shall have full power to function and operate regardless of the outcome of any bond election. Upon the failure of any bond election, a subsequent bond election may be called after the expiration of six months from the date of the bond election which failed.

Sec. 19. Notice of all elections may be given under the hand of either the president or the secretary of the district.

Sec. 20. The returns of all elections may be canvassed by the board of directors of the district at any time within seven days after the holding of an election, or as soon thereafter as reasonably practicable. The election returns of the annual election of directors may be canvassed by the board of directors as it was composed at the time of such election, or by the directors elected at such election, or by a combination of both. At the board of directors meeting at which the returns are canvassed, composed as aforesaid, any director newly elected at such election may qualify by filing his official bond and taking the oath of office, either before or after the returns are canvassed, and upon the filing of such bond the board, composed as aforesaid, may approve same.

Sec. 21. The accomplishment of the purposes stated in this Act being for the benefit of the people of this state and for the improvement of their properties and industries, the district in carrying out the purposes of this Act will be performing an essential public function under the Constitution, and the district shall not be required to pay any tax or assessment on the project or any part thereof or on any purchases made by the district, and the bonds issued hereunder and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this state.

Sec. 22. All bonds and refunding bonds of the district shall be and are hereby declared to be legal, eligible, and authorized investments for banks, savings and loan associations, insurance companies, fiduciaries, trustees, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds and refunding bonds shall be eligible to secure the deposit of any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their face value, when accompanied by all unmatured coupons appurtenant thereto.

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Sec. 23. If any word, phrase, clause, paragraph, sentence, part, portion, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act shall nevertheless be valid, and the Legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion, or provision.

Acts 1967, 60th Leg., p. 1408, ch. 605, emerg. eff. June 16, 1967.

Title of Act:

An Act creating and establishing a conservation and reclamation district under Article 16, Section 59, Constitution of Texas, known as "North Forest Municipal Utility District"; declaring district a governmental agency, body politic and corporate; defining the boundaries; finding the field notes and boundaries form a closure, and related matters; finding a benefit to all land and other property within the district; finding that district is created to serve a public use and benefit; conferring on district the rights, powers, privileges, authority and duties of the general laws of Texas applicable to water control and improvement districts created under Article 16, Section 59, Constitution of Texas, where not in conflict with this Act and adopting same by reference; providing for continuing supervision by the State through the Texas Water Rights Commission; providing for no election for confirmation; providing for no hearing for exclusions, except on written request or the board of directors' own motion; providing for no hearing on plan of taxation and adopting ad valorem plan of taxation for district; providing for governing body of district; providing for qualifications and bonds of directors; naming first board of directors; providing for directors to fill vacancies; providing for terms and election of directors and notice of directors' elections, and related matters; providing for organization of board of directors; providing for the letting of construction contracts and the drawing of warrants; providing for the execution of contracts by the president; providing for a vice president, a secretary, and a secretary pro tem and outlining their duties; providing for employment of engineers, attorneys, auditors, and other employees; providing for a seal for the district; providing for approval of district's plans and specifications by the Texas Water Rights Commission and inspection during construction by said Commission; providing for bonds and refunding bonds to be approved by the Attorney General of Texas

and registered by the Comptroller of Public Accounts of Texas, and providing for negotiability, legality, validity, obligation, and incontestability of the bonds and refunding bonds; providing the power of eminent domain shall be limited to the county or counties within which district is situated; providing district shall bear expenses of relocating, raising, or rerouting any highway, railroad, or utility lines or pipelines made necessary by its exercise of the power of eminent domain; defining "sole expense"; providing that the Municipal Annexation Act shall have no application to the creation of this district; determining and finding the requirements of Article 16, Section 59(d), Constitution of Texas, as to notice of intention to introduce this Act have been fulfilled and accomplished; providing for the selection of a depository or depositories for the district and related matters; providing additional powers of district within and without the boundaries of district; providing for the voting and issuing of bonds to serve areas within or without the boundaries of district; providing for the sale of bonds of the district in denominations of \$1,000 or multiples thereof, for the exchange of bonds for property and services, and for the minimum price of bonds at such sale or exchange; providing that Article 7880-77b (Vernon's Texas Civil Statutes), shall not be applicable to this district, and related matters; providing that notice of all elections shall be under the hand of the president or secretary; providing for canvassing of election returns; providing the bonds of this district and their transfer and income therefrom and profits thereon and purchases made by district shall be tax-free in this State; providing the bonds and refunding bonds of this district shall be eligible investments; enacting other provisions related to the aforementioned subjects; providing for a severability clause; and declaring an emergency. Acts 1967, 60th Leg., p. 1408, ch. 605.

Art. 8280—360. Westchester Municipal Utility District

Section 1. Under and pursuant to the provisions of Article 16, Section 59 of the Constitution of Texas, a conservation and reclamation district is hereby created and established in Harris County, Texas, to be known as "Westchester Municipal Utility District," hereinafter called the "district," which shall be a governmental agency and a body politic and corporate. The creation and establishment of the district is hereby declared to be essential to the accomplishment of the purposes of Article 16, Section 59, Constitution of Texas.

Sec. 2. The district shall comprise all of the territory contained within the following described area:

Situated wholly within Harris County, Texas, and being 235.5635 acres, more or less, out of the William Hardin Survey, A-24, and being more particularly described by metes and bounds as follows:

Beginning at a one-inch iron pipe marking the intersection of the southerly line of the right of way (100 feet wide) for Memorial Drive with the westerly line of the right of way (60 feet wide) for Dairy-Ashford Road.

THENCE, S 02° 33' 00" E, 2632.00 feet along said westerly right-of-way line of Dairy-Ashford Road to a concrete monument marking the southeasterly corner of the tract described herein.

THENCE, S 87° 37' 00" W, 409.17 feet to a two-inch iron pipe.

THENCE, S 70° 43' 00" W, 1417.38 feet to a concrete monument.

THENCE, N 85° 37' 00" W, 161.16 feet to a concrete monument.

THENCE, N 61° 47' 00" W, 257.34 feet to a one-inch iron pipe marking the southwesterly corner of the tract described herein.

THENCE, N 01° 58' 00" W, 141.28 feet to a one-inch iron pipe marking the most southerly northwest corner of the tract described herein.

THENCE, N 88° 02' 00" E, 30.00 feet to a one-inch iron pipe.

THENCE, N 01° 58' 00" W, 1537.96 feet to a one-inch iron pipe marking another northwest corner of the tract described herein.

THENCE, N 88° 02' 00" E, 30.00 feet to a one-inch iron pipe.

THENCE, N 01° 58' 00" W, 179.94 feet to a one-inch iron pipe.

THENCE, N 01° 43' 36" W, 1680.76 feet to a one-inch iron pipe in the southwesterly line of the right of way (100 feet wide) for Memorial Drive.

THENCE, N 59° 40' 25" W, 35.40 feet along said southwesterly right-of-way line of Memorial Drive to a point.

THENCE, N 01° 43' 36" W, 118.00 feet to a one-inch iron pipe in the northeasterly line of the right of way (100 feet wide) for Memorial Drive.

THENCE, N 01° 41' 00" W, 803.56 feet to a 3/4-inch iron pipe.

THENCE, N 01° 26' 00" W, 547.01 feet to a fence post marking the most northerly northwest corner of the tract described herein; from whence the northeast corner of the J. Wheaton Survey, A-80 bears N 16° 08' 06" W, 5375.76 feet.

THENCE, N 88° 34' 00" E, 2050.17 feet to a 1 1/4-inch iron pipe marking the northeasterly corner of the tract described herein in the westerly line of the right of way (60 feet wide) for Dairy-Ashford Road.

THENCE, S 02° 33' 00" E along said westerly right-of-way line of Dairy-Ashford Road, at 1998.88 feet a one-inch iron pipe in the northerly line of the right of way (100 feet wide) for Memorial Drive, in all a total distance of 2098.88 feet to the point of beginning.

Containing 235.5635 acres, more or less.

Sec. 3. It is determined and found that the boundaries and field notes of the district form a closure; and if any mistake is made in copying the field notes in the legislative process, or otherwise a mistake is made in the field notes, it shall in no way or manner affect the organization, existence, and validity of the district, or the right of the district to issue any type of bonds or refunding bonds for the purposes for which the district is created, or to pay the principal and interest thereon, or the right to assess, levy, and collect taxes, or the legality or operation of the district or its governing body.

Sec. 4. It is determined and found that all of the land and other property included within the area and boundaries of the district will be benefited by the works and project which are to be accomplished by the dis-

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trict pursuant to the powers conferred by the provisions of Article 16, Section 59, Constitution of Texas, and that said district was and is created to serve a public use and benefit.

Sec. 5. The district shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, authority, and duties conferred and imposed by the general laws of this State now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Article 16, Section 59, Constitution of Texas; but to the extent that the provisions of any such general laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such general laws are hereby adopted and incorporated by reference with the same effect as if incorporated in full in this Act. The powers and duties herein granted to the district shall be subject to the continuing right of supervision of the State, to be exercised by and through the Texas Water Rights Commission.

Sec. 6. It shall not be necessary for the board of directors to call or hold a confirmation election for the confirmation of the district.

Sec. 7. It shall not be necessary for the board of directors to call or hold a hearing on the exclusions of land or other property from the district; provided, however, that the board shall hold such hearing upon the written request of any landowner or other property owner within the district filed with the secretary of the board prior to the calling of the first bond election for the district. The board on its own motion may call and hold an exclusions hearing or hearings in the manner provided by the general law.

Sec. 8. It shall not be necessary for the board of directors to call or hold a hearing on the adoption of a plan of taxation, but the ad valorem plan of taxation shall be used by the district.

Sec. 9. All powers of the district shall be exercised by a board of five directors. Each director shall serve for his term of office as herein provided, and thereafter until his successor shall be elected or appointed and qualified. No person shall be appointed a director unless he is 21 years of age or over and a resident of the State of Texas. Such director shall not be required to reside within the boundaries of the district. Each director shall qualify by subscribing to the oath of office and giving bond in the amount of \$5,000 for the faithful performance of his duties. The cost of such bond shall be paid by the district. Such bond shall be filed in the office of the county clerk and approved by the county judge or the commissioner's court of the county within which district is situated. Such oath shall be filed with the secretary of the district's board of directors after his selection. The bonds of directors elected or appointed after the directors named below shall be approved by the district's board of directors, filed for record in the office of the county clerk of the county in which the district is located and shall be recorded in a record kept for that purpose in the office of the district and be filed for safekeeping in the depository of the district. Immediately after this Act becomes effective, the following named persons, all of whom are 21 years of age or over and residents of the State of Texas, shall be the directors of the district and shall constitute the board of directors of the district:

C. S. Inscho, Jr.
William H. Craig
Don Brelsford
Harold R. DeMoss, Jr.
E. B. Ramsey

Said persons shall qualify as directors within 30 days, or as soon thereafter as practicable, from the effective date of this Act. If any of the aforementioned persons shall fail or refuse to qualify or to serve, or shall die or become incapacitated, or otherwise not be qualified to assume the

duties of a director of the district under this Act, a majority of the remaining directors shall appoint a successor or successors. The directors named above or their duly appointed successor or successors shall serve until the second Tuesday in January 1969. Succeeding directors shall be elected or appointed and shall serve for the term and in the manner provided for by Article 7880—37, Vernon's Texas Civil Statutes. The annual elections shall be ordered by the board of directors. Any vacancy occurring in the board of directors shall be filled for the unexpired term by a majority of the remaining directors. The board of directors shall elect from its number a president, a vice president, and a secretary of the board of directors and of the district, and such other officers as in the judgment of the board are necessary. Three directors shall constitute a quorum at any meeting, and a concurrence of three shall be sufficient in all matters pertaining to the business of the district including the letting of construction contracts and the drawing of warrants in payment for construction work, the purchase of existing facilities, and matters relating to construction work. Warrants to pay current expenses, salaries, and accounts may be drawn and signed by an officer or employee, designated by standing order entered on the minutes of the board of directors, when such accounts have been contracted and ordered paid by the directors. The president may execute all contracts, construction or otherwise, entered into by the board of directors on behalf of the district. The vice president shall perform all duties and exercise all power conferred by this Act or the general law upon the president when the president is absent or fails or declines to act. Any order adopted or other action taken at a meeting of the board of directors at which the president is absent may be signed by the vice president, or the board may authorize the president to sign such order or other action. The secretary shall keep and sign the minutes of the meetings of the board of directors; and in his absence at any board meeting, a secretary pro tem shall be named for that meeting who may exercise all the duties and powers of the secretary for such meeting, and shall sign the minutes thereof, and may attest all orders passed or other action taken at such meeting, or the board may authorize the secretary to attest such orders or other action. The secretary shall be the custodian of all minutes and records of the district. The board shall appoint all necessary engineers, attorneys, auditors, and other employees. The board shall adopt a seal for the district.

Sec. 10. Before issuing any construction bonds, the district shall submit plans and specifications therefor to the Texas Water Rights Commission for approval in the manner required by Article 7880—139, Revised Civil Statutes of Texas, 1925; and the district's project and improvements during the course of construction shall be subject to inspection in the manner provided by said Article 7880—139.

Sec. 11. When any kind of bonds or refunding bonds have been approved by the Attorney General of Texas, registered by the Comptroller of Public Accounts of the State of Texas, and issued by the district, such bonds or refunding bonds shall be negotiable, legal, valid, and binding obligations of the district and shall be incontestable for any cause.

Sec. 12. The power of eminent domain of the district shall be limited to the county or counties in which the district is situated. In the event that the district, in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, rerouting or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telegraph or telephone properties and facilities, or pipeline, all such necessary relocation, raising, rerouting, changing of grade, or alteration of construction shall be accomplished at the sole expense of the district. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, rerouting, or change in grade, or alteration of construc-

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tion in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

Sec. 13. This district is hereby created notwithstanding any of the provisions of the Municipal Annexation Act (Article 970a, Revised Civil Statutes of Texas, 1925), as amended, and to the extent of the creation of the district only, said Article 970a shall have no application. In all other respects, the district hereby created is expressly made subject to all provisions of said Article 970a.

Sec. 14. It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published at least 30 days and not more than 90 days prior to the introduction of this Act in the Legislature of Texas, in a newspaper having a general circulation in the county or counties in which this district or any part thereof is situated; that a copy of such notice and a copy of this Act have been delivered to the Governor of Texas, who has submitted such notice and Act to the Texas Water Rights Commission, and said Texas Water Rights Commission has filed its recommendation as to such Act with the Governor, Lieutenant Governor and Speaker of the House of Representatives of Texas within 30 days from the date such notice and Act were received by the Texas Water Rights Commission; and that all the requirements and provisions of Article 16, Section 59(d), Constitution of the State of Texas, have been fulfilled and accomplished as therein provided.

Sec. 15. The board of directors of the district shall select any bank or trust company in the State of Texas to act as depository of the proceeds of the bonds or revenues derived from the operation of the facilities of the district, and said depository shall furnish such indemnity bonds or pledge such securities or meet such other requirements as determined by the board of directors of the district. The district may select one or more depositories.

Sec. 16. In no manner limiting the right, power, or authority of the district, as heretofore granted, the district is specifically granted the right, power, and authority to purchase and construct, or to purchase or construct, or otherwise to acquire waterworks systems, sanitary sewer systems, storm sewer systems and drainage facilities, or parts of such systems or facilities, and to make any and all necessary purchases, constructions, improvements, extension, additions, and repairs thereto, and to purchase or acquire all necessary land, rights-of-way, easements, sites, equipment, buildings, plants, structures, and facilities therefor and to operate and maintain same, and to sell water and other services. The district may exercise any of the rights, powers, and authorities granted in this Act within or without the boundaries of the district and is specifically authorized to exercise any of said rights, powers, and authorities in order to provide water and sewerage services to areas within or without the boundaries of the district. The district may vote and issue any kind of bonds or refunding bonds for any or all of such purposes herein provided, for contiguous or noncontiguous areas, and provide and make payment therefor and for necessary expenses in connection therewith.

Sec. 17. Bonds of the district, other than refunding bonds, may be sold at a price and upon the terms determined by the board of directors of the district, except that such bonds shall not be sold for a less amount than provided by law. Such bonds or refunding bonds may be sold in denominations of \$1,000 each or multiples thereof. Refunding bonds shall be sold at a price and under the terms of the general law applicable to water control and improvement districts. The district may exchange bonds or refunding bonds for property acquired by purchase, or in payment of the contract price of work done or materials furnished or services furnished for the use and benefit of the district; provided that no notice

given pursuant to Article 7880—117, Revised Civil Statutes of Texas, 1925, as amended, shall be predicated upon or require the exchange of bonds or refunding bonds, and said article shall otherwise be applicable to this district in all respects.

Sec. 18. The provisions of Article 7880—77b, Revised Civil Statutes of Texas, 1925, as amended, or any other general law, pertaining to the calling of a hearing for the determination of the dissolution of a district where a bond election has failed shall be inapplicable to this district, and this district shall continue to exist and shall have full power to function and operate regardless of the outcome of any bond election. Upon the failure of any bond election, a subsequent bond election may be called after the expiration of six months from the date of the bond election which failed.

Sec. 19. Notice of all elections may be given under the hand of either the president or the secretary of the district.

Sec. 20. The returns of all elections may be canvassed by the board of directors of the district at any time within seven days after the holding of an election, or as soon thereafter as reasonably practicable. The election returns of the annual election of directors may be canvassed by the board of directors as it was composed at the time of such election, or by the directors elected at such election, or by a combination of both. At the board of directors meeting at which the returns are canvassed, composed as aforesaid, any director newly elected at such election may qualify by filing his official bond and taking the oath of office, either before or after the returns are canvassed, and upon the filing of such bond the board, composed as aforesaid, may approve same.

Sec. 21. The accomplishment of the purposes stated in this Act being for the benefit of the people of this state and for the improvement of their properties and industries, the district in carrying out the purposes of this Act will be performing an essential public function under the Constitution, and the district shall not be required to pay any tax or assessment on the project or any part thereof or on any purchases made by the district, and the bonds issued hereunder and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this state.

Sec. 22. All bonds and refunding bonds of the district shall be and are hereby declared to be legal, eligible, and authorized investments for banks, savings and loan associations, insurance companies, fiduciaries, trustees, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds and refunding bonds shall be eligible to secure the deposit of any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their face value, when accompanied by all un-matured coupons appurtenant thereto.

Sec. 23. If any word, phrase, clause, paragraph, sentence, part, portion, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act shall nevertheless be valid, and the Legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion, or provision.

Acts 1967, 60th Leg., p. 1414, ch. 606, emerg. eff. June 16, 1967.

Title of Act:

An Act creating and establishing a conservation and reclamation district under Article 16, Section 59, Constitution of Texas, known as "Westchester Municipal Utility District"; declaring district a gov-

ernmental agency, body politic and corporate; defining the boundaries; finding the field notes and boundaries form a closure, and related matters; finding a benefit to all land and other property within the district; finding that district

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is created to serve a public use and benefit; conferring on district the rights, powers, privileges, authority and duties of the general laws of Texas applicable to water control and improvement districts created under Article 16, Section 59, Constitution of Texas, where not in conflict with this Act and adopting same by reference; providing for continuing supervision by the State through the Texas Water Rights Commission; providing for no election for confirmation; providing for no hearing for exclusions, except on written request or the board of directors' own motion; providing for no hearing on plan of taxation and adopting ad valorem plan of taxation for district; providing for governing body of district; providing for qualifications and bonds of directors; naming first board of directors; providing for directors to fill vacancies; providing for terms and election of directors and notice of directors' elections, and related matters; providing for organization of board of directors; providing for the letting of construction contracts and the drawing of warrants; providing for the execution of contracts by the president; providing for a vice president, a secretary, and a secretary pro tem and outlining their duties; providing for employment of engineers, attorneys, auditors, and other employes; providing for a seal for the district; providing for approval of district's plans and specifications by the Texas Water Rights Commission and inspection during construction by said Commission; providing for bonds and refunding bonds to be approved by the Attorney General of Texas and registered by the Comptroller of Public Accounts of Texas, and providing for negotiability, legality, validity, obligation, and incontestability of the bonds and refunding

bonds; providing the power of eminent domain shall be limited to the county or counties within which district is situated; providing district shall bear expenses of relocating, raising, or rerouting any highway, railroad or utility lines or pipelines made necessary by its exercise of the power of eminent domain; defining "sole expense"; providing that the Municipal Annexation Act shall have no application to the creation of this district; determining and finding the requirements of Article 16, Section 59(d), Constitution of Texas, as to notice of intention to introduce this Act have been fulfilled and accomplished; providing for the selection of a depository or depositories for the district and related matters; providing additional powers of district within and without the boundaries of district; providing for the voting and issuing of bonds to serve areas within or without the boundaries of district; providing for the sale of bonds of the district in denominations of \$1,000 or multiples thereof, for the exchange of bonds for property and services, and for the minimum price of bonds at such sale or exchange; providing that Article 7880—77b (Vernon's Texas Civil Statutes), shall not be applicable to this district, and related matters; providing that notice of all elections shall be under the hand of the president or secretary; providing for canvassing of election returns; providing the bonds of this district and their transfer and income therefrom and profits thereon and purchases made by district shall be tax-free in this State; providing the bonds and refunding bonds of this district shall be eligible investments; enacting other provisions related to the aforementioned subjects; providing for a severability clause; and declaring an emergency. Acts 1967, 60th Leg., p. 1414, ch. 606.

Art. 8280—361. Parkglen Municipal Utility District

Section 1. Under and pursuant to the provisions of Article 16, Section 59 of the Constitution of Texas, a conservation and reclamation district is hereby created and established in Harris County, Texas, to be known as "Parkglen Municipal Utility District," hereinafter called the "district," which shall be a governmental agency and a body politic and corporate. The creation and establishment of the district is hereby declared to be essential to the accomplishment of the purposes of Article 16, Section 59, Constitution of Texas.

Sec. 2. The district shall comprise all of the territory contained within the following described area:

A tract of land situated wholly in Harris County, Texas, containing 924.3236 acres, more or less, said tract being parts of the Western Leo Roark Survey, A-652; the Eastern Leo Roark Survey, A-651; the W. E. Sanders Survey, A-1187; the James Alston Survey, A-100; and Section 9 of the H. T. & B. R. R. Co. Survey, A-407, all of Harris County, Texas. Said tract is described by metes and bounds as follows:

Beginning at the point of intersection of the Harris County-Fort Bend County boundary line and the westerly boundary line of said Eastern Leo Roark Survey.

THENCE, N 20° 04' 18" E 761.00 feet along the said westerly boundary line of said Eastern Leo Roark Survey to the southeast corner of the Western Leo Roark Survey.

THENCE, N 69° 52' 00" W 91.02 feet along the southerly boundary line of said Western Leo Roark Survey to a point for corner.

THENCE, N 19° 53' 55" E 6104.13 feet to a point for corner.

THENCE, S 0° 25' 39" W 418.21 feet to a point for corner.

THENCE, S 19° 53' 55" W 968.00 feet to the most southerly southwest corner of Section 9 of the H. T. & B. R. R. Co. Survey.

THENCE, S 70° 03' 32" E 1809.83 feet along the southwest boundary line of said Section 9 of the H. T. & B. R. R. Co. Survey, to a point for corner.

THENCE, N 0° 29' 00" W 1778.65 feet to a point for corner.

THENCE, S 85° 13' 45" E 827.11 feet to a point for corner.

THENCE, S 0° 25' 39" E 1203.51 feet to a point for corner.

THENCE, N 89° 33' 36" E 2740.84 feet to a point for corner.

THENCE, S 1° 49' 59" E 1495.96 feet to the point of beginning of a curve to the right.

THENCE, in a southwesterly direction along the arc of said curve, having a radius of 861.05 feet and a central angle of 21° 50' 36", a distance of 328.27 feet to the end of said curve.

THENCE, S 20° 00' 37" W 1843.89 feet to a point for corner.

THENCE, S 44° 07' 46" W 432.86 feet to a point for corner.

THENCE, N 70° 05' 31" W 1787.76 feet to a point for corner.

THENCE, S 19° 57' 29" W 1168.59 feet to a point for corner.

THENCE, S 70° 08' 39" E 2027.81 feet to a point for corner.

THENCE, S 20° 05' 30" W 1202.57 feet to a point for corner.

THENCE, N 89° 25' 33" E 210.00 feet to a point for corner.

THENCE, N 20° 05' 30" E 210.00 feet to a point for corner.

THENCE, N 89° 25' 33" E 1178.27 feet to a point for corner.

THENCE, N 18° 08' 02" E 2100.34 feet to a point for corner.

THENCE, S 86° 25' 35" E 184.84 feet to a point for corner.

THENCE, N 59° 29' 18" E 231.06 feet to a point for corner.

THENCE, S 0° 31' 47" E 3298.51 feet to a point for corner.

THENCE, S 89° 28' 59" W 2961.95 feet to a point for corner in the southerly boundary line of the said Eastern Leo Roark Survey.

THENCE, N 70° 07' 55" W 4277.79 feet along the southerly boundary line of said Eastern Leo Roark Survey to a point for corner in the Harris County-Fort Bend County boundary line.

THENCE, N 61° 15' 55" W 1371.27 feet along said Harris County-Fort Bend County boundary line to the point of beginning.

Containing 924.3236 acres, more or less.

Sec. 3. It is determined and found that the boundaries and field notes of the district form a closure; and if any mistake is made in copying the field notes in the legislative process, or otherwise a mistake is made in the field notes, it shall in no way or manner affect the organization, existence, and validity of the district, or the right of the district to issue any type of bonds or refunding bonds for the purposes for which the district is created, or to pay the principal and interest thereon, or the right to assess, levy, and collect taxes, or the legality or operation of the district or its governing body.

Sec. 4. It is determined and found that all of the land and other property included within the area and boundaries of the district will be benefited by the works and project which are to be accomplished by the district pursuant to the powers conferred by the provisions of Article 16, Section 59, Constitution of Texas, and that said district was and is created to serve a public use and benefit.

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Sec. 5. The district shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, authority, and duties conferred and imposed by the general laws of this state now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Article 16, Section 59, Constitution of Texas; but to the extent that the provisions of any such general laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such general laws are hereby adopted and incorporated by reference with the same effect as if incorporated in full in this Act. The powers and duties herein granted to the district shall be subject to the continuing right of supervision of the State, to be exercised by and through the Texas Water Rights Commission.

Sec. 6. It shall not be necessary for the board of directors to call or hold a confirmation election for the confirmation of the district.

Sec. 7. It shall not be necessary for the board of directors to call or hold a hearing on the exclusions of land or other property from the district; provided, however, that the board shall hold such hearing upon the written request of any landowner or other property owner within the district filed with the secretary of the board prior to the calling of the first bond election for the district. The board on its own motion may call and hold an exclusions hearing or hearings in the manner provided by the general law.

Sec. 8. It shall not be necessary for the board of directors to call or hold a hearing on the adoption of a plan of taxation, but the ad valorem plan of taxation shall be used by the district.

Sec. 9. All powers of the district shall be exercised by a board of five directors. Each director shall serve for his term of office as herein provided, and thereafter until his successor shall be elected or appointed and qualified. No person shall be appointed a director unless he is 21 years of age or over and a resident of the State of Texas. Such director shall not be required to reside within the boundaries of the district. Each director shall qualify by subscribing to the oath of office and giving bond in the amount of \$5,000 for the faithful performance of his duties. The cost of such bond shall be paid by the district. Such bond shall be filed in the office of the county clerk and approved by the county judge or the commissioner's court of the county within which district is situated. Such oath shall be filed with the secretary of the district's board of directors after his selection. The bonds of directors elected or appointed after the directors named below shall be approved by the district's board of directors, filed for record in the office of the county clerk of the county in which the district is located and shall be recorded in a record kept for that purpose in the office of the district and be filed for safekeeping in the depository of the district. Immediately after this Act becomes effective, the following named persons, all of whom are 21 years of age or over and residents of the State of Texas, shall be the directors of the district and shall constitute the board of directors of the district:

Steve Dunn
J. Franklin Norris
Glenn W. Loggins
David Williams
Dean Smith

Said persons shall qualify as directors within 30 days, or as soon thereafter as practicable, from the effective date of this Act. If any of the aforementioned persons shall fail or refuse to qualify or to serve, or shall die or become incapacitated, or otherwise not be qualified to as-

sume the duties of a director of the district under this Act, a majority of the remaining directors shall appoint a successor or successors. The directors named above or their duly appointed successor or successors shall serve until the second Tuesday in January 1969. Succeeding directors shall be elected or appointed and shall serve for the term and in the manner provided for by Article 7880—37, Vernon's Texas Civil Statutes. The annual elections shall be ordered by the board of directors. Any vacancy occurring in the board of directors shall be filled for the unexpired term by a majority of the remaining directors. The board of directors shall elect from its number a president, a vice president, and a secretary of the board of directors and of the district, and such other officers as in the judgment of the board are necessary. Three directors shall constitute a quorum at any meeting, and a concurrence of three shall be sufficient in all matters pertaining to the business of the district including the letting of construction contracts and the drawing of warrants in payment for construction work, the purchase of existing facilities, and matters relating to construction work. Warrants to pay current expenses, salaries, and accounts may be drawn and signed by an officer or employee, designated by standing order entered on the minutes of the board of directors, when such accounts have been contracted and ordered paid by the directors. The president may execute all contracts, construction or otherwise, entered into by the board of directors on behalf of the district. The vice president shall perform all duties and exercise all power conferred by this Act or the general law upon the president when the president is absent or fails or declines to act. Any order adopted or other action taken at a meeting of the board of directors at which the president is absent may be signed by the vice president, or the board may authorize the president to sign such order or other action. The secretary shall keep and sign the minutes of the meetings of the board of directors; and in his absence at any board meeting, a secretary pro tem shall be named for that meeting who may exercise all the duties and powers of the secretary for such meeting, and shall sign the minutes thereof, and may attest all orders passed or other action taken at such meeting, or the board may authorize the secretary to attest such orders or other action. The secretary shall be the custodian of all minutes and records of the district. The board shall appoint all necessary engineers, attorneys, auditors, and other employees. The board shall adopt a seal for the district.

Sec. 10. Before issuing any construction bonds, the district shall submit plans and specifications therefor to the Texas Water Rights Commission for approval in the manner required by Article 7880—139, Revised Civil Statutes of Texas, 1925; and the district's project and improvements during the course of construction shall be subject to inspection in the manner provided by said Article 7880—139.

Sec. 11. When any kind of bonds or refunding bonds have been approved by the Attorney General of Texas, registered by the Comptroller of Public Accounts of the State of Texas, and issued by the district, such bonds or refunding bonds shall be negotiable, legal, valid, and binding obligations of the district and shall be incontestable for any cause.

Sec. 12. The power of eminent domain of the district shall be limited to the county or counties in which the district is situated. In the event that the district, in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, re-routing or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telegraph or telephone properties and facilities, or pipeline, all such necessary relocation, raising, re-routing, changing of

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grade, or alteration of construction shall be accomplished at the sole expense of the district. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, re-routing, or change in grade, or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

Sec. 13. This district is hereby created notwithstanding any of the provisions of the Municipal Annexation Act (Article 970a, Revised Civil Statutes of Texas, 1925), as amended, and to the extent of the creation of the district only, said Article 970a shall have no application. In all other respects, the district hereby created is expressly made subject to all provisions of said Article 970a.

Sec. 14. It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published at least 30 days and not more than 90 days prior to the introduction of this Act in the Legislature of Texas, in a newspaper having a general circulation in the county or counties in which this district or any part thereof is situated; that a copy of such notice and a copy of this Act have been delivered to the Governor of Texas, who has submitted such notice and Act to the Texas Water Rights Commission, and said Texas Water Rights Commission has filed its recommendation as to such Act with the Governor, Lieutenant Governor and Speaker of the House of Representatives of Texas within 30 days from the date such notice and Act were received by the Texas Water Rights Commission; and that all the requirements and provisions of Article 16, Section 59(d), Constitution of the State of Texas, have been fulfilled and accomplished as therein provided.

Sec. 15. The board of directors of the district shall select any bank or trust company in the State of Texas to act as depository of the proceeds of the bonds or revenues derived from the operation of the facilities of the district, and said depository shall furnish such indemnity bonds or pledge such securities or meet such other requirements as determined by the board of directors of the district. The district may select one or more depositories.

Sec. 16. In no manner limiting the right, power, or authority of the district, as heretofore granted, the district is specifically granted the right, power, and authority to purchase and construct, or to purchase or construct, or otherwise to acquire waterworks systems, sanitary sewer systems, storm sewer systems and drainage facilities, or parts of such systems or facilities, and to make any and all necessary purchases, constructions, improvements, extension, additions, and repairs thereto, and to purchase or acquire all necessary land, rights-of-way, easements, sites, equipment, buildings, plants, structures, and facilities therefor and to operate and maintain same, and to sell water and other services. The district may exercise any of the rights, powers, and authorities granted in this Act within or without the boundaries of the district and is specifically authorized to exercise any of said rights, powers, and authorities in order to provide water and sewerage services to areas within or without the boundaries of the district. The district may vote and issue any kind of bonds or refunding bonds for any or all of such purposes herein provided, for contiguous or noncontiguous areas, and provide and make payment therefor and for necessary expenses in connection therewith.

Sec. 17. Bonds of the district, other than refunding bonds, may be sold at a price and upon the terms determined by the board of directors of the district, except that such bonds shall not be sold for a less amount than provided by law. Such bonds or refunding bonds may be sold in denominations of \$1,000 each or multiples thereof. Refunding bonds shall be sold at a price and under the terms of the gen-

eral law applicable to water control and improvement districts. The district may exchange bonds or refunding bonds for property acquired by purchase, or in payment of the contract price of work done or materials furnished or services furnished for the use and benefit of the district; provided that no notice given pursuant to Article 7880—117, Revised Civil Statutes of Texas, 1925, as amended, shall be predicated upon or require the exchange of bonds or refunding bonds, and said article shall otherwise be applicable to this district in all respects.

Sec. 18. The provisions of Article 7880—77b, Revised Civil Statutes of Texas, 1925, as amended, or any other general law, pertaining to the calling of a hearing for the determination of the dissolution of a district where a bond election has failed shall be inapplicable to this district, and this district shall continue to exist and shall have full power to function and operate regardless of the outcome of any bond election. Upon the failure of any bond election, a subsequent bond election may be called after the expiration of six months from the date of the bond election which failed.

Sec. 19. Notice of all elections may be given under the hand of either the president or the secretary of the district.

Sec. 20. The returns of all elections may be canvassed by the board of directors of the district at any time within seven days after the holding of an election, or as soon thereafter as reasonably practicable. The election returns of the annual election of directors may be canvassed by the board of directors as it was composed at the time of such election, or by the directors elected at such election, or by a combination of both. At the board of directors meeting at which the returns are canvassed, composed as aforesaid, any director newly elected at such election may qualify by filing his official bond and taking the oath of office, either before or after the returns are canvassed, and upon the filing of such bond the board, composed as aforesaid, may approve same.

Sec. 21. The accomplishment of the purposes stated in this Act being for the benefit of the people of this state and for the improvement of their properties and industries, the district in carrying out the purposes of this Act will be performing an essential public function under the Constitution, and the district shall not be required to pay any tax or assessment on the project or any part thereof or on any purchases made by the district, and the bonds issued hereunder and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this state.

Sec. 22. All bonds and refunding bonds of the district shall be and are hereby declared to be legal, eligible, and authorized investments for banks, savings and loan associations, insurance companies, fiduciaries, trustees, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds and refunding bonds shall be eligible to secure the deposit of any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their face value, when accompanied by all unmatured coupons appurtenant thereto.

Sec. 23. If any word, phrase, clause, paragraph, sentence, part, portion, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act shall nevertheless be valid, and the Legislature hereby declares that this Act would have been enacted without

For Annotations and Historical Notes, see V.A.T.S.

such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion, or provision.

Acts 1967, 60th Leg., p. 1421, ch. 607, emerg. eff. June 16, 1967.

Title of Act:

An Act creating and establishing a conservation and reclamation district under Article 16, Section 59, Constitution of Texas, known as "Parklen Municipal Utility District," declaring district a governmental agency, body politic and corporate; defining the boundaries; finding the field notes and boundaries form a closure, and related matters; finding a benefit to all land and other property within the district; finding that district is created to serve a public use and benefit; conferring on district the rights, powers, privileges, authority and duties of the general laws of Texas applicable to water control and improvement districts created under Article 16, Section 59, Constitution of Texas, where not in conflict with this Act and adopting same by reference; providing for continuing supervision by the State through the Texas Water Rights Commission; providing for no election for confirmation; providing for no hearing for exclusions, except on written request or the board of directors' own motion; providing for no hearing on plan of taxation and adopting ad valorem plan of taxation for district; providing for governing body of district; providing for qualifications and bonds of directors; naming first board of directors; providing for directors to fill vacancies; providing for terms and election of directors and notice of directors' elections, and related matters; providing for organization of board of directors; providing for the letting of construction contracts and the drawing of warrants; providing for the execution of contracts by the president; providing for a vice president, a secretary, and a secretary pro tem. and outlining their duties; providing for employment of engineers, attorneys, auditors, and other employees; providing for a seal for the district; providing for approval of district's plans and specifications by the Texas Water Rights Commission and inspection during construction by said Commission; providing for bonds and refunding bonds to be ap-

proved by the Attorney General of Texas and registered by the Comptroller of Public Accounts of Texas, and providing for negotiability, legality, validity, obligation, and incontestability of the bonds and refunding bonds; providing the power of eminent domain shall be limited to the county or counties within which district is situated; providing district shall bear expenses of relocating, raising, or rerouting any highway, railroad, or utility lines or pipelines made necessary by its exercise of the power of eminent domain; defining "sole expense"; providing that the Municipal Annexation Act shall have no application to the creation of this district; determining and finding the requirements of Article 16, Section 59(d), Constitution of Texas, as to notice of intention to introduce this Act have been fulfilled and accomplished; providing for the selection of a depository or depositories for the district and related matters; providing additional powers of district within and without the boundaries of district; providing for the voting and issuing of bonds to serve areas within or without the boundaries of district; providing for the sale of bonds of the district in denominations of \$1,000 or multiples thereof, for the exchange of bonds for property and services, and for the minimum price of bonds at such sale or exchange; providing that Article 7880—77b (Vernon's Texas Civil Statutes), shall not be applicable to this district, and related matters; providing that notice of all elections shall be under the hand of the president or secretary; providing for canvassing of election returns; providing the bonds of this district and their transfer and income therefrom and profits thereon and purchases made by district shall be tax-free in this State; providing the bonds and refunding bonds of this district shall be eligible investments; enacting other provisions related to the aforementioned subjects; providing for a severability clause; and declaring an emergency. Acts 1967, 60th Leg., p. 1421, ch. 607.

Art. 8280—362. Norchester Municipal Utility District

Section 1. Under and pursuant to the provisions of Article 16, Section 59 of the Constitution of Texas, a conservation and reclamation district is hereby created and established in Harris County, Texas, to be known as "Norchester Municipal Utility District," hereinafter called the "district," which shall be a governmental agency and a body politic and corporate. The creation and establishment of the district is hereby declared to be essential to the accomplishment of the purposes of Article 16, Section 59, Constitution of Texas.

Sec. 2. The district shall comprise all of the territory contained within the following described area:

Situated wholly within Harris County, Texas, and being 772.75 acres of land, more or less, in the John Brock Survey, A-122, and the Levi

Gosling Survey, A-280, and being described by metes and bounds as follows:

Beginning at the most northerly southwest corner of said John Brock Survey, A-122, same being the southeast corner of the Isaac Bunker Survey, A-120.

THENCE, N 1° 39' 00" W 2446.92 feet along the common line between the John Brock Survey, A-122, and the Isaac Bunker Survey, A-120, to a point.

THENCE, N 89° 29' 00" E 4807.57 feet to a point in the common line between the John Brock Survey, A-122, and the Levi Gosling Survey, A-280.

THENCE, S 0° 38' 00" E 850.00 feet along said common survey line to a point.

THENCE, S 89° 51' 00" E 285.00 feet to a point.

THENCE, N 0° 30' 00" E 707.44 feet to a point.

THENCE, S 89° 30' 00" E 299.08 feet to a point.

THENCE, S 0° 30' 00" W 2402.26 feet to a point.

THENCE, S 82° 47' 00" E 868.01 feet to a point in the westerly line of the right-of-way (60 feet wide) for Gosling Road.

THENCE, S 60.48 feet along said westerly right-of-way line to a point.

THENCE N 82° 47' 00" W 868.55 feet to a point.

THENCE, S 0° 30' 00" W 492.84 feet to a point in the centerline of Willow Creek.

THENCE, upstream along the meanders of said centerline as follows:

N 50° 27' 00" W 201.23 feet,

N 83° 42' 00" W 154.17 feet,

S 82° 10' 00" W 210.92 feet,

N 78° 53' 00" W 26.27 feet to a point in the common line between the John Brock Survey, A-122, and the Levi Gosling Survey, A-280.

THENCE, S 0° 38' 00" E 6258.01 feet along said common survey line to a point in the northerly line of the right-of-way (50 feet wide) for Kuykendahl-Huffsmith Road.

THENCE, N 79° 01' 00" W 3189.37 feet along said northerly right-of-way line to a point.

THENCE, N 1° 28' 00" W 6176.44 feet to a point.

THENCE, S 88° 45' 00" W 1548.13 feet to the point of beginning.

Containing 772.75 acres of land, more or less.

Sec. 3. It is determined and found that the boundaries and field notes of the district form a closure; and if any mistake is made in copying the field notes in the legislative process, or otherwise a mistake is made in the field notes, it shall in no way or manner affect the organization, existence, and validity of the district, or the right of the district to issue any type of bonds or refunding bonds for the purposes for which the district is created, or to pay the principal and interest thereon, or the right to or its governing body.

Sec. 4. It is determined and found that all of the land and other property included within the area and boundaries of the district will be benefited by the works and project which are to be accomplished by the district pursuant to the powers conferred by the provisions of Article 16, Section 59, Constitution of Texas, and that said district was and is created to serve a public use and benefit.

Sec. 5. The district shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, authority, and duties conferred and imposed by the general laws of this state now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Article 16, Section 59, Constitution of Texas; but to the extent

For Annotations and Historical Notes, see V.A.T.S.

that the provisions of any such general laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such general laws are hereby adopted and incorporated by reference with the same effect as if incorporated in full in this Act. The powers and duties herein granted to the district shall be subject to the continuing right of supervision of the State, to be exercised by and through the Texas Water Rights Commission.

Sec. 6. It shall not be necessary for the board of directors to call or hold a confirmation election for the confirmation of the district.

Sec. 7. It shall not be necessary for the board of directors to call or hold a hearing on the exclusions of land or other property from the district; provided, however, that the board shall hold such hearing upon the written request of any landowner or other property owner within the district filed with the secretary of the board prior to the calling of the first bond election for the district. The board on its own motion may call and hold an exclusions hearing or hearings in the manner provided by the general law.

Sec. 8. It shall not be necessary for the board of directors to call or hold a hearing on the adoption of a plan of taxation, but the ad valorem plan of taxation shall be used by the district.

Sec. 9. All powers of the district shall be exercised by a board of five directors. Each director shall serve for his term of office as herein provided, and thereafter until his successor shall be elected or appointed and qualified. No person shall be appointed a director unless he is 21 years of age or over and a resident of the State of Texas. Such director shall not be required to reside within the boundaries of the district. Each director shall qualify by subscribing to the oath of office and giving bond in the amount of \$5,000 for the faithful performance of his duties. The cost of such bond shall be paid by the district. Such bond shall be filed in the office of the county clerk and approved by the county judge or the commissioner's court of the county within which district is situated. Such oath shall be filed with the secretary of the district's board of directors after his selection. The bonds of directors elected or appointed after the directors named below shall be approved by the district's board of directors, filed for record in the office of the county clerk of the county in which the district is located and shall be recorded in a record kept for that purpose in the office of the district and be filed for safekeeping in the depository of the district. Immediately after this Act becomes effective, the following named persons, all of whom are 21 years of age or over and residents of the State of Texas, shall be the directors of the district and shall constitute the board of directors of the district:

Billy Frank Hearnberger
Curtis Hankamer
Milton Huebner
Glenn McMillan
Glen Waymire

Said persons shall qualify as directors within 30 days, or as soon thereafter as practicable, from the effective date of this Act. If any of the aforementioned persons shall fail or refuse to qualify or to serve, or shall die or become incapacitated, or otherwise not be qualified to assume the duties of a director of the district under this Act, a majority of the remaining directors shall appoint a successor or successors. The directors named above or their duly appointed successor or successors shall serve until the second Tuesday in January 1969. Succeeding directors shall be elected or appointed and shall serve for the term and in the manner provided for by Article 7880—37, Vernon's Texas Civil Statutes. The annual elections shall be ordered by the board of directors. Any vacancy occurring in the board of directors shall be filled for the unexpired term by

a majority of the remaining directors. The board of directors shall elect from its number a president, a vice president, and a secretary of the board of directors and of the district, and such other officers as in the judgment of the board are necessary. Three directors shall constitute a quorum at any meeting, and a concurrence of three shall be sufficient in all matters pertaining to the business of the district including the letting of construction contracts and the drawing of warrants in payment for construction work, the purchase of existing facilities, and matters relating to construction work. Warrants to pay current expenses, salaries, and accounts may be drawn and signed by an officer or employee, designated by standing order entered on the minutes of the board of directors, when such accounts have been contracted and ordered paid by the directors. The president may execute all contracts, construction or otherwise, entered into by the board of directors on behalf of the district. The vice president shall perform all duties and exercise all power conferred by this Act or the general law upon the president when the president is absent or fails or declines to act. Any order adopted or other action taken at a meeting of the board of directors at which the president is absent may be signed by the vice president, or the board may authorize the president to sign such order or other action. The secretary shall keep and sign the minutes of the meetings of the board of directors; and in his absence at any board meeting, a secretary pro tem shall be named for that meeting who may exercise all the duties and powers of the secretary for such meeting, and shall sign the minutes thereof, and may attest all orders passed or other action taken at such meeting, or the board may authorize the secretary to attest such orders or other action. The secretary shall be the custodian of all minutes and records of the district. The board shall appoint all necessary engineers, attorneys, auditors, and other employees. The board shall adopt a seal for the district.

Sec. 10. Before issuing any construction bonds, the district shall submit plans and specifications therefor to the Texas Water Rights Commission for approval in the manner required by Article 7880—139, Revised Civil Statutes of Texas, 1925; and the district's project and improvements during the course of construction shall be subject to inspection in the manner provided by said Article 7880—139.

Sec. 11. When any kind of bonds or refunding bonds have been approved by the Attorney General of Texas, registered by the Comptroller of Public Accounts of the State of Texas, and issued by the district, such bonds or refunding bonds shall be negotiable, legal, valid, and binding obligations of the district and shall be incontestable for any cause.

Sec. 12. The power of eminent domain of the district shall be limited to the county or counties in which the district is situated. In the event that the district, in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, re-routing or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telegraph or telephone properties and facilities, or pipeline, all such necessary relocation, raising, re-routing, changing of grade, or alteration of construction shall be accomplished at the sole expense of the district. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, re-routing, or change in grade, or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

Sec. 13. This district is hereby created notwithstanding any of the provisions of the Municipal Annexation Act (Article 970a, Revised Civil Statutes of Texas, 1925), as amended, and to the extent of the creation of the district only, said Article 970a shall have no application. In all other respects, the district hereby created is expressly made subject to all provisions of said Article 970a.

Sec. 14. It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published at least 30 days and not more than 90 days prior to the introduction of this Act in the Legislature of Texas, in a newspaper having a general circulation in the county or counties in which this district or any part thereof is situated; that a copy of such notice and a copy of this Act have been delivered to the Governor of Texas, who has submitted such notice and Act to the Texas Water Rights Commission, and said Texas Water Rights Commission has filed its recommendation as to such Act with the Governor, Lieutenant Governor and Speaker of the House of Representatives of Texas within 30 days from the date such notice and Act were received by the Texas Water Rights Commission; and that all the requirements and provisions of Article 16, Section 59(d), Constitution of the State of Texas, have been fulfilled and accomplished as therein provided.

Sec. 15. The board of directors of the district shall select any bank or trust company in the State of Texas to act as depository of the proceeds of the bonds or revenues derived from the operation of the facilities of the district, and said depository shall furnish such indemnity bonds or pledge such securities or meet such other requirements as determined by the board of directors of the district. The district may select one or more depositories.

Sec. 16. In no manner limiting the right, power, or authority of the district, as heretofore granted, the district is specifically granted the right, power, and authority to purchase and construct, or to purchase or construct, or otherwise to acquire waterworks systems, sanitary sewer systems, storm sewer systems and drainage facilities, or parts of such systems or facilities, and to make any and all necessary purchases, constructions, improvements, extension, additions, and repairs thereto, and to purchase or acquire all necessary land, rights-of-way, easements, sites, equipment, buildings, plants, structures, and facilities therefor and to operate and maintain same, and to sell water and other services. The district may exercise any of the rights, powers, and authorities granted in this Act within or without the boundaries of the district and is specifically authorized to exercise any of said rights, powers, and authorities in order to provide water and sewerage services to areas within or without the boundaries of the district. The district may vote and issue any kind of bonds or refunding bonds for any or all of such purposes herein provided, for contiguous or noncontiguous areas, and provide and make payment therefor and for necessary expenses in connection therewith.

Sec. 17. Bonds of the district, other than refunding bonds, may be sold at a price and upon the terms determined by the board of directors of the district, except that such bonds shall not be sold for a less amount than provided by law. Such bonds or refunding bonds may be sold in denominations of \$1,000 each or multiples thereof. Refunding bonds shall be sold at a price and under the terms of the general law applicable to water control and improvement districts. The district may exchange bonds or refunding bonds for property acquired by purchase, or in payment of the contract price of work done or materials furnished or services furnished for the use and benefit of the district; provided that no notice given pursuant to Article 7880—117, Revised Civil Statutes of Texas, 1925, as amended, shall be predicated upon or require the exchange of bonds or refunding bonds, and said article shall otherwise be applicable to this district in all respects.

Sec. 18. The provisions of Article 7880—77b, Revised Civil Statutes of Texas, 1925, as amended, or any other general law, pertaining to the calling of a hearing for the determination of the dissolution of a district where a bond election has failed shall be inapplicable to this district, and this district shall continue to exist and shall have full power to function

and operate regardless of the outcome of any bond election. Upon the failure of any bond election, a subsequent bond election may be called after the expiration of six months from the date of the bond election which failed.

Sec. 19. Notice of all elections may be given under the hand of either the president or the secretary of the district.

Sec. 20. The returns of all elections may be canvassed by the board of directors of the district at any time within seven days after the holding of an election, or as soon thereafter as reasonably practicable. The election returns of the annual election of directors may be canvassed by the board of directors as it was composed at the time of such election, or by the directors elected at such election, or by a combination of both. At the board of directors meeting at which the returns are canvassed, composed as aforesaid, any director newly elected at such election may qualify by filing his official bond and taking the oath of office, either before or after the returns are canvassed, and upon the filing of such bond the board, composed as aforesaid, may approve same.

Sec. 21. The accomplishment of the purposes stated in this Act being for the benefit of the people of this state and for the improvement of their properties and industries, the district in carrying out the purposes of this Act will be performing an essential public function under the Constitution, and the district shall not be required to pay any tax or assessment on the project or any part thereof or on any purchases made by the district, and the bonds issued hereunder and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this state.

Sec. 22. All bonds and refunding bonds of the district shall be and are hereby declared to be legal, eligible, and authorized investments for banks, savings and loan associations, insurance companies, fiduciaries, trustees, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds and refunding bonds shall be eligible to secure the deposit of any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their face value, when accompanied by all un-matured coupons appurtenant thereto.

Sec. 23. If any word, phrase, clause, paragraph, sentence, part, portion, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act shall nevertheless be valid, and the Legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion, or provision.

Acts 1967, 60th Leg., p. 1428, ch. 608, emerg. eff. June 16, 1967.

TItle of Act:

An Act creating and establishing a conservation and reclamation district under Article 16, Section 59, Constitution of Texas, known as "Norchester Municipal Utility District," declaring district a governmental agency, body politic and corporate; defining the boundaries; finding the field notes and boundaries form a closure, and related matters; finding a benefit to all land and other property within the district; finding that district is created to serve a public use and benefit; conferring on district the rights, powers, privileges, authority and duties of the general laws of Texas applicable to water control and improvement districts created

under Article 16, Section 59, Constitution of Texas, where not in conflict with this Act and adopting same by reference; providing for continuing supervision by the State through the Texas Water Rights Commission; providing for no election for confirmation; providing for no hearing for exclusions, except on written request or the board of directors' own motion; providing for no hearing on plan of taxation and adopting ad valorem plan of taxation for district; providing for governing body of district; providing for qualifications and bonds of directors; naming first board of directors; providing for directors to fill vacancies; providing for terms and election of directors and notice of di-

For Annotations and Historical Notes, see V.A.T.S.

rectors' elections, and related matters; providing for organization of board of directors; providing for the letting of construction contracts and the drawing of warrants; providing for the execution of contracts by the president; providing for a vice president, a secretary, and a secretary pro tem and outlining their duties; providing for employment of engineers, attorneys, auditors, and other employees; providing for a seal for the district; providing for approval of district's plans and specifications by the Texas Water Rights Commission and inspection during construction by said Commission; providing for bonds and refunding bonds to be approved by the Attorney General of Texas and registered by the Comptroller of Public Accounts of Texas, and providing for negotiability, legality, validity, obligation, and incontestability of the bonds and refunding bonds; providing the power of eminent domain shall be limited to the county or counties within which district is situated; providing district shall bear expenses of relocating, raising, or rerouting any highway, railroad, or utility lines or pipelines made necessary by its exercise of the power of eminent domain; defining "sole expense"; providing that the Municipal Annexation Act shall have no application to the creation of this district; determining and finding the requirements of

Article 16, Section 59(d), Constitution of Texas, as to notice of intention to introduce this Act have been fulfilled and accomplished; providing for the selection of a depository or depositories for the district and related matters; providing additional powers of district within and without the boundaries of district; providing for the voting and issuing of bonds to serve areas within or without the boundaries of district; providing for the sale of bonds of the district in denominations of \$1,000 or multiples thereof, for the exchange of bonds for property and services, and for the minimum price of bonds at such sale or exchange; providing that Article 7880—77b (Vernon's Texas Civil Statutes), shall not be applicable to this district, and related matters; providing that notice of all elections shall be under the hand of the president or secretary; providing for canvassing of election returns; providing the bonds of this district and their transfer and income therefrom and profits thereon and purchases made by district shall be tax-free in this State; providing the bonds and refunding bonds of this district shall be eligible investments; enacting other provisions related to the aforementioned subjects; providing for a severability clause; and declaring an emergency. Acts 1967, 60th Leg., p. 1428, ch. 608.

Art. 8280—363. White Oak Municipal Utility District

Section 1. Under and pursuant to the provisions of Article 16, Section 59 of the Constitution of Texas, a conservation and reclamation district is hereby created and established in Harris County, Texas, to be known as "White Oak Municipal Utility District," hereinafter called the "district," which shall be a governmental agency and a body politic and corporate. The creation and establishment of the district is hereby declared to be essential to the accomplishment of the purposes of Article 16, Section 59, Constitution of Texas.

Sec. 2. The district shall comprise all of the territory contained within the following described area:

Lying wholly in Harris County, Texas, and being 175.746 acres of land, more or less, out of the Samuel Lewis Survey, Abstract No. 510, and more particularly described by metes and bounds as follows:

Commencing for reference at the intersection of the northerly line of the 60-foot wide Alabonson Road right-of-way with the east line of said Samuel Lewis Survey.

THENCE, S 25° 39' 15" W 65.07 feet to a point on the westerly line of the 60-foot wide Alabonson Road right-of-way to the point of Beginning of the herein described tract, said point being the most easterly northeast corner of a tract of land conveyed to J. E. Foster, M. D. by deed recorded in Volume 2622, Page 82 of the Deed Records of Harris County, Texas.

THENCE, S 2° 34' 11" E 924.19 feet along the east line of said J. E. Foster tract and the westerly line of the 60-foot wide Alabonson Road right-of-way to a point for corner in the center line of the original location of White Oak Bayou.

THENCE, along the center line meanders of said original location of White Oak Bayou as follows:

N 41° 57' 00" W 54.05 feet,
 N 29° 04' 00" W 114.04 feet,
 N 38° 11' 00" W 91.40 feet,
 N 68° 40' 00" W 69.63 feet,

N 3° 28' 00" E 97.35 feet,
 N 31° 10' 00" W 146.14 feet,
 N 64° 59' 30" W 159.96 feet,
 N 51° 14' 30" W 165.16 feet,
 S 70° 22' 30" W 183.09 feet,
 N 62° 20' 00" W 129.65 feet,
 S 82° 39' 00" W 103.25 feet,
 S 55° 25' 30" W 27.79 feet,
 S 28° 30' 00" W 106.94 feet,
 S 6° 43' 30" W 127.20 feet,
 S 42° 16' 00" W 71.96 feet,
 N 78° 02' 00" W 68.91 feet,
 N 63° 36' 30" W 85.85 feet,
 N 41° 58' 30" W 52.47 feet,
 N 18° 41' 00" W 193.01 feet,
 N 4° 09' 00" W 75.79 feet,
 N 21° 43' 30" E 80.50 feet,
 N 3° 07' 00" W 50.59 feet,
 N 16° 24' 00" E 50.59 feet,
 N 27° 59' 12" W 52.28 feet,
 S 80° 07' 30" W 57.36 feet,
 N 62° 43' 30" W 65.14 feet,
 N 18° 40' 00" W 56.09 feet,
 N 26° 51' 35" W 73.80 feet to the most northerly southwest corner

of said J. E. Foster tract, said point being also the southeast corner of a tract of land conveyed to Target Investment Company by deed recorded in Volume 6476, Page 135 of the Deed Records of Harris County, Texas.

THENCE, S 61° 42' 37" W 74.73 feet along the southerly line of said Target Investment Company tract to a point in the north line of a Harris County Flood Control District drainage right-of-way as described in Volume 3566, Page 475 of the Deed Records of Harris County, Texas.

THENCE, N 72° 57' 08" W 52.52 feet along the southerly line of said Target Investment Company tract and the north line of said Flood Control District drainage right-of-way to a point for corner.

THENCE, S 62° 02' 52" W 281.37 feet along the southerly line of said Target Investment Company tract and the north line of said Flood Control District drainage right-of-way to a point for corner in the northeast line of the 100-foot wide Burlington Rock Island Railroad right-of-way.

THENCE, S 62° 03' 22" W 100.00 feet to a point for corner in the southwest line of said 100-foot wide railroad right-of-way.

THENCE, N 27° 56' 38" W 1976.88 feet along the southwest line of said 100-foot wide railroad right-of-way to a point for corner in the east line of a tract of land conveyed to Target Investment Company by deed recorded in Volume 6479, Page 615 of the Deed Records of Harris County, Texas.

THENCE, S 2° 28' 16" E 747.01 feet along the east line of said Target Investment Company tract to a point for corner.

THENCE, S 3° 00' 53" E 150.50 feet along the east line of said Target Investment Company tract to a point for corner.

THENCE, S 19° 07' 08" E 307.00 feet along the east line of said Target Investment Company tract to a point for corner in the northerly line of a Harris County Flood Control District drainage right-of-way as described in Volume 215, Page 35 of the Deed Records of Harris County, Texas.

THENCE, along the southerly line of said Target Investment Company tract and the northerly line of said Flood Control District drainage right-of-way as follows:

S 85° 59' 43" W 201.84 feet,
 N 81° 06' 59" W 211.11 feet,
 N 55° 21' 25" W 211.21 feet,

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N 42° 26' 11" W 249.37 feet,

N 75° 46' 57" W 299.17 feet,

S 88° 10' 32" W 667.02 feet to a point for corner on the easterly right-of-way line of North Houston-Rosslyn Road.

THENCE, N 1° 50' 28" W 277.47 feet along the westerly line of said Target Investment Company tract and the easterly right-of-way line of North Houston-Rosslyn Road, 120-foot wide, to a point for corner.

THENCE, N 4° 18' 35" W 696.53 feet along the westerly line of said Target Investment Company tract and the easterly right-of-way line of North Houston-Rosslyn Road, variable width, to a point for corner.

THENCE, N 1° 50' 28" W 1816.82 feet along the westerly line of said Target Investment Company tract and the easterly right-of-way line of North Houston-Rosslyn Road, 60 feet wide, to a point for corner in the southerly right-of-way line of Alabonson Road, 60-foot wide.

THENCE, N 87° 52' 57" E 1611.93 feet along the northerly line of said Target Investment Company tract and the southerly right-of-way line of Alabonson Road, 60-foot wide, to a point for corner.

THENCE, S 2° 33' 38" E 1833.43 feet along the easterly line of said Target Investment Company tract to a point for corner in the northeast line of the 100-foot wide Burlington Rock Island Railroad right-of-way.

THENCE, S 27° 56' 38" E 914.80 feet along the northeast line of said 100-foot wide railroad right-of-way to a point for corner at the northwest corner of the tract of land conveyed to Target Investment Company by deed recorded in Volume 6476, Page 135 of the Deed Records of Harris County, Texas.

THENCE, N 56° 58' 39" E 1042.81 feet along the northwesterly line of the said Target Investment Company tract to a point for corner in the southwesterly line of the 60-foot wide Alabonson Road right-of-way.

THENCE, S 42° 53' 36" E 2216.38 feet along the northeasterly lines of said Target Investment Company tract and the aforementioned J. E. Foster tract and the southwesterly line of the 60-foot wide Alabonson Road right-of-way to the point of Beginning.

Containing 175.746 acres of land, more or less.

Sec. 3. It is determined and found that the boundaries and field notes of the district form a closure; and if any mistake is made in copying the field notes in the legislative process, or otherwise a mistake is made in the field notes, it shall in no way or manner affect the organization, existence, and validity of the district, or the right of the district to issue any type of bonds or refunding bonds for the purposes for which the district is created, or to pay the principal and interest thereon, or the right to assess, levy, and collect taxes, or the legality or operation of the district or its governing body.

Sec. 4. It is determined and found that all of the land and other property included within the area and boundaries of the district will be benefited by the works and project which are to be accomplished by the district pursuant to the powers conferred by the provisions of Article 16, Section 59, Constitution of Texas, and that said district was and is created to serve a public use and benefit.

Sec. 5. The district shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, authority, and duties conferred and imposed by the general laws of this State now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Article 16, Section 59, Constitution of Texas; but to the extent that the provisions of any such general laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such general laws are hereby adopted and incorporated by reference with the same effect as if incorporated in full in this Act. The powers and duties herein granted to the district shall be subject to the

continuing right of supervision of the State, to be exercised by and through the Texas Water Rights Commission.

Sec. 6. It shall not be necessary for the board of directors to call or hold a confirmation election for the confirmation of the district.

Sec. 7. It shall not be necessary for the board of directors to call or hold a hearing on the exclusions of land or other property from the district; provided, however, that the board shall hold such hearing upon the written request of any landowner or other property owner within the district filed with the secretary of the board prior to the calling of the first bond election for the district. The board on its own motion may call and hold an exclusions hearing or hearings in the manner provided by the general law.

Sec. 8. It shall not be necessary for the board of directors to call or hold a hearing on the adoption of a plan of taxation, but the ad valorem plan of taxation shall be used by the district.

Sec. 9. All powers of the district shall be exercised by a board of five directors. Each director shall serve for his term of office as herein provided, and thereafter until his successor shall be elected or appointed and qualified. No person shall be appointed a director unless he is 21 years of age or over and a resident of the State of Texas. Such director shall not be required to reside within the boundaries of the district. Each director shall qualify by subscribing to the oath of office and giving bond in the amount of \$5,000 for the faithful performance of his duties. The cost of such bond shall be paid by the district. Such bond shall be filed in the office of the county clerk and approved by the county judge or the commissioner's court of the county within which district is situated. Such oath shall be filed with the secretary of the district's board of directors after his selection. The bonds of directors elected or appointed after the directors named below shall be approved by the district's board of directors, filed for record in the office of the county clerk of the county in which the district is located and shall be recorded in a record kept for that purpose in the office of the district and be filed for safekeeping in the depository of the district. Immediately after this Act becomes effective, the following named persons, all of whom are 21 years of age or over and residents of the State of Texas, shall be the directors of the district and shall constitute the board of directors of the district:

Floyd L. Dellinger
Jackie L. Whitt
R. E. Reamer
C. P. Embry
Stedwell Johnston

Said persons shall qualify as directors within 30 days, or as soon thereafter as practicable, from the effective date of this Act. If any of the aforementioned persons shall fail or refuse to qualify or to serve, or shall die or become incapacitated, or otherwise not be qualified to assume the duties of a director of the district under this Act, a majority of the remaining directors shall appoint a successor or successors. The directors named above or their duly appointed successor or successors shall serve until the second Tuesday in January 1969. Succeeding directors shall be elected or appointed and shall serve for the term and in the manner provided for by Article 7880—37, Vernon's Texas Civil Statutes. The annual elections shall be ordered by the board of directors. Any vacancy occurring in the board of directors shall be filled for the unexpired term by a majority of the remaining directors. The board of directors shall elect from its number a president, a vice president, and a secretary of the board of directors and of the district, and such other officers as in the judgment of the board are necessary. Three directors shall constitute a quorum at any meeting, and a concurrence of three shall be sufficient in all matters.

For Annotations and Historical Notes, see V.A.T.S.

pertaining to the business of the district including the letting of construction contracts and the drawing of warrants in payment for construction work, the purchase of existing facilities, and matters relating to construction work. Warrants to pay current expenses, salaries, and accounts may be drawn and signed by an officer or employee, designated by standing order entered on the minutes of the board of directors, when such accounts have been contracted and ordered paid by the directors. The president may execute all contracts, construction or otherwise, entered into by the board of directors on behalf of the district. The vice president shall perform all duties and exercise all power conferred by this Act or the general law upon the president when the president is absent or fails or declines to act. Any order adopted or other action taken at a meeting of the board of directors at which the president is absent may be signed by the vice president, or the board may authorize the president to sign such order or other action. The secretary shall keep and sign the minutes of the meetings of the board of directors; and in his absence at any board meeting, a secretary pro tem shall be named for that meeting who may exercise all the duties and powers of the secretary for such meeting, and shall sign the minutes thereof, and may attest all orders passed or other action taken at such meeting, or the board may authorize the secretary to attest such orders or other action. The secretary shall be the custodian of all minutes and records of the district. The board shall appoint all necessary engineers, attorneys, auditors, and other employees. The board shall adopt a seal for the district.

Sec. 10. Before issuing any construction bonds, the district shall submit plans and specifications therefor to the Texas Water Rights Commission for approval in the manner required by Article 7880—139, Revised Civil Statutes of Texas, 1925; and the district's project and improvements during the course of construction shall be subject to inspection in the manner provided by said Article 7880—139.

Sec. 11. When any kind of bonds or refunding bonds have been approved by the Attorney General of Texas, registered by the Comptroller of Public Accounts of the State of Texas, and issued by the district, such bonds or refunding bonds shall be negotiable, legal, valid, and binding obligations of the district and shall be incontestable for any cause.

Sec. 12. The power of eminent domain of the district shall be limited to the county or counties in which the district is situated. In the event that the district, in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, rerouting or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telegraph or telephone properties and facilities, or pipeline, all such necessary relocation, raising, rerouting, changing of grade, or alteration of construction shall be accomplished at the sole expense of the district. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, rerouting, or change in grade, or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

Sec. 13. This district is hereby created notwithstanding any of the provisions of the Municipal Annexation Act (Article 970a, Revised Civil Statutes of Texas, 1925), as amended, and to the extent of the creation of the district only, said Article 970a shall have no application. In all other respects, the district hereby created is expressly made subject to all provisions of said Article 970a.

Sec. 14. It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published at least 30 days and not more than 90 days prior to the introduction of this Act in the Legisla-

ture of Texas, in a newspaper having a general circulation in the county or counties in which this district or any part thereof is situated; that a copy of such notice and a copy of this Act have been delivered to the Governor of Texas, who has submitted such notice and Act to the Texas Water Rights Commission, and said Texas Water Rights Commission has filed its recommendation as to such Act with the Governor, Lieutenant Governor and Speaker of the House of Representatives of Texas within 30 days from the date such notice and Act were received by the Texas Water Rights Commission; and that all the requirements and provisions of Article 16, Section 59(d), Constitution of the State of Texas, have been fulfilled and accomplished as therein provided.

Sec. 15. The board of directors of the district shall select any bank or trust company in the State of Texas to act as depository of the proceeds of the bonds or revenues derived from the operation of the facilities of the district, and said depository shall furnish such indemnity bonds or pledge such securities or meet such other requirements as determined by the board of directors of the district. The district may select one or more depositories.

Sec. 16. In no manner limiting the right, power, or authority of the district, as heretofore granted, the district is specifically granted the right, power, and authority to purchase and construct, or to purchase or construct, or otherwise to acquire waterworks systems, sanitary sewer systems, storm sewer systems and drainage facilities, or parts of such systems or facilities, and to make any and all necessary purchases, constructions, improvements, extension, additions, and repairs thereto, and to purchase or acquire all necessary land, rights-of-way, easements, sites, equipment, buildings, plants, structures, and facilities therefor and to operate and maintain same, and to sell water and other services. The district may exercise any of the rights, powers, and authorities granted in this Act within or without the boundaries of the district and is specifically authorized to exercise any of said rights, powers, and authorities in order to provide water and sewerage services to areas within or without the boundaries of the district. The district may vote and issue any kind of bonds or refunding bonds for any or all of such purposes herein provided, for contiguous or noncontiguous areas, and provide and make payment therefor and for necessary expenses in connection therewith.

Sec. 17. Bonds of the district, other than refunding bonds, may be sold at a price and upon the terms determined by the board of directors of the district, except that such bonds shall not be sold for a less amount than provided by law. Such bonds or refunding bonds may be sold in denominations of \$1,000 each or multiples thereof. Refunding bonds shall be sold at a price and under the terms of the general law applicable to water control and improvement districts. The district may exchange bonds or refunding bonds for property acquired by purchase, or in payment of the contract price of work done or materials furnished or services furnished for the use and benefit of the district; provided that no notice given pursuant to Article 7880—117, Revised Civil Statutes of Texas, 1925, as amended, shall be predicated upon or require the exchange of bonds or refunding bonds, and said article shall otherwise be applicable to this district in all respects.

Sec. 18. The provisions of Article 7880—77b, Revised Civil Statutes of Texas, 1925, as amended, or any other general law, pertaining to the calling of a hearing for the determination of the dissolution of a district where a bond election has failed shall be inapplicable to this district, and this district shall continue to exist and shall have full power to function and operate regardless of the outcome of any bond election. Upon the failure of any bond election, a subsequent bond elec-

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tion may be called after the expiration of six months from the date of the bond election which failed.

Sec. 19. Notice of all elections may be given under the hand of either the president or the secretary of the district.

Sec. 20. The returns of all elections may be canvassed by the board of directors of the district at any time within seven days after the holding of an election, or as soon thereafter as reasonably practicable. The election returns of the annual election of directors may be canvassed by the board of directors as it was composed at the time of such election, or by the directors elected at such election, or by a combination of both. At the board of directors meeting at which the returns are canvassed, composed as aforesaid, any director newly elected at such election may qualify by filing his official bond and taking the oath of office, either before or after the returns are canvassed, and upon the filing of such bond the board, composed as aforesaid, may approve same.

Sec. 21. The accomplishment of the purposes stated in this Act being for the benefit of the people of this state and for the improvement of their properties and industries, the district in carrying out the purposes of this Act will be performing an essential public function under the Constitution, and the district shall not be required to pay any tax or assessment on the project or any part thereof or on any purchases made by the district, and the bonds issued hereunder and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this state.

Sec. 22. All bonds and refunding bonds of the district shall be and are hereby declared to be legal, eligible, and authorized investments for banks, savings and loan associations, insurance companies, fiduciaries, trustees, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds and refunding bonds shall be eligible to secure the deposit of any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their face value, when accompanied by all unmatured coupons appurtenant thereto.

Sec. 23. If any word, phrase, clause, paragraph, sentence, part, portion, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act shall nevertheless be valid, and the Legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion, or provision.

Acts 1967, 60th Leg., p. 1434, ch. 609, emerg. eff. June 16, 1967.

Title of Act:

An Act creating and establishing a conservation and reclamation district under Article 16, Section 59, Constitution of Texas, known as "White Oak Municipal Utility District"; declaring district a governmental agency, body politic and corporate; defining the boundaries; finding the field notes and boundaries form a closure, and related matters; finding a benefit to all land and other property within the district; finding that district is created to serve a public use and benefit; conferring on district the rights, powers, privileges, authority and duties of the general laws of Texas applicable to water control and improvement districts created under Article 16, Section 59, Constitution of Texas, where not in conflict

with this Act and adopting same by reference; providing for continuing supervision by the State through the Texas Water Rights Commission; providing for no election for confirmation; providing for no hearing for exclusions, except on written request or the board of directors' own motion; providing for no hearing on plan of taxation and adopting ad valorem plan of taxation for district; providing for governing body of district; providing for qualifications and bonds of directors; naming first board of directors; providing for directors to fill vacancies; providing for terms and election of directors and notice of directors' elections, and related matters; providing for organization of board of directors; providing for the letting of con-

struction contracts and the drawing of warrants; providing for the execution of contracts by the president; providing for a vice president, a secretary, and a secretary pro tem and outlining their duties; providing for employment of engineers, attorneys, auditors, and other employees; providing for a seal for the district; providing for approval of district's plans and specifications by the Texas Water Rights Commission, and inspection during construction by said Commission; providing for bonds and refunding bonds to be approved by the Attorney General of Texas and registered by the Comptroller of Public Accounts of Texas, and providing for negotiability, legality, validity, obligation, and incontestability of the bonds and refunding bonds; providing the power of eminent domain shall be limited to the county or counties within which district is situated; providing district shall bear expenses of relocating, raising, or rerouting any highway, railroad, or utility lines or pipelines made necessary by its exercise of the power of eminent domain; defining "sole expense"; providing that the Municipal Annexation Act shall have no application to the creation of this district; determining and finding the requirements of Article 16, Section 59(d), Constitution of Texas, as to notice of intention to introduce

this Act have been fulfilled and accomplished; providing for the selection of a depository or depositories for the district and related matters; providing additional powers of district within and without the boundaries of district; providing for the voting and issuing of bonds to serve areas within or without the boundaries of district; providing for the sale of bonds of the district in denominations of \$1,000 or multiples thereof, for the exchange of bonds for property and services, and for the minimum price of bonds at such sale or exchange; providing that Article 7880—77b (Vernon's Texas Civil Statutes), shall not be applicable to this district, and related matters; providing that notice of all elections shall be under the hand of the president or secretary; providing for canvassing of election returns; providing the bonds of this district and their transfer and income therefrom and profits thereon and purchases made by district shall be tax-free in this State; providing the bonds and refunding bonds of this district shall be eligible investments; enacting other provisions related to the aforementioned subjects; providing for a severability clause; and declaring an emergency. Acts 1967, 60th Leg., p. 1434, ch. 609.

Art. 8280—364. Chaparral Municipal Utility District

Section 1. Under and pursuant to the provisions of Article 16, Section 59 of the Constitution of Texas, a conservation and reclamation district is hereby created and established in Harris County, Texas, to be known as "Chaparral Municipal Utility District," hereinafter called the "district," which shall be a governmental agency and a body politic and corporate. The creation and establishment of the district is hereby declared to be essential to the accomplishment of the purposes of Article 16, Section 59, Constitution of Texas.

Sec. 2. The district shall comprise all of the territory contained within the following described area:

Lying wholly within Harris County, Texas, and being 223.9912 acres of land, more or less, out of the George Delesdernier Survey, Abstract Number 229, and described by metes and bounds as follows:

Commencing for reference at a point in the center line of the Louetta Road 60-foot right-of-way, said commencing point being the most northerly corner of the Benjamin Page Survey, Abstract Number 618, and the most westerly corner of said George Delesdernier Survey, and being in the southeasterly line of the John House Survey, Abstract Number 314.

THENCE, N 58° 00' E 3607.00 feet along said center line of Louetta Road, the southeasterly line of said John House Survey, the southeasterly line of the E. Harbour Survey, Abstract Number 367, and the northwesterly line of said George Delesdernier Survey.

THENCE, S 32° 00' E 30.00 feet to a ½-inch iron rod at a fence corner on the southeasterly boundary of said Louetta Road for the point of beginning at the most westerly corner of the tract described herein.

THENCE, N 58° 00' E 1094.00 feet along said southeasterly boundary of Louetta Road with the general line of a fence to a 1-inch iron pipe at a corner of said fence for the most northerly corner of the tract described herein.

THENCE, S 31° 32' E 1052.00 feet with the general line of a fence to a point in the center line of Spring Gully.

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THENCE, commencing in a southerly direction, with the meanders of said center line of Spring Gully as follows:

S 19° 25' W 38.00 feet,
 S 20° 32' E 355.00 feet,
 S 52° 00' E 485.00 feet,
 S 19° 37' E 500.00 feet,
 S 21° 26' W 151.00 feet,
 S 23° 45' E 148.00 feet,
 S 78° 36' E 386.00 feet,
 S 39° 37' E 328.31 feet,
 S 50° 00' E 210.00 feet,
 S 36° 05' E 443.00 feet,
 S 86° 05' E 105.39 feet,
 S 57° 28' E 117.00 feet,
 S 18° 28' E 106.00 feet,
 S 80° 13' E 115.00 feet,
 S 58° 30' E 214.00 feet,
 S 85° 26' E 148.00 feet,
 N 56° 23' E 116.00 feet,
 S 84° 03' E 315.00 feet,
 S 24° 35' E 308.00 feet,
 S 04° 10' W 124.51 feet,
 S 63° 05' E 206.00 feet,
 S 33° 15' W 97.00 feet,
 S 23° 18' E 350.00 feet,
 S 72° 13' W 250.00 feet,
 S 53° 50' E 265.00 feet,
 S 46° 50' W 190.00 feet,
 S 81° 35' E 185.00 feet,
 S 32° 22' W 232.00 feet,
 S 71° 29' W 158.00 feet,
 S 24° 50' W 205.00 feet,
 S 31° 30' E 228.00 feet,
 N 68° 03' E 118.00 feet,
 S 42° 40' E 110.00 feet,
 S 89° 02' E 117.00 feet,
 N 51° 13' E 191.00 feet,
 N 78° 20' E 93.00 feet,
 S 12° 00' E 102.00 feet,
 S 33° 31' W 78.00 feet,
 S 77° 13' E 180.00 feet, and

S 39° 30' E 133.00 feet to a point in the center line of Cypress Creek for the most easterly corner of the tract described herein.

THENCE, in a southwesterly direction with the meanders of Cypress Creek as follows:

S 37° 31' W 447.00 feet,
 S 63° 22' W 225.00 feet,
 S 54° 30' W 312.00 feet,
 N 80° 30' W 624.00 feet,
 S 36° 28' W 182.00 feet,
 S 06° 25' E 330.00 feet, and

S 19° 53' W 98.00 feet to a point for the most southerly corner of the tract described herein.

THENCE, N 31° 41' W 1800.00 feet with the general line of a fence to an iron axle.

THENCE, N 31° 20' W 1578.70 feet continuing with the general line of a fence to a ½-inch iron rod at a fence corner.

THENCE, N 31° 29' W 548.77 feet continuing with the general line of a fence to an iron axle.

THENCE, N 31° 50' W 1194.32 feet continuing with the general line of a fence to a 1¼-inch iron pipe.

THENCE, N 32° 03' W 581.30 feet continuing with the general line of a fence to an iron axle.

THENCE, N 32° 00' W 1419.47 feet to the point of beginning.

The above described tract contains 223.9912 acres of land, more or less.

Sec. 3. It is determined and found that the boundaries and field notes of the district form a closure; and if any mistake is made in copying the field notes in the legislative process, or otherwise a mistake is made in the field notes, it shall in no way or manner affect the organization, existence, and validity of the district, or the right of the district to issue any type of bonds or refunding bonds for the purposes for which the district is created, or to pay the principal and interest thereon, or the right to assess, levy, and collect taxes, or the legality or operation of the district or its governing body.

Sec. 4. It is determined and found that all of the land and other property included within the area and boundaries of the district will be benefited by the works and project which are to be accomplished by the district pursuant to the powers conferred by the provisions of Article 16, Section 59, Constitution of Texas, and that said district was and is created to serve a public use and benefit.

Sec. 5. The district shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, authority, and duties conferred and imposed by the general laws of this State now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Article 16, Section 59, Constitution of Texas; but to the extent that the provisions of any such general laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such general laws are hereby adopted and incorporated by reference with the same effect as if incorporated in full in this Act. The powers and duties herein granted to the district shall be subject to the continuing right of supervision of the State, to be exercised by and through the Texas Water Rights Commission.

Sec. 6. It shall not be necessary for the board of directors to call or hold a confirmation election for the confirmation of the district.

Sec. 7. It shall not be necessary for the board of directors to call or hold a hearing on the exclusions of land or other property from the district; provided, however, that the board shall hold such hearing upon the written request of any landowner or other property owner within the district filed with the secretary of the board prior to the calling of the first bond election for the district. The board on its own motion may call and hold an exclusions hearing or hearings in the manner provided by the general law.

Sec. 8. It shall not be necessary for the board of directors to call or hold a hearing on the adoption of a plan of taxation, but the ad valorem plan of taxation shall be used by the district.

Sec. 9. All powers of the district shall be exercised by a board of five directors. Each director shall serve for his term of office as herein provided, and thereafter until his successor shall be elected or appointed and qualified. No person shall be appointed a director unless he is 21 years of age or over and a resident of the State of Texas. Such director shall not be required to reside within the boundaries of the district. Each director shall qualify by subscribing to the oath of office and giving bond in the amount of \$5,000 for the faithful performance of his duties. The cost of such bond shall be paid by the district. Such bond shall be filed in the office of the county clerk and approved by the county judge or the commissioner's court of the county within which district is situated. Such oath shall be filed with the secretary of the district's board of directors.

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after his selection. The bonds of directors elected or appointed after the directors named below shall be approved by the district's board of directors, filed for record in the office of the county clerk of the county in which the district is located and shall be recorded in a record kept for that purpose in the office of the district and be filed for safekeeping in the depository of the district. Immediately after this Act becomes effective, the following named persons, all of whom are 21 years of age or over and residents of the State of Texas, shall be the directors of the district and shall constitute the board of directors of the district:

Dennis C. Williams, Sr.
Helen Williams
Hinton H. Wilson
Hope M. Wilson
Nettie Owen

Said persons shall qualify as directors within 30 days, or as soon thereafter as practicable, from the effective date of this Act. If any of the aforementioned persons shall fail or refuse to qualify or to serve, or shall die or become incapacitated, or otherwise not be qualified to assume the duties of a director of the district under this Act, a majority of the remaining directors shall appoint a successor or successors. The directors named above or their duly appointed successor or successors shall serve until the second Tuesday in January 1969. Succeeding directors shall be elected or appointed and shall serve for the term and in the manner provided for by Article 7880—37, Vernon's Texas Civil Statutes. The annual elections shall be ordered by the board of directors. Any vacancy occurring in the board of directors shall be filled for the unexpired term by a majority of the remaining directors. The board of directors shall elect from its number a president, a vice president, and a secretary of the board of directors and of the district, and such other officers as in the judgment of the board are necessary. Three directors shall constitute a quorum at any meeting, and a concurrence of three shall be sufficient in all matters pertaining to the business of the district including the letting of construction contracts and the drawing of warrants in payment for construction work, the purchase of existing facilities, and matters relating to construction work. Warrants to pay current expenses, salaries, and accounts may be drawn and signed by an officer or employee, designated by standing order entered on the minutes of the board of directors, when such accounts have been contracted and ordered paid by the directors. The president may execute all contracts, construction or otherwise, entered into by the board of directors on behalf of the district. The vice president shall perform all duties and exercise all power conferred by this Act or the general law upon the president when the president is absent or fails or declines to act. Any order adopted or other action taken at a meeting of the board of directors at which the president is absent may be signed by the vice president, or the board may authorize the president to sign such order or other action. The secretary shall keep and sign the minutes of the meetings of the board of directors; and in his absence at any board meeting, a secretary pro tem shall be named for that meeting who may exercise all the duties and powers of the secretary for such meeting, and shall sign the minutes thereof, and may attest all orders passed or other action taken at such meeting, or the board may authorize the secretary to attest such orders or other action. The secretary shall be the custodian of all minutes and records of the district. The board shall appoint all necessary engineers, attorneys, auditors, and other employees. The board shall adopt a seal for the district.

Sec. 10. Before issuing any construction bonds, the district shall submit plans and specifications therefor to the Texas Water Rights Commission for approval in the manner required by Article 7880—139, Revised Civil Statutes of Texas, 1925; and the district's project and improvements

during the course of construction shall be subject to inspection in the manner provided by said Article 7880—139.

Sec. 11. When any kind of bonds or refunding bonds have been approved by the Attorney General of Texas, registered by the Comptroller of Public Accounts of the State of Texas, and issued by the district, such bonds or refunding bonds shall be negotiable, legal, valid, and binding obligations of the district and shall be incontestable for any cause.

Sec. 12. The power of eminent domain of the district shall be limited to the county or counties in which the district is situated. In the event that the district, in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, rerouting or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telegraph or telephone properties and facilities, or pipeline, all such necessary relocation, raising, rerouting, changing of grade, or alteration of construction shall be accomplished at the sole expense of the district. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, rerouting, or change in grade, or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

Sec. 13. This district is hereby created notwithstanding any of the provisions of the Municipal Annexation Act (Article 970a, Revised Civil Statutes of Texas, 1925), as amended, and to the extent of the creation of the district only, said Article 970a shall have no application. In all other respects, the district hereby created is expressly made subject to all provisions of said Article 970a.

Sec. 14. It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published at least 30 days and not more than 90 days prior to the introduction of this Act in the Legislature of Texas, in a newspaper having a general circulation in the county or counties in which this district or any part thereof is situated; that a copy of such notice and a copy of this Act have been delivered to the Governor of Texas, who has submitted such notice and Act to the Texas Water Rights Commission, and said Texas Water Rights Commission has filed its recommendation as to such Act with the Governor, Lieutenant Governor and Speaker of the House of Representatives of Texas within 30 days from the date such notice and Act were received by the Texas Water Rights Commission; and that all the requirements and provisions of Article 16, Section 59(d), Constitution of the State of Texas, have been fulfilled and accomplished as therein provided.

Sec. 15. The board of directors of the district shall select any bank or trust company in the State of Texas to act as depository of the proceeds of the bonds or revenues derived from the operation of the facilities of the district, and said depository shall furnish such indemnity bonds or pledge such securities or meet such other requirements as determined by the board of directors of the district. The district may select one or more depositories.

Sec. 16. In no manner limiting the right, power, or authority of the district, as heretofore granted, the district is specifically granted the right, power, and authority to purchase and construct, or to purchase or construct, or otherwise to acquire waterworks systems, sanitary sewer systems, storm sewer systems and drainage facilities, or parts of such systems or facilities, and to make any and all necessary purchases, constructions, improvements, extension, additions, and repairs thereto, and to purchase or acquire all necessary land, rights-of-way, easements, sites, equipment, buildings, plants, structures, and facilities therefor and to operate and maintain same, and to sell water and other services. The district may

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exercise any of the rights, powers, and authorities granted in this Act within or without the boundaries of the district and is specifically authorized to exercise any of said rights, powers, and authorities in order to provide water and sewerage services to areas within or without the boundaries of the district. The district may vote and issue any kind of bonds or refunding bonds for any or all of such purposes herein provided, for contiguous or noncontiguous areas, and provide and make payment therefor and for necessary expenses in connection therewith.

Sec. 17. Bonds of the district, other than refunding bonds, may be sold at a price and upon the terms determined by the board of directors of the district, except that such bonds shall not be sold for a less amount than provided by law. Such bonds or refunding bonds may be sold in denominations of \$1,000 each or multiples thereof. Refunding bonds shall be sold at a price and under the terms of the general law applicable to water control and improvement districts. The district may exchange bonds or refunding bonds for property acquired by purchase, or in payment of the contract price of work done or materials furnished or services furnished for the use and benefit of the district; provided that no notice given pursuant to Article 7880—117, Revised Civil Statutes of Texas, 1925, as amended, shall be predicated upon or require the exchange of bonds or refunding bonds, and said article shall otherwise be applicable to this district in all respects.

Sec. 18. The provisions of Article 7880—77b, Revised Civil Statutes of Texas, 1925, as amended, or any other general law, pertaining to the calling of a hearing for the determination of the dissolution of a district where a bond election has failed shall be inapplicable to this district, and this district shall continue to exist and shall have full power to function and operate regardless of the outcome of any bond election. Upon the failure of any bond election, a subsequent bond election may be called after the expiration of six months from the date of the bond election which failed.

Sec. 19. Notice of all elections may be given under the hand of either the president or the secretary of the district.

Sec. 20. The returns of all elections may be canvassed by the board of directors of the district at any time within seven days after the holding of an election, or as soon thereafter as reasonably practicable. The election returns of the annual election of directors may be canvassed by the board of directors as it was composed at the time of such election, or by the directors elected at such election, or by a combination of both. At the board of directors meeting at which the returns are canvassed, composed as aforesaid, any director newly elected at such election may qualify by filing his official bond and taking the oath of office, either before or after the returns are canvassed, and upon the filing of such bond the board, composed as aforesaid, may approve same.

Sec. 21. The accomplishment of the purposes stated in this Act being for the benefit of the people of this state and for the improvement of their properties and industries, the district in carrying out the purposes of this Act will be performing an essential public function under the Constitution, and the district shall not be required to pay any tax or assessment on the project or any part thereof or on any purchases made by the district, and the bonds issued hereunder and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this state.

Sec. 22. All bonds and refunding bonds of the district shall be and are hereby declared to be legal, eligible, and authorized investments for banks, savings and loan associations, insurance companies, fiduciaries, trustees, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds and refunding bonds shall be eligible to secure the deposit of

any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their face value, when accompanied by all unmatured coupons appurtenant thereto.

Sec. 23. If any word, phrase, clause, paragraph, sentence, part, portion, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act shall nevertheless be valid, and the Legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion, or provision.

Acts 1967, 60th Leg., p. 1442, ch. 610, emerg. eff. June 16, 1967.

Title of Act:

An Act creating and establishing a conservation and reclamation district under Article 16, Section 59, Constitution of Texas, known as "Chaparral Municipal Utility District"; declaring district a governmental agency, body politic and corporate; defining the boundaries; finding the field notes and boundaries form a closure, and related matters; finding a benefit to all land and other property within the district; finding that district is created to serve a public use and benefit; conferring on district the rights, powers, privileges, authority and duties of the general laws of Texas applicable to water control and improvement districts created under Article 16, Section 59, Constitution of Texas, where not in conflict with this Act and adopting same by reference; providing for continuing supervision by the State through the Texas Water Rights Commission; providing for no election for confirmation; providing for no hearing for exclusions, except on written request or the board of directors' own motion; providing for no hearing on plan of taxation and adopting ad valorem plan of taxation for district; providing for governing body of district; providing for qualifications and bonds of directors; naming first board of directors; providing for directors to fill vacancies; providing for terms and election of directors and notice of directors' elections, and related matters; providing for organization of board of directors; providing for the letting of construction contracts and the drawing of warrants; providing for the execution of contracts by the president; providing for a vice president, a secretary, and a secretary pro tem and outlining their duties; providing for employment of engineers, attorneys, auditors, and other employees; providing for a seal for the district; providing for approval of district's plans and specifications by the Texas Water Rights Commission and inspection during construction by said Commission; providing for bonds and refunding bonds to be ap-

proved by the Attorney General of Texas and registered by the Comptroller of Public Accounts of Texas, and providing for negotiability, legality, validity, obligation, and incontestability of the bonds and refunding bonds; providing the power of eminent domain shall be limited to the county or counties within which district is situated; providing district shall bear expenses of relocating, raising, or rerouting any highway, railroad, or utility lines or pipelines made necessary by its exercise of the power of eminent domain; defining "sole expense"; providing that the Municipal Annexation Act shall have no application to the creation of this district; determining and finding the requirements of Article 16, Section 59(d), Constitution of Texas, as to notice of intention to introduce this Act have been fulfilled and accomplished; providing for the selection of a depository or depositories for the district and related matters; providing additional powers of district within and without the boundaries of district; providing for the voting and issuing of bonds to serve areas within or without the boundaries of district; providing for the sale of bonds of the district in denominations of \$1,000 or multiples thereof, for the exchange of bonds for property and services, and for the minimum price of bonds at such sale or exchange; providing that Article 7880—77b (Vernon's Texas Civil Statutes), shall not be applicable to this district, and related matters; providing that notice of all elections shall be under the hand of the president or secretary; providing for canvassing of election returns; providing the bonds of this district and their transfer and income therefrom and profits thereon and purchases made by district shall be tax-free in this State; providing the bonds and refunding bonds of this district shall be eligible investments; enacting other provisions related to the aforementioned subjects; providing for a severability clause; and declaring an emergency. Acts 1967, 60th Leg., p. 1442, ch. 610.

Art. 8280—365. Blue Ridge Municipal Utility District

Section 1. Under and pursuant to the provisions of Article 16, Section 59 of the Constitution of Texas, a conservation and reclamation district is hereby created and established in Fort Bend County, Texas, to be known as "Blue Ridge Municipal Utility District" (hereinafter called "the district") which shall be a governmental agency and a body politic

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and corporate. The creation and establishment of the district is hereby declared to be essential to the accomplishment of the purposes of Article 16, Section 59, of the Constitution of Texas.

Sec. 2. The district shall comprise an area in Fort Bend County, Texas, a more particular description of the area of the district being as follows:

A TRACT OF LAND of 497.278 acres, more or less, out of the John Lafayette Survey, Abstract Number 280 in Fort Bend County, Texas, said tract being described by metes and bounds as follows:

COMMENCING at a one-inch galvanized iron pipe marking the northwest corner of the said John Lafayette Survey and the northeast corner of the I. & G. N. R.R. Company Survey Number 4, Abstract Number 263;

THENCE, S 89° 38' E 2800.06 feet to the Point of Beginning at the northwest corner of the herein described tract, and said point lying in the east City Limit line of the City of Houston;

THENCE, S 89° 38' E 2020.0 feet to a point for corner, said point lying in the common line between Harris County and Fort Bend County;

THENCE, S 54° 45' 18" E 922.70 feet along the common line of Harris County and Fort Bend County to a point for a corner, said point lying in the easterly line of the John Lafayette Survey, Abstract Number 280, and the westerly line of the T. T. R.R. Company Survey Number 1, Abstract Number 1005;

THENCE, S 00° 12' W 2820.20 feet along the said westerly line of the T. T. R.R. Company Survey Number One with the general line of an old fence to a corner of said fence for an interior corner of the tract described herein;

THENCE, S 89° 55' E 4734.70 feet with the general line of an old fence along a northerly line of the said John Lafayette Survey and the southerly line of the said T. T. R.R. Company Survey Number One and the southerly line of the T. T. R.R. Company Survey Number 15, Abstract Number 1023, to a concrete monument at a corner of the said old fence for the northeast corner of the tract described herein;

THENCE, S 00° 05' W 1374.00 feet with the general line of an old fence along a westerly line of the T. T. R.R. Company Survey Number 15 and the easterly line of the John Lafayette Survey, Abstract Number 280, to a point for the most westerly common corner of the T. T. R.R. Company Survey Number 15 and the J. Poitevent Survey Number 3, Abstract Number 305; And continuing S 00° 05' W 292.80 feet along the general line of an old fence along a west line of the J. Poitevent Survey, Number 3, Abstract Number 305, and the easterly line of the John Lafayette Survey, Abstract Number 280, for a total distance of 1666.80 feet to a point for the southeast corner of the tract described herein;

THENCE, N 89° 55' W 7525.24 feet to a point for corner, said point lying in the east City Limit line of the City of Houston;

THENCE, N 00° 20' E 5028.40 feet parallel and at right angles 2800.00 feet east from the general line of the said old fence along the west line of John Lafayette Survey and the east line of the said I. & G. N. R.R. Company Survey Number 4 and along the east City Limit line of the City of Houston to the Point of Beginning.

The above described tract contains 497.278 acres of land, more or less.

Sec. 3. It is expressly determined and found that all of the land and other property included within the area and boundaries will be benefited by the works and projects which are to be accomplished by the district pursuant to the powers herein conferred under the provisions of Article 16, Section 59, of the Constitution of Texas, and that such district was and is created to serve a public use and benefit.

Sec. 4. It is determined, and the Legislature hereby finds, that the boundaries of said district form a closure, and if any mistake is made in copying the field notes in the legislative process, or otherwise a mistake is found to have occurred in the field notes, it shall in no way or manner affect the organization, existence or validity of said district, or the right of the district to issue bonds or refunding bonds, or to pay the principal and interest thereon, or in any other manner affect the legality or operation of the district or its governing body.

Sec. 5. Subject to the specific limitations hereafter set out, the district shall have and exercise and is hereby vested with, all of the rights, powers and privileges, authorities and functions conferred and imposed by the general laws of this State now in force and hereafter enacted, applicable to water control and improvement districts created under the authority of Article 16, Section 59 of the Constitution of Texas, but to the extent that the provisions of any such general laws may be in conflict with or inconsistent with the provisions of this Act, the provisions in this Act shall prevail. All such general laws are hereby adopted and incorporated by reference with the same effect as if incorporated in full in this Act. The powers and duties herein granted to the district shall be subject to the continuing right of supervision of the State, to be exercised by and through the Texas Water Rights Commission.

Sec. 6. The board of directors shall not call a confirmation election or a hearing on the adoption of a plan of taxation. The ad valorem plan of taxation shall be used. The board of directors shall call and hold a hearing on the exclusion of land or other property from the district as provided by law.

Sec. 7. The district is specifically granted the right, power and authority to purchase and construct, or purchase or construct, or otherwise plan, acquire and accomplish by any and all practical means waterworks systems, sanitary sewer systems, storm sewer systems and drainage facilities, and any and all works, facilities, plants, equipment, and appliances in any and all manner incident to, helpful or necessary to such purposes, and to make any and all necessary purchases, constructions, improvements, extensions, additions and repairs thereto, and to purchase within or without the district, or to acquire by eminent domain within the district only, all necessary land, right of way, easements, sites, equipment, buildings, plants, structures and facilities therefor and to operate and maintain the same, and to sell its services and by-products, and to fix rates therefor, and the district may issue its bonds (whether funding or refunding) for such purposes and provide and make payment therefor and for necessary expenses in connection therewith; and subject to the limitations contained herein, the district shall have and exercise and is hereby vested with, all of the rights, powers, privileges, authority and functions conferred and imposed by the general laws of this State now in force or hereafter enacted, applicable to water control and improvement districts created under the authority of Article 16, Section 59, of the Constitution of Texas, and such general laws are hereby adopted and incorporated by reference with the same effect as if incorporated in full in this Act.

Sec. 8. All powers of the district shall be exercised by a board of directors consisting of five persons. Each director shall serve for his term of office as herein provided, and thereafter until his successor shall be elected or appointed and qualified. No person shall be appointed a director unless such person is 21 years of age or over and a resident of the State of Texas. Such director shall not be required to reside within the boundaries of the district. Each director shall subscribe to the oath of office and give bond in the amount of \$5,000 for the faithful performance of his duties, the cost of which shall be paid by the district.

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Immediately after this Act becomes effective, the following named persons shall be directors of said district:

George M. Saad
B. G. Baumgardner
Alvin S. Moody
Alvin S. Moody, III
Dan M. Moody, Jr.

If any of the foregoing persons shall die, become incapacitated, refuse to serve or otherwise not be qualified to assume their duties under this Act, the remaining directors shall appoint his successor. The first two of the above-named directors shall serve until the 2nd Tuesday in January, 1968; and the last three of the above-named directors shall serve until the 2nd Tuesday in January, 1969, as provided herein. An election for directors shall be held on the 2nd Tuesday in January of each year beginning in 1968, and two directors shall be elected in that year and in each even-numbered year thereafter, and three in each odd-numbered year thereafter. Such election shall be ordered by the board of directors, shall be held in compliance with the Texas Election Code and notice of election shall be published once a week for three consecutive weeks in a newspaper of general circulation published in the county in which the district is located with the first publication to be at least 21 days prior to the election and no more than 35 days prior thereto. Any vacancy occurring in the board of directors shall be filled for the unexpired term by a majority of the remaining directors. The board of directors shall elect from its number a president and secretary and such other officers as in the judgment of the board are necessary. The treasurer may be appointed by the board and shall give bond in such amount as may be required by the board, conditioned that he or it will faithfully account for all money which shall come into his or its custody as treasurer of the district. The board shall appoint all necessary engineers, attorneys, fiscal agents, managers, employees or other personnel as may be needed, and shall adopt a seal for the district.

Sec. 9. The district shall have the right, power and authority to use any and all public roadways, streets, alleys and public easements within the boundaries of the district in the accomplishment of its purpose, without the necessity of securing a franchise, but only after permission in writing has been obtained from the appropriate government agency having jurisdiction over the public property being used.

Sec. 10. In the event that the district in the exercise of the power of eminent domain or a power of relocation or any other power, makes necessary the relocation, raising, re-routing or changing the grade of, or altering the construction of any highway, railroad, electric transmission line, telephone or telegraph properties and facilities, or pipelines, all such necessary relocation, raising, re-routing, change of grade or alteration of construction and any additional expenses required thereby shall be accomplished at the sole expense of the district. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, re-routing, or changing grade or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the agreed net salvage value derived from the old facility, together with any additional or different facility that may be required as a result of such relocation, raising, lowering, re-routing or change in grade or alteration of construction in any such facilities.

Sec. 11. The district shall have the right, power and authority to enter into contracts with the United States of America, the State of Texas or any subdivision thereof, municipal corporations, owners of land, developers or lessees of land and properties and others, as may be necessary or appropriate in connection with the facilities, works or improvements as

the district may be authorized and empowered to perform so that, to the greatest extent reasonably possible, considering sound engineering and economic practices, the area may be placed in position ultimately to receive the services of such facilities, works or improvements. No election shall be required of any city or town for approval of contracts with the district, but such contracts may be entered into without the necessity of an election by any contracting party. Such contracts may be for any term not to exceed 50 years.

The district shall have the power and authority to enter into a contract with the City of Houston with respect to compliance with the policy of the city on the formation of water control and improvement districts within such city's extraterritorial jurisdiction, generally to the effect that:

(a) Bonds may be issued by the district only for the purpose of purchasing and constructing, or purchasing or constructing, or otherwise acquiring waterworks systems, sanitary sewer systems, storm sewer systems and drainage facilities, or parts of such systems or facilities, and to make any and all necessary purchases, constructions, improvements, extensions, additions and repairs thereto, and to purchase or acquire all necessary land, right-of-way, easements, sites, equipment, buildings, plants, structures and facilities therefor and to operate and maintain same, and to sell water and other services within or without the boundaries of the district. Such bonds issued by the district, other than refunding bonds, shall only be sold after the taking of public bids therefor, and none of such bonds, other than refunding bonds, shall be sold for less than 100 percent of their face value and shall bear interest at the rate of not more than six percent per annum.

(b) The district shall submit the plans and specifications for the construction of water, sanitary sewer and drainage facilities to serve such district to such city for approval and such district must obtain the approval thereof by such city before commencing construction thereof. The construction of the district's water, sanitary sewer and drainage facilities shall be in accordance with the approved plans and specifications and with applicable standards and specifications of the City of Houston, and during the progress of the construction and installation of such facilities, the Director of Public Works of the City of Houston, or an employee thereof, shall make periodic on the ground inspections, and no such construction shall be started or undertaken by the district unless it has in its possession the following:

(c) A certificate of the district's engineer, who shall be a registered professional engineer under the laws of the State of Texas, that, in his opinion, such construction conforms to said city's established standards and specifications; and a letter or certificate of the Director of the Department of Public Works of the City of Houston (or the successor, department, or agency of said Department of Public Works) that, in his opinion, such construction conforms to said city's established standards and specifications.

Sec. 12. The district is fully empowered to borrow money for its corporate purposes including the power to borrow money and accept grants, gratuities, or other support from the United States of America, or the State of Texas, or from any corporation or agency created or designated by the United States of America or the State of Texas, or from any other source, and in connection with any such loan, grant or other support, to enter into such arrangements as the board of directors may deem advisable. The district is granted full powers to authorize, execute, issue and sell bonds, whether to be supported by taxes, revenues or a combination of taxes and revenues, to evidence any indebtedness it may lawfully incur and in such connection the board of directors may proceed as permitted under the general laws pertaining to the issuance of bonds by water control and improvement districts, including refunding bonds. Bonds pay-

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able solely from net revenues of the district's operation or from the proceeds of any contract for the district's services may be issued by resolution of the board of directors and no hearing or election therefor shall be required of any contracting party. All bonds issued by the district pursuant to the provisions of this Act shall constitute negotiable instruments within the meaning of the Uniform Commercial Code of this State. Before any bonds shall be sold by the district, a certified copy of the proceedings for the issuance thereof, including the form of such bonds, together with any other information which the Attorney General of Texas may require, shall be submitted to the attorney general, and if he shall find that such bonds have been issued in accordance with the law, he shall approve such bonds and execute a certificate of approval which shall be filed in the office of the Comptroller of Public Accounts of the State of Texas, and be recorded in a record kept for that purpose. No bonds shall be issued until the same shall have been registered by the comptroller of public accounts, who shall so register the same if the attorney general shall have filed with the comptroller of public accounts his certificate approving the bonds, and the proceedings for the issuance thereof, as hereinabove provided. When bonds or the proceedings pertaining thereto recite that they are secured by a pledge of the proceeds of a contract theretofore made between the district and any city, district, or other user, a copy of such contract and proceedings of the contracting parties shall be submitted to the attorney general with the bond record and if such bonds have been duly authorized and such contracts made in compliance with the law, he shall approve the bonds and contracts and the bonds shall then be registered by the comptroller of public accounts. When approved as aforesaid, the bonds and contracts shall be valid and binding and shall be incontestable for any cause. No bonds shall be issued until the same have been submitted to and reviewed by the Texas Water Commission as provided by Article 7880—139, Vernon's Texas Civil Statutes, as amended, followed by full compliance by the district with all requirements made by the commission pursuant to such statute.

All bonds of the district shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, trustees and sinking funds of cities, towns and villages, counties, school districts, or other political subdivisions of the State of Texas, and for all public funds of the State of Texas or its agencies, including the State Permanent School Fund. Such bonds shall be eligible to secure deposit of any and all public funds of the State of Texas, and any and all public funds of cities, towns, villages, counties, school districts or other political subdivisions or corporations of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their value, when accompanied by all unmatured coupons pertinent thereto.

Sec. 13. The board of directors shall designate one or more banks within or without the district to serve as depository for the funds of the district. All funds of the district shall be deposited in such depository bank or banks except that sufficient funds shall be remitted to the bank or banks of payment of principal of and interest on the outstanding bonds of the district and in time that such may be received by the said bank or banks of payment on or prior to the date of the maturity of such principal and interest so to be paid. To the extent that funds in the depository bank or banks are not insured by the Federal Deposit Insurance Corporation, they shall be secured in the manner provided by law for the security of county funds.

Sec. 14. A complete system of accounts shall be kept by the district and an audit of its affairs for each year shall be prepared by an independent certified public accountant, or a firm of independent certified public

accountants, of recognized integrity and ability. The fiscal year of the district shall be from October 1 to September 30 of the following year, unless and until changed by the board of directors. A written report of the audit shall be delivered to each member of the board of directors not later than 90 days after the close of each fiscal year; and a copy of such audit report shall be delivered upon request to the holder or holders of at least 25 percent of the then outstanding bonds of the district; and at least five additional copies of said audit shall be delivered to the office of the district, one of which shall be kept on file, and shall constitute a public record open to inspection by any interested person or persons within normal office hours. The cost of such audit shall be paid for by the district.

Sec. 15. The accomplishment of the purposes stated in this Act being for the benefit of the people of this State and for the improvement of their properties and the industries thereof, the district in carrying out the purposes of this Act will be performing an essential public function under the Constitution and shall not be required to pay any tax or assessment on its properties or any part thereof, and the bonds issued hereunder and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this State.

Sec. 16. This district is hereby created notwithstanding any of the provisions of the Municipal Annexation Act, being Article 970a, Vernon's Texas Civil Statutes, and to the extent of the creation of the district only, said Article 970a shall have no application. In all other respects, the district hereby created is expressly made subject to all provisions of said Article 970a.

Sec. 17. The Legislature specifically finds and declares that the requirements of Article 16, Section 59(d), of the Constitution of Texas, have been done and accomplished in due course and time, and in due order, and that the Legislature has the power and authority to enact this Act.

Sec. 18. The Legislature hereby declares that the enactment hereof is in fulfillment of a duty conferred upon it by Section 59 of Article 16 of the Constitution of the State of Texas wherein it is required to pass such laws as may be appropriate in the preservation and conservation of the natural resources of the State; that the district herein created is essential to the accomplishment of such purposes and that this Act therefore operates on a subject in which the State and the public at large are interested. All of the terms and provisions of this Act are to be liberally construed, to effectuate the purposes, powers, rights and authorities herein set forth.

Sec. 19. Nothing in this Act shall be construed to violate any provision of the Federal or State Constitutions and all acts done hereunder shall be done in such manner as may conform thereto whether herein expressly provided or not. Where any procedure hereunder may be held by any court to be violative of either of such Constitutions, the district shall have the power of resolution to provide an alternative procedure conformable to such Constitutions. If any provision of this Act shall be invalid, such fact shall not affect the creation of the district or the validity of any other provision of this Act, and the Legislature hereby declares that it would have created the district and enacted the valid provisions of this Act notwithstanding the invalidity of any other provision or provisions thereof.

Acts 1967, 60th Leg., p. 1454, ch. 612, emerg. eff. June 16, 1967.

Title of Act:

An Act creating and establishing a Conservation and Reclamation District under Article 16, Section 59 of the Constitution of Texas, to be known as "Blue Ridge Municipal Utility District"; defining the boundaries; determining and finding benefits to the land and other property within the district; finding that the boundaries of the district form a closure; conferring rights, powers, privileges, authorities and

functions upon the district; providing for continuing supervision by the State through the Texas Water Rights Commission; providing that the district shall not call a confirmation election; providing for a hearing for exclusions; providing that the district shall use the ad valorem plan of taxation; providing for the issuance of bonds; providing for a board of directors; providing for the use of public roadways, streets, alleys and public easements; providing that

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the district shall bear the expense of relocation of certain properties and facilities in the exercise of the power of eminent domain; providing for the power to contract with the United States of America, the State of Texas and others, and making provisions for such contracts; making specific provisions relating to contracts with the City of Houston; providing for the power to borrow money; providing for the appointment of a depository; providing for a system of accounts and an audit thereof; finding that the district will be carrying

out an essential public function; providing that the Municipal Annexation Act is not applicable to the creation of the district; finding that the requirements of Article 16, Section 59 of the Constitution have been accomplished; providing that the enactment of this Act is essential and necessary in the preservation and conservation of natural resources; enacting other provisions related to the subject; providing a severability clause; and declaring an emergency. Acts 1967, 60th Leg., p. 1454, ch. 612.

Art. 8280—366. Enchanted Oaks Municipal Utility District

Section 1. Under and pursuant to the provisions of Article 16, Section 59 of the Constitution of Texas, a conservation and reclamation district is hereby created and established in Henderson County, Texas, to be known as "Enchanted Oaks Municipal Utility District," hereinafter called the "district," which shall be a governmental agency and a body politic and corporate. The creation and establishment of the district is hereby declared to be essential to the accomplishment of the purposes of Article 16, Section 59, Constitution of Texas.

Sec. 2. The district shall comprise all of the territory contained within the following described area:

Lying in Henderson County, Texas, and being a total of 261.56 acres, more or less, out of the J. M. Mendosa Survey, A-487.

Said 261.56 acres are composed of four tracts of land, numbered 1, 2, 3 and 4. Tract No. 1 consists of 46.50 acres, Tract No. 2 consists of 0.49 acres, Tract No. 3 consists of 60.01 acres, and Tract No. 4 consists of 154.56 acres.

Said four tracts are described as follows:

TRACT NO. 1

Situated wholly within Henderson County, Texas, and being 46.50 acres of land, more or less, in the J. M. Mendosa Survey, A-487, described by metes and bounds as follows:

Beginning at the southeast corner of said J. M. Mendosa Survey, same being the southwest corner of the G. Chovanno Survey.

THENCE, N 87° 05' 00" W 859.80 feet to a point on contour elevation 325.

THENCE, along the meanders of contour elevation 325 as follows:

N 18° 17' 00" W 45.20 feet
 N 9° 23' 00" E 137.80 feet
 N 48° 02' 00" E 73.60 feet
 N 83° 03' 00" E 70.30 feet
 S 58° 21' 00" E 47.20 feet
 N 16° 20' 00" W 55.60 feet
 N 49° 37' 00" W 127.40 feet
 N 26° 36' 00" E 112.90 feet
 N 20° 58' 00" E 41.50 feet
 S 42° 04' 00" W 46.80 feet
 S 58° 16' 00" W 162.00 feet
 N 81° 42' 00" W 107.40 feet
 N 55° 42' 00" W 236.30 feet
 N 77° 52' 00" W 118.80 feet
 N 83° 39' 00" W 133.10 feet
 N 86° 07' 00" W 82.90 feet
 S 87° 17' 00" W 82.70 feet
 N 22° 55' 00" W 166.20 feet
 N 34° 00' 00" E 255.00 feet
 N 36° 53' 00" E 155.20 feet

N 81° 36' 00" E 44.90 feet
 N 42° 39' 00" W 60.30 feet
 N 28° 45' 00" W 163.60 feet
 N 25° 14' 00" W 88.90 feet
 N 1° 43' 00" E 124.90 feet
 N 28° 33' 00" E 64.20 feet
 S 84° 36' 00" E 33.60 feet
 S 49° 48' 00" E 81.10 feet
 S 72° 48' 00" E 152.00 feet
 N 63° 51' 00" E 162.00 feet
 S 47° 11' 00" E 96.50 feet
 S 38° 20' 00" E 123.20 feet
 S 48° 13' 00" E 95.40 feet
 S 62° 29' 00" E 131.30 feet
 S 66° 24' 00" E 92.60 feet
 S 22° 46' 00" E 60.60 feet
 N 22° 16' 00" E 60.40 feet
 N 63° 35' 00" E 50.30 feet
 N 87° 19' 00" E 109.30 feet
 S 46° 44' 00" E 49.40 feet
 S 82° 04' 00" E 82.80 feet
 N 64° 42' 00" W 72.50 feet
 N 42° 36' 00" W 76.10 feet
 S 51° 55' 00" W 27.80 feet
 N 75° 40' 00" W 105.20 feet
 N 76° 49' 00" W 107.40 feet
 N 36° 52' 00" W 66.30 feet
 N 2° 33' 00" E 155.50 feet
 N 32° 01' 00" E 66.20 feet
 N 51° 35' 00" E 81.30 feet
 N 63° 03' 00" E 54.90 feet
 N 83° 40' 00" E 67.80 feet
 S 52° 15' 00" E 98.80 feet
 N 19° 51' 00" E 105.60 feet
 N 63° 43' 00" E 32.70 feet
 East 32.10 feet
 S 63° 50' 00" E 175.60 feet
 N 12° 32' 00" W 51.90 feet
 N 49° 26' 38" W 68.78 feet
 N 15° 43' 00" W 66.30 feet
 N 8° 32' 00" E 119.50 feet
 N 32° 11' 00" E 88.80 feet
 N 53° 18' 00" E 80.40 feet
 S 81° 44' 00" E 110.30 feet
 S 26° 30' 00" E 81.10 feet
 N 8° 24' 00" E 60.80 feet
 S 59° 00' 00" E 23.00 feet to a point in the easterly line of said J. M.

Mendoza Survey.

THENCE, S 0° 17' 00" E along the easterly line of said J. M. Mendoza Survey 1968.10 feet to the point of beginning.

Containing 46.50 acres, more or less.

TRACT NO. 2

Situated wholly within Henderson County, Texas, and being 0.49 acre of land, more or less, in the J. M. Mendoza Survey, A-487, described by metes and bounds as follows:

Commencing for reference at the southeast corner of said J. M. Mendoza Survey, same being the southwest corner of the G. Chovanno Survey; thence N 0° 17' 00" W along the easterly line of said J. M. Mendoza Survey, 2161.60 feet to the point of beginning on contour elevation 325.

For Annotations and Historical Notes, see V.A.T.S.

THENCE, along the meanders of contour elevation 325, as follows:

N 69° 52' 00" W 49.10 feet

N 41° 07' 00" W 68.60 feet

N 7° 28' 00" E 117.70 feet

N 32° 20' 00" E 69.60 feet

N 3° 55' 23" E 106.22 feet

N 28° 29' 00" E 61.70 feet to a point in the easterly line of said J. M.

Mendoza Survey.

THENCE S 0° 17' 00" E along said easterly survey line 404.30 feet to the point of beginning.

Containing 0.49 acre, more or less.

TRACT NO. 3

Situated wholly within Henderson County, Texas, and being 60.01 acres of land, more or less, in the J. M. Mendoza Survey, A-487, described by metes and bounds as follows:

Commencing for reference at the southeast corner of said J. M. Mendoza Survey; same being the southwest corner of the G. Chovanno Survey; thence N 0° 17' 00" W along the easterly line of said J. M. Mendoza Survey 2626.00 feet to the point of beginning on contour elevation 325.

THENCE, along the meanders of contour elevation 325 as follows:

S 36° 14' 00" W 208.96 feet

S 62° 16' 00" W 128.00 feet

S 21° 11' 00" W 145.90 feet

S 51° 16' 00" W 72.10 feet

N 85° 02' 00" W 88.20 feet

N 25° 24' 00" W 107.90 feet

S 32° 11' 00" W 51.00 feet

S 39° 21' 00" W 91.20 feet

S 12° 01' 00" W 43.10 feet

S 18° 09' 00" E 52.00 feet

S 53° 36' 00" W 51.20 feet

S 69° 00' 00" W 88.40 feet

S 76° 26' 00" W 42.50 feet

S 54° 36' 00" W 103.00 feet

N 57° 35' 00" W 85.80 feet

N 38° 29' 00" W 86.40 feet

N 10° 03' 00" W 123.90 feet

N 22° 52' 00" E 42.00 feet

N 41° 20' 00" W 31.70 feet

N 26° 04' 00" W 62.10 feet

N 10° 04' 00" W 84.00 feet

N 1° 14' 00" E 86.50 feet

N 17° 46' 00" E 43.80 feet

N 40° 18' 00" E 109.30 feet

S 83° 22' 00" W 73.40 feet

N 32° 10' 00" W 78.50 feet

N 25° 45' 00" W 105.60 feet

N 30° 19' 00" W 92.20 feet

N 0° 35' 00" E 76.90 feet

N 26° 00' 00" E 54.50 feet

N 45° 19' 00" E 82.10 feet

N 44° 39' 00" E 60.00 feet

N 17° 21' 00" E 57.80 feet

N 35° 18' 00" W 155.00 feet

N 23° 16' 00" E 74.10 feet

S 61° 55' 00" E 78.00 feet

S 79° 11' 00" E 85.60 feet

S 51° 12' 00" E 113.30 feet

S 36° 01' 00" E 154.20 feet

N 10° 59' 00" W 72.80 feet
N 4° 14' 00" E 67.30 feet
N 80° 04' 00" E 86.80 feet
N 81° 53' 00" E 102.40 feet
N 10° 59' 00" E 30.50 feet
N 78° 57' 00" E 69.10 feet
S 16° 06' 00" E 47.40 feet
S 57° 11' 00" E 70.30 feet
N 36° 26' 00" E 70.40 feet
N 17° 35' 00" W 35.90 feet
S 38° 22' 00" W 68.75 feet
N 11° 23' 00" W 33.30 feet
N 5° 33' 00" E 102.80 feet
S 34° 26' 00" W 55.10 feet
N 56° 28' 00" W 63.55 feet
S 58° 25' 00" W 62.00 feet
N 82° 15' 00" W 67.65 feet
N 75° 19' 00" W 73.70 feet
N 52° 03' 00" W 172.50 feet
N 49° 17' 00" W 94.00 feet
N 55° 23' 00" W 201.90 feet
N 54° 44' 00" W 124.35 feet
N 49° 39' 00" W 61.60 feet
N 14° 01' 00" W 55.30 feet
N 7° 29' 00" E 116.45 feet
N 12° 59' 00" W 128.30 feet
N 65° 43' 00" E 144.60 feet
S 83° 22' 00" E 120.70 feet
N 61° 47' 00" E 64.00 feet
S 76° 10' 20" E 83.41 feet
S 47° 13' 00" E 75.80 feet
S 72° 44' 00" E 71.95 feet
S 59° 40' 00" E 68.10 feet
S 57° 36' 00" E 137.30 feet
S 26° 34' 00" E 60.90 feet
N 87° 49' 00" E 74.70 feet
N 72° 24' 00" W 69.20 feet
N 21° 32' 00" W 56.60 feet
N 43° 38' 00" W 114.20 feet
N 57° 01' 00" W 123.70 feet
N 44° 02' 00" W 152.50 feet
N 51° 15' 00" W 167.20 feet
N 14° 18' 00" W 74.80 feet
N 6° 34' 00" E 225.20 feet
N 20° 36' 00" E 136.00 feet
N 24° 42' 00" E 73.70 feet
N 33° 45' 00" E 93.50 feet
N 45° 04' 00" E 35.20 feet to a point

THENCE, departing from the meanders of contour elevation 325, N 89° 44' 00" E 134.80 feet to a point on contour elevation 325.

THENCE, along the meanders of contour elevation 325 as follows:

S 71° 25' 00" E 47.30 feet

N 40° 13' 00" E 20.10 feet to a point.

THENCE, departing from the meanders of contour elevation 325, N 89° 44' 00" E 224.20 feet to a point on contour elevation 325.

THENCE, along the meanders of contour elevation 325 as follows:

S 60° 03' 00" E 78.00 feet

S 3° 55' 00" E 65.10 feet

N 28° 30' 00" E 84.40 feet

For Annotations and Historical Notes, see V.A.T.S.

S 40° 55' 00" E 49.00 feet
 S 84° 48' 00" E 49.50 feet
 N 76° 30' 00" E 24.60 feet
 S 9° 26' 00" E 48.50 feet
 S 82° 40' 00" E 38.10 feet
 S 13° 12' 00" W 84.30 feet
 S 16° 07' 00" E 79.70 feet
 N 18° 50' 00" E 155.10 feet
 N 3° 00' 00" E 45.90 feet
 S 32° 30' 00" E 42.93 feet to a point in the easterly line of said J.

M. Mendosa Survey.

THENCE, S 0° 17' 00" E 2294.90 feet to the point of beginning.
 Containing 60.01 acres, more or less.

TRACT NO. 4

Situated wholly within Henderson County, Texas, and being 154.56 acres of land, more or less, in the J. M. Mendosa Survey, A-487, described by metes and bounds as follows:

Commencing for reference at the southeast corner of said J. M. Mendosa Survey, same being the southwest corner of the G. Chovanno Survey; thence N 0° 17' 00" W along the easterly line of said J. M. Mendosa Survey 5042.90 feet; thence S 89° 44' 00" W 1688.80 feet to the point of beginning on contour elevation 325.

THENCE, along the meandors of contour elevation 325 as follows:

S 42° 48' 00" W 25.00 feet
 S 77° 02' 00" W 63.45 feet
 N 73° 59' 00" W 90.05 feet
 S 54° 44' 00" W 72.80 feet
 S 22° 44' 00" W 108.65 feet
 S 7° 18' 00" W 91.40 feet
 S 19° 21' 00" E 147.40 feet
 S 22° 40' 00" E 73.95 feet
 S 15° 56' 00" E 44.58 feet
 S 3° 20' 00" E 81.90 feet
 S 9° 50' 00" E 117.15 feet
 S 13° 08' 00" W 64.20 feet
 S 24° 25' 00" W 79.25 feet
 S 9° 34' 00" W 81.10 feet
 S 8° 54' 00" W 65.65 feet
 S 12° 57' 00" W 80.95 feet
 S 11° 41' 00" W 45.40 feet
 S 3° 50' 00" W 76.70 feet
 S 1° 32' 00" W 74.50 feet
 N 87° 00' 00" W 58.90 feet
 N 45° 27' 00" W 27.30 feet
 N 39° 12' 00" W 80.40 feet
 N 35° 09' 00" W 101.50 feet
 N 39° 26' 00" W 102.80 feet
 S 17° 23' 00" W 72.50 feet
 S 21° 33' 00" E 54.00 feet
 S 16° 51' 00" E 132.30 feet
 S 14° 26' 00" W 78.70 feet
 S 70° 54' 00" W 80.45 feet
 S 73° 49' 00" W 77.80 feet
 S 72° 37' 00" W 85.70 feet
 N 46° 38' 00" W 99.35 feet
 N 57° 25' 00" W 142.90 feet
 N 46° 26' 00" W 112.50 feet
 S 15° 32' 00" W 81.50 feet
 S 36° 49' 00" E 117.15 feet

S 6° 45' 00" W 52.00 feet
S 71° 50' 00" W 72.70 feet
N 82° 23' 00" W 71.45 feet
S 86° 44' 00" W 95.40 feet
N 70° 01' 00" W 47.00 feet
S 43° 20' 00" W 44.95 feet
S 32° 50' 00" E 55.10 feet
S 85° 39' 00" E 58.40 feet
S 63° 23' 00" E 129.71 feet
S 67° 44' 00" E 127.80 feet
S 73° 30' 00" E 66.50 feet
S 52° 53' 00" E 75.40 feet
S 45° 28' 00" E 91.90 feet
S 34° 17' 00" E 88.75 feet
S 43° 08' 00" E 60.95 feet
S 50° 23' 00" E 54.75 feet
S 45° 17' 00" E 56.20 feet
S 49° 16' 00" E 61.20 feet
S 54° 38' 00" E 85.55 feet
S 40° 42' 00" E 76.00 feet
S 22° 46' 00" E 74.30 feet
S 1° 19' 00" W 107.60 feet
S 18° 56' 00" W 69.35 feet
S 25° 04' 00" W 100.65 feet
S 39° 15' 00" E 87.80 feet
S 24° 59' 00" E 79.70 feet
S 19° 58' 00" W 34.35 feet
S 58° 23' 00" W 107.70 feet
S 29° 10' 00" W 74.10 feet
S 2° 16' 00" E 71.45 feet
S 17° 17' 00" W 46.00 feet
S 43° 58' 00" W 29.00 feet
S 59° 22' 00" W 52.90 feet
S 76° 18' 00" W 18.35 feet
N 56° 28' 00" W 20.40 feet
N 10° 25' 00" W 61.10 feet
N 13° 31' 00" W 55.80 feet
N 2° 04' 00" E 60.25 feet
N 2° 47' 00" E 100.30 feet
N 26° 47' 00" W 93.85 feet
N 36° 33' 00" W 77.65 feet
N 1° 47' 00" W 64.65 feet
S 53° 14' 00" W 76.40 feet
S 44° 54' 00" W 83.95 feet
S 26° 02' 00" W 96.30 feet
S 40° 13' 00" W 71.10 feet
S 3° 47' 00" W 140.80 feet
S 9° 40' 00" W 45.10 feet
S 33° 08' 00" W 57.60 feet
S 48° 25' 00" W 72.70 feet
S 45° 19' 00" W 117.35 feet
S 5° 03' 00" E 90.00 feet
S 21° 02' 00" E 70.00 feet
S 35° 03' 00" E 66.30 feet
S 22° 01' 00" E 81.60 feet
S 40° 47' 00" W 77.30 feet
S 55° 04' 00" W 70.00 feet
S 84° 19' 00" W 93.75 feet
N 57° 35' 00" W 39.35 feet
N 58° 19' 00" W 87.20 feet

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N 73° 15' 00" W 97.85 feet
 N 83° 33' 00" W 61.30 feet
 N 66° 30' 00" W 73.60 feet
 N 68° 38' 00" W 67.90 feet
 N 65° 14' 00" W 82.50 feet
 N 38° 34' 00" W 69.10 feet
 N 34° 48' 00" W 61.70 feet
 N 49° 51' 00" W 89.75 feet
 N 55° 23' 00" W 57.30 feet
 N 63° 51' 00" W 88.55 feet
 N 61° 54' 00" W 47.30 feet
 N 52° 52' 00" W 105.70 feet
 N 30° 52' 00" W 44.85 feet
 N 15° 26' 00" W 87.50 feet
 N 10° 34' 00" W 91.90 feet
 N 5° 18' 00" E 103.20 feet
 N 12° 11' 00" E 105.20 feet
 N 8° 29' 00" W 103.20 feet
 N 0° 25' 00" E 106.60 feet
 N 2° 49' 00" W 97.20 feet
 S 29° 10' 00" W 94.70 feet
 S 18° 47' 00" W 130.70 feet
 S 42° 55' 00" W 109.85 feet
 S 62° 58' 00" W 88.30 feet
 S 49° 53' 00" W 74.10 feet
 S 39° 49' 00" W 83.35 feet
 S 51° 04' 00" W 145.25 feet
 S 28° 33' 00" W 139.55 feet
 S 21° 30' 00" W 78.80 feet
 S 66° 44' 00" W 48.30 feet
 N 45° 05' 00" W 85.30 feet
 N 23° 39' 00" W 106.80 feet
 N 4° 58' 00" W 142.85 feet
 N 1° 20' 00" W 204.30 feet
 N 17° 31' 00" E 247.30 feet
 N 9° 48' 00" E 211.90 feet
 N 17° 32' 00" E 196.10 feet
 N 31° 33' 00" E 162.10 feet
 N 55° 36' 00" E 113.00 feet
 N 74° 31' 00" E 54.50 feet
 N 88° 27' 00" E 107.40 feet
 S 64° 53' 00" E 67.75 feet
 S 47° 58' 00" E 98.70 feet
 N 25° 46' 00" W 47.65 feet
 N 28° 43' 00" W 111.40 feet
 N 6° 33' 00" W 86.95 feet
 N 29° 13' 00" E 76.40 feet
 N 53° 55' 00" E 68.10 feet
 N 51° 17' 00" E 86.30 feet
 S 66° 29' 00" E 80.10 feet
 S 52° 47' 00" E 37.65 feet
 N 38° 47' 00" W 60.60 feet
 N 15° 04' 00" W 84.60 feet
 N 10° 00' 00" E 67.68 feet
 N 33° 41' 00" E 98.25 feet
 N 64° 23' 00" E 91.20 feet
 N 75° 22' 00" W 72.90 feet
 N 26° 05' 00" W 126.60 feet
 N 45° 41' 00" W 99.75 feet
 N 25° 22' 00" W 91.35 feet

N 17° 43' 00" E 47.80 feet
 N 51° 25' 00" E 82.00 feet
 N 42° 15' 00" E 53.15 feet
 N 82° 43' 00" E 37.95 feet
 S 70° 14' 00" E 38.95 feet
 S 82° 47' 00" E 36.65 feet
 N 83° 21' 00" W 38.90 feet
 N 62° 33' 00" W 57.10 feet
 S 76° 06' 00" W 92.40 feet
 S 28° 20' 00" W 48.55 feet
 S 58° 44' 00" W 95.20 feet
 S 39° 10' 00" W 63.65 feet
 N 42° 13' 00" W 68.30 feet
 N 25° 48' 00" W 96.95 feet
 N 6° 04' 00" E 53.80 feet
 N 30° 16' 00" W 28.75 feet
 N 4° 16' 00" W 75.15 feet
 N 17° 16' 00" W 51.90 feet
 N 32° 12' 00" W 56.90 feet
 S 24° 59' 00" E 54.20 feet
 S 2° 37' 00" E 43.85 feet
 S 8° 51' 00" E 69.25 feet
 S 16° 37' 00" E 60.00 feet
 S 23° 44' 00" W 37.00 feet
 S 13° 53' 00" E 77.50 feet
 S 13° 43' 00" E 117.00 feet
 S 9° 11' 00" E 88.00 feet
 S 2° 05' 00" W 78.40 feet
 S 27° 29' 00" W 69.95 feet
 S 44° 11' 00" W 82.00 feet
 S 74° 33' 00" W 99.60 feet
 S 73° 26' 00" W 88.60 feet
 S 84° 38' 00" W 84.80 feet
 N 88° 47' 00" W 74.30 feet
 N 67° 05' 00" W 73.20 feet
 N 56° 41' 00" W 61.10 feet
 N 73° 30' 00" W 146.40 feet
 N 63° 37' 00" W 74.35 feet
 N 40° 30' 00" W 73.65 feet
 N 7° 36' 00" E 64.45 feet
 N 13° 43' 00" E 82.85 feet
 N 24° 24' 00" E 85.30 feet
 N 21° 31' 00" W 80.60 feet
 N 60° 20' 00" W 128.40 feet
 S 86° 06' 00" W 50.60 feet
 N 75° 40' 00" W 74.20 feet
 N 59° 59' 00" W 104.60 feet
 N 32° 00' 00" W 100.60 feet
 N 21° 15' 00" W 104.50 feet
 N 5° 18' 00" W 131.70 feet
 N 28° 39' 00" E 61.35 feet
 N 43° 47' 00" E 38.85 feet
 N 49° 05' 00" E 64.07 feet to a point

THENCE, departing from the meanders of contour elevation 325 N 89° 44' 00" E 3444.23 feet to the point of beginning.

Containing 154.56 acres, more or less.

Sec. 3. It is determined and found that the boundaries and field notes of the district form a closure; and if any mistake is made in copying the field notes in the legislative process, or otherwise a mistake is made

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in the field notes, it shall in no way or manner affect the organization, existence, and validity of the district, or the right of the district to issue any type of bonds or refunding bonds for the purposes for which the district is created, or to pay the principal and interest thereon, or the right to assess, levy, and collect taxes, or the legality or operation of the district or its governing body.

Sec. 4. It is determined and found that all of the land and other property included within the area and boundaries of the district will be benefited by the works and project which are to be accomplished by the district pursuant to the powers conferred by the provisions of Article 16, Section 59, Constitution of Texas, and that said district was and is created to serve a public use and benefit.

Sec. 5. The district shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, authority, and duties conferred and imposed by the general laws of this State now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Article 16, Section 59, Constitution of Texas; but to the extent that the provisions of any such general laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such general laws are hereby adopted and incorporated by reference with the same effect as if incorporated in full in this Act. The powers and duties herein granted to the district shall be subject to the continuing right of supervision of the State, to be exercised by and through the Texas Water Rights Commission.

Sec. 6. It shall not be necessary for the board of directors to call or hold a confirmation election for the confirmation of the district.

Sec. 7. It shall not be necessary for the board of directors to call or hold a hearing on the exclusions of land or other property from the district; provided, however, that the board shall hold such hearing upon the written request of any landowner or other property owner within the district filed with the secretary of the board prior to the calling of the first bond election for the district. The board on its own motion may call and hold an exclusions hearing or hearings in the manner provided by the general law.

Sec. 8. It shall not be necessary for the board of directors to call or hold a hearing on the adoption of a plan of taxation, but the ad valorem plan of taxation shall be used by the district.

Sec. 9. All powers of the district shall be exercised by a board of five directors. Each director shall serve for his term of office as herein provided, and thereafter until his successor shall be elected or appointed and qualified. No person shall be appointed a director unless he is 21 years of age or over and a resident of the State of Texas. Such director shall not be required to reside within the boundaries of the district. Each director shall qualify by subscribing to the oath of office and giving bond in the amount of \$5,000 for the faithful performance of his duties. The cost of such bond shall be paid by the district. Such bond shall be filed in the office of the county clerk and approved by the county judge or the commissioner's court of the county within which district is situated. Such oath shall be filed with the secretary of the district's board of directors after his selection. The bonds of directors elected or appointed after the directors named below shall be approved by the district's board of directors, filed for record in the office of the county clerk of the county in which the district is located and shall be recorded in a record kept for that purpose in the office of the district and be filed for safekeeping in the depository of the district. Immediately after this Act becomes effective, the following named persons, all of whom are 21 years of age

or over and residents of the State of Texas, shall be the directors of the district and shall constitute the board of directors of the district:

Glen L. Warden
Mrs. George W. McAlister
Otis B. Whatley
Don Boyce
W. V. Jackson

Said persons shall qualify as directors within 30 days, or as soon thereafter as practicable, from the effective date of this Act. If any of the aforementioned persons shall fail or refuse to qualify or to serve, or shall die or become incapacitated, or otherwise not be qualified to assume the duties of a director of the district under this Act, a majority of the remaining directors shall appoint a successor or successors. The directors named above or their duly appointed successor or successors shall serve until the second Tuesday in January 1969. Succeeding directors shall be elected or appointed and shall serve for the term and in the manner provided for by Article 7880-37, Vernon's Texas Civil Statutes. The annual elections shall be ordered by the board of directors. Any vacancy occurring in the board of directors shall be filled for the unexpired term by a majority of the remaining directors. The board of directors shall elect from its number a president, a vice president, and a secretary of the board of directors and of the district, and such other officers as in the judgment of the board are necessary. Three directors shall constitute a quorum at any meeting, and a concurrence of three shall be sufficient in all matters pertaining to the business of the district including the letting of construction contracts and the drawing of warrants in payment for construction work, the purchase of existing facilities, and matters relating to construction work. Warrants to pay current expenses, salaries, and accounts may be drawn and signed by an officer or employee, designated by standing order entered on the minutes of the board of directors, when such accounts have been contracted and ordered paid by the directors. The president may execute all contracts, construction or otherwise, entered into by the board of directors on behalf of the district. The vice president shall perform all duties and exercise all power conferred by this Act or the general law upon the president when the president is absent or fails or declines to act. Any order adopted or other action taken at a meeting of the board of directors at which the president is absent may be signed by the vice president, or the board may authorize the president to sign such order or other action. The secretary shall keep and sign the minutes of the meetings of the board of directors; and in his absence at any board meeting, a secretary pro tem shall be named for that meeting who may exercise all the duties and powers of the secretary for such meeting, and shall sign the minutes thereof, and may attest all orders passed or other action taken at such meeting, or the board may authorize the secretary to attest such orders or other action. The secretary shall be the custodian of all minutes and records of the district. The board shall appoint all necessary engineers, attorneys, auditors, and other employees. The board shall adopt a seal for the district.

Sec. 10. Before issuing any construction bonds, the district shall submit plans and specifications therefor to the Texas Water Rights Commission for approval in the manner required by Article 7880—139, Revised Civil Statutes of Texas, 1925; and the district's project and improvements during the course of construction shall be subject to inspection in the manner provided by said Article 7880—139.

Sec. 11. When any kind of bonds or refunding bonds have been approved by the Attorney General of Texas, registered by the Comptroller of Public Accounts of the State of Texas, and issued by the district, such

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bonds or refunding bonds shall be negotiable, legal, valid, and binding obligations of the district and shall be incontestable for any cause.

Sec. 12. The power of eminent domain of the district shall be limited to the county or counties in which the district is situated. In the event that the district, in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, rerouting or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telegraph or telephone properties and facilities, or pipeline, all such necessary relocation, raising, rerouting, changing of grade, or alteration of construction shall be accomplished at the sole expense of the district. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, rerouting, or change in grade, or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

Sec. 13. This district is hereby created notwithstanding any of the provisions of the Municipal Annexation Act (Article 970a, Revised Civil Statutes of Texas, 1925), as amended, and to the extent of the creation of the district only, said Article 970a shall have no application. In all other respects, the district hereby created is expressly made subject to all provisions of said Article 970a.

Sec. 14. It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published at least 30 days and not more than 90 days prior to the introduction of this Act in the Legislature of Texas, in a newspaper having a general circulation in the county or counties in which this district or any part thereof is situated; that a copy of such notice and a copy of this Act have been delivered to the Governor of Texas, who has submitted such notice and Act to the Texas Water Rights Commission, and said Texas Water Rights Commission has filed its recommendation as to such Act with the Governor, Lieutenant Governor and Speaker of the House of Representatives of Texas within 30 days from the date such notice and Act were received by the Texas Water Rights Commission; and that all the requirements and provisions of Article 16, Section 59(d), Constitution of the State of Texas, have been fulfilled and accomplished as therein provided.

Sec. 15. The board of directors of the district shall select any bank or trust company in the State of Texas to act as depository of the proceeds of the bonds or revenues derived from the operation of the facilities of the district, and said depository shall furnish such indemnity bonds or pledge such securities or meet such other requirements as determined by the board of directors of the district. The district may select one or more depositories.

Sec. 16. In no manner limiting the right, power, or authority of the district, as heretofore granted, the district is specifically granted the right, power, and authority to purchase and construct, or to purchase or construct, or otherwise to acquire waterworks systems, sanitary sewer systems, storm sewer systems and drainage facilities, or parts of such systems or facilities, and to make any and all necessary purchases, constructions, improvements, extension, additions, and repairs thereto, and to purchase or acquire all necessary land, rights-of-way, easements, sites, equipment, buildings, plants, structures, and facilities therefor and to operate and maintain same, and to sell water and other services. The district may exercise any of the rights, powers, and authorities granted in this Act within or without the boundaries of the district and is specifically authorized to exercise any of said rights, powers, and authorities in order to provide water and sewerage services to areas within or without the boundaries of the district. The district may vote and issue any

kind of bonds or refunding bonds for any or all of such purposes herein provided, for contiguous or noncontiguous areas, and provide and make payment therefor and for necessary expenses in connection therewith.

Sec. 17. Bonds of the district, other than refunding bonds, may be sold at a price and upon the terms determined by the board of directors of the district, except that such bonds shall not be sold for a less amount than provided by law. Such bonds or refunding bonds may be sold in denominations of \$1,000 each or multiples thereof. Refunding bonds shall be sold at a price and under the terms of the general law applicable to water control and improvement districts. The district may exchange bonds or refunding bonds for property acquired by purchase, or in payment of the contract price of work done or materials furnished or services furnished for the use and benefit of the district; provided that no notice given pursuant to Article 7880—117, Revised Civil Statutes of Texas, 1925, as amended, shall be predicated upon or require the exchange of bonds or refunding bonds, and said article shall otherwise be applicable to this district in all respects.

Sec. 18. The provisions of Article 7880—77b, Revised Civil Statutes of Texas, 1925, as amended, or any other general law, pertaining to the calling of a hearing for the determination of the dissolution of a district where a bond election has failed shall be inapplicable to this district, and this district shall continue to exist and shall have full power to function and operate regardless of the outcome of any bond election. Upon the failure of any bond election, a subsequent bond election may be called after the expiration of six months from the date of the bond election which failed.

Sec. 19. Notice of all elections may be given under the hand of either the president or the secretary of the district.

Sec. 20. The returns of all elections may be canvassed by the board of directors of the district at any time within seven days after the holding of an election, or as soon thereafter as reasonably practicable. The election returns of the annual election of directors may be canvassed by the board of directors as it was composed at the time of such election, or by the directors elected at such election, or by a combination of both. At the board of directors meeting at which the returns are canvassed, composed as aforesaid, any director newly elected at such election may qualify by filing his official bond and taking the oath of office, either before or after the returns are canvassed, and upon the filing of such bond the board, composed as aforesaid, may approve same.

Sec. 21. The accomplishment of the purposes stated in this Act being for the benefit of the people of this state and for the improvement of their properties and industries, the district in carrying out the purposes of this Act will be performing an essential public function under the Constitution, and the district shall not be required to pay any tax or assessment on the project or any part thereof or on any purchases made by the district, and the bonds issued hereunder and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this state.

Sec. 22. All bonds and refunding bonds of the district shall be and are hereby declared to be legal, eligible, and authorized investments for banks, savings and loan associations, insurance companies, fiduciaries, trustees, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds and refunding bonds shall be eligible to secure the deposit of any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their face value, when accompanied by all unmatured coupons appurtenant thereto.

For Annotations and Historical Notes, see V.A.T.S.

Sec. 23. If any word, phrase, clause, paragraph, sentence, part, portion, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act shall nevertheless be valid, and the Legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion, or provision.

Acts 1967, 60th Leg., p. 1461, ch. 613, emerg. eff. June 16, 1967.

Title of Act:

An Act creating and establishing a conservation and reclamation district under Article 16, Section 59, Constitution of Texas, known as "Enchanted Oaks Municipal Utility District"; declaring district a governmental agency, body politic and corporate; defining the boundaries; finding the field notes and boundaries form a closure, and related matters; finding a benefit to all land and other property within the district; finding that district is created to serve a public use and benefit; conferring on district the rights, powers, privileges, authority and duties of the general laws of Texas applicable to water control and improvement districts created under Article 16, Section 59, Constitution of Texas, where not in conflict with this Act and adopting same by reference; providing for continuing supervision by the State through the Texas Water Rights Commission; providing for no election for confirmation; providing for no hearing for exclusions; except on written request or the board of directors' own motion; providing for no hearing on plan of taxation and adopting ad valorem plan of taxation for district; providing for governing body of district; providing for qualifications and bonds of directors; naming first board of directors; providing for directors to fill vacancies; providing for terms and election of directors and notice of directors' elections, and related matters; providing for organization of board of directors; providing for the letting of construction contracts and the drawing of warrants; providing for the execution of contracts by the president; providing for a vice president, a secretary, and a secretary pro tem and outlining their duties; providing for employment of engineers, attorneys, auditors, and other employees; providing for a seal for the district; providing for approval of district's plans and specifications by the Texas Water Rights Commission and inspection during construction by said Commission; providing for bonds and refund-

ing bonds to be approved by the Attorney General of Texas and registered by the Comptroller of Public Accounts of Texas, and providing for negotiability, legality, validity, obligation, and incontestability of the bonds and refunding bonds; providing the power of eminent domain shall be limited to the county or counties within which district is situated; providing district shall bear expenses of relocating, raising, or re-routing any highway, railroad, or utility lines or pipelines made necessary by its exercise of the power of eminent domain; defining "sole expense"; providing that the Municipal Annexation Act shall have no application to the creation of this district; determining and finding the requirements of Article 16, Section 59(d), Constitution of Texas, as to notice of intention to introduce this Act have been fulfilled and accomplished; providing for the selection of a depository or depositories for the district and related matters; providing additional powers of district within and without the boundaries of district; providing for the voting and issuing of bonds to serve areas within or without the boundaries of district; providing for the sale of bonds of the district in denominations of \$1,000 or multiples thereof, for the exchange of bonds for property and services, and for the minimum price of bonds at such sale or exchange; providing that Article 7880—77b (Vernon's Texas Civil Statutes), shall not be applicable to this district, and related matters; providing that notice of all elections shall be under the hand of the president or secretary; providing for canvassing of election returns; providing the bonds of this district and their transfer and income therefrom and profits thereon and purchases made by district shall be tax-free in this State; providing the bonds and refunding bonds of this district shall be eligible investments; enacting other provisions related to the aforementioned subjects; providing for a severability clause; and declaring an emergency. Acts 1967, 60th Leg., p. 1461, ch. 613.

Art. 8280—367. Royal Forest Municipal Utility District

Section 1. Under and pursuant to the provisions of Article 16, Section 59 of the Constitution of Texas, a conservation and reclamation district is hereby created and established in Montgomery County, Texas, to be known as "Royal Forest Municipal Utility District," hereinafter called the "district," which shall be a governmental agency and a body politic and corporate. The creation and establishment of the district is hereby declared to be essential to the accomplishment of the purposes of Article 16, Section 59, Constitution of Texas.

Sec. 2. The district shall comprise all of the territory contained within the following described area:

Lying in Montgomery County, Texas, and being 1040.4226 acres of land, more or less, out of the Jose M. De La Garza Survey, A-15, and vacant State land lying west of the Jose M. De La Garza Survey, A-15, and east of the John W. Overby Survey, A-408, more particularly described by metes and bounds as follows:

Beginning at a concrete monument set at the intersection of the southerly boundary of the Jose M. De La Garza Survey with the north-easterly boundary of a 60-foot right-of-way for a county road connecting FM 1484 and FM 1097, said point of beginning lying N 64° 47' 19" E, 591.14 feet from the most southerly corner of said Jose M. De La Garza Survey.

THENCE, in a northwesterly direction 298.70 feet along the said northeasterly right-of-way line of the county road following the general line of an old fence with the arc of a curve having a radius of 1098.49 feet and subtending a central angle of 15° 34' 48" to a 5/8-inch iron rod at the point of tangency at said curve.

THENCE, N 71° 52' 00" W, 677.00 feet continuing along the said north-easterly right-of-way line of the county road in the general line of an old fence to a concrete monument in the westerly boundary of the said Jose M. De La Garza Survey, said concrete monument lying N 25° 00' 00" W, 653.95 feet from the said most southerly corner of the Jose M. De La Garza Survey.

THENCE, N 25° 00' 00" W, 236.00 feet along the said westerly boundary of the Jose M. De La Garza Survey to a concrete monument for corner.

THENCE, S 64° 40' 19" W, 502.54 feet to a point for corner.

THENCE, N 25° 19' 41" W, 3142.00 feet to a point for corner.

THENCE, N 12° 29' 47" W, 2202.00 feet to a point for corner in the westerly boundary of the Jose M. De La Garza Survey.

THENCE, N 63° 11' 45" E, 1317.00 feet to a point for corner.

THENCE, S 25° 58' 41" E, 1217.50 feet with the general line of an old fence to a concrete monument for corner.

THENCE, N 65° 10' 07" E, 1931.89 feet with the general line of an old fence and its extension to a point for corner in the center line of a county road.

THENCE, N 27° 15' 50" W, 1298.75 feet with the center line of said county road to a point for corner.

THENCE, N 62° 55' 05" E, 14.00 feet to a 1/2-inch iron pipe at a fence corner in the easterly boundary of the right-of-way for said county road.

THENCE, in a northwesterly direction with the general line of an old fence along said easterly boundary of the county road right-of-way as follows:

N 65° 37' 00" W, 317.60 feet

N 58° 15' 00" W, 290.00 feet

N 45° 26' 00" W, 482.00 feet

N 15° 30' 00" W, 375.00 feet

N 22° 30' 00" W, 175.20 feet to a point for corner.

THENCE, N 76° 59' 00" E, 247.80 feet to a point for corner.

THENCE, N 13° 01' 00" W, 672.00 feet to a point for corner in the southerly boundary of the Upper League Road right-of-way.

THENCE, in an easterly direction along the said southerly boundary of the Upper League Road right-of-way, as follows:

N 77° 00' 00" E, 15.97 feet

N 76° 30' 00" E, 99.93 feet

N 75° 35' 00" E, 92.94 feet

For Annotations and Historical Notes, see V.A.T.S.

N 74° 35' 00" E, 100.43 feet
 N 73° 25' 00" E, 100.74 feet
 N 72° 55' 00" E, 100.87 feet
 N 71° 30' 00" E, 101.24 feet
 N 70° 45' 00" E, 101.43 feet
 N 69° 45' 00" E, 101.69 feet
 N 68° 40' 00" E, 101.97 feet
 N 67° 55' 00" E, 102.17 feet
 N 66° 30' 00" E, 102.53 feet
 N 66° 00' 00" E, 1825.50 feet
 N 68° 54' 00" E, 58.09 feet to a point for corner in the center line of

Caney Creek.

THENCE, in a southerly direction with the meanders of the said center line of Caney Creek, as follows:

S 02° 00' 00" E, 101.15 feet
 S 26° 50' 00" W, 28.54 feet
 S 65° 30' 00" W, 219.70 feet
 S 14° 06' 00" E, 85.04 feet
 S 44° 30' 00" E, 54.03 feet
 S 02° 47' 00" E, 154.85 feet
 S 14° 00' 00" E, 187.09 feet
 S 43° 45' 00" E, 70.07 feet
 S 14° 30' 00" E, 59.53 feet
 S 26° 10' 00" W, 60.73 feet
 S 11° 50' 00" W, 155.72 feet
 S 05° 17' 00" E, 64.93 feet
 S 25° 01' 00" E, 204.11 feet
 S 45° 00' 00" W, 36.90 feet
 S 53° 25' 00" W, 128.11 feet
 S 02° 48' 00" W, 27.41 feet
 S 15° 30' 00" E, 52.31 feet
 S 59° 22' 00" E, 164.75 feet
 S 60° 00' 00" E, 165.86 feet
 S 36° 10' 00" E, 34.47 feet
 S 25° 30' 00" E, 26.03 feet
 S 63° 30' 00" E, 327.65 feet
 S 29° 47' 55" W, 76.26 feet
 S 01° 13' 52" W, 73.21 feet
 S 27° 09' 02" E, 57.15 feet
 S 16° 41' 00" W, 158.96 feet
 S 23° 46' 53" W, 160.81 feet
 S 27° 41' 46" W, 132.59 feet
 S 53° 42' 23" E, 78.24 feet
 N 68° 16' 29" E, 73.21 feet
 S 01° 05' 05" E, 113.22 feet
 S 73° 23' 00" W, 97.63 feet
 S 60° 53' 46" W, 135.09 feet
 S 29° 35' 28" W, 41.43 feet
 S 39° 32' 18" E, 91.39 feet
 S 67° 52' 27" E, 121.97 feet
 S 21° 10' 07" E, 36.24 feet
 S 36° 01' 27" W, 114.39 feet
 S 29° 28' 57" W, 176.15 feet
 S 07° 23' 26" E, 61.48 feet
 N 85° 53' 29" E, 138.77 feet
 S 47° 25' 06" E, 82.65 feet
 S 01° 22' 49" W, 48.90 feet
 S 02° 54' 40" E, 185.77 feet
 S 46° 28' 33" E, 124.29 feet
 S 86° 27' 59" E, 155.52 feet

S 05° 40' 36" W, 53.44 feet
 S 25° 50' 08" E, 112.16 feet
 S 84° 09' 47" E, 147.37 feet
 S 51° 58' 09" E, 68.74 feet to a point for corner at the intersection of the said centerline of Caney Creek with the centerline of Angling Branch.

THENCE, in an easterly direction with the meanders of the said centerline of Angling Branch, as follows:

N 45° 17' 58" E, 77.79 feet
 S 08° 22' 26" E, 112.00 feet
 N 62° 00' 15" E, 64.83 feet
 N 05° 33' 09" E, 105.99 feet
 N 50° 44' 17" E, 31.21 feet
 S 46° 45' 33" E, 65.00 feet
 N 06° 27' 54" E, 85.47 feet
 N 72° 34' 48" E, 67.00 feet
 N 09° 38' 45" E, 69.12 feet
 N 60° 57' 18" E, 31.02 feet
 S 58° 50' 58" E, 86.30 feet
 N 67° 30' 59" E, 56.48 feet
 N 01° 01' 58" W, 81.28 feet
 N 71° 05' 00" W, 72.25 feet
 N 02° 40' 24" E, 90.95 feet
 N 55° 02' 39" E, 177.13 feet
 S 65° 50' 56" E, 94.90 feet
 S 37° 42' 15" E, 67.40 feet
 N 72° 41' 07" E, 98.02 feet
 N 49° 21' 15" E, 108.22 feet
 N 65° 18' 33" E, 70.35 feet
 N 28° 24' 34" E, 51.92 feet
 N 81° 43' 46" E, 65.84 feet to an iron pipe for corner.

THENCE, S 09° 59' 46" E, 1916.76 feet with the general line of an old fence to a pine knot for corner.

THENCE, N 65° 25' 11" E, 524.82 feet with the general line of an old fence to a pine knot for corner.

THENCE, S 25° 35' 37" E, 1799.04 feet with the general line of an old fence to a mulberry stake for corner.

THENCE, N 65° 04' 12" E, 1827.72 feet with the general line of an old fence to a mulberry stake for corner.

THENCE, S 25° 06' 15" E, 843.34 feet to an iron pipe for corner in the southerly boundary of the said Jose M. De La Garza Survey.

THENCE, S 62° 49' 42" W, 3302.82 feet along said southerly boundary of the Jose M. De La Garza Survey with the general line of an old fence to a concrete monument on the westerly bank of Caney Creek.

THENCE, S 64° 47' 19" W, 4439.30 feet continuing along the said southerly boundary of the Jose M. De La Garza Survey in the general line of an old fence to the point of beginning.

Containing 1040.4226 acres of land, more or less.

Sec. 3. It is determined and found that the boundaries and field notes of the district form a closure; and if any mistake is made in copying the field notes in the legislative process, or otherwise a mistake is made in the field notes, it shall in no way or manner affect the organization, existence, and validity of the district, or the right of the district to issue any type of bonds or refunding bonds for the purposes for which the district is created, or to pay the principal and interest thereon, or the right to assess, levy, and collect taxes, or the legality or operation of the district or its governing body.

Sec. 4. It is determined and found that all of the land and other property included within the area and boundaries of the district will be

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benefited by the works and project which are to be accomplished by the district pursuant to the powers conferred by the provisions of Article 16, Section 59, Constitution of Texas, and that said district was and is created to serve a public use and benefit.

Sec. 5. The district shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, authority, and duties conferred and imposed by the general laws of this State now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Article 16, Section 59, Constitution of Texas; but to the extent that the provisions of any such general laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such general laws are hereby adopted and incorporated by reference with the same effect as if incorporated in full in this Act. The powers and duties herein granted to the district shall be subject to the continuing right of supervision of the State, to be exercised by and through the Texas Water Rights Commission.

Sec. 6. It shall not be necessary for the board of directors to call or hold a confirmation election for the confirmation of the district.

Sec. 7. It shall not be necessary for the board of directors to call or hold a hearing on the exclusions of land or other property from the district; provided, however, that the board shall hold such hearing upon the written request of any landowner or other property owner within the district filed with the secretary of the board prior to the calling of the first bond election for the district. The board on its own motion may call and hold an exclusions hearing or hearings in the manner provided by the general law.

Sec. 8. It shall not be necessary for the board of directors to call or hold a hearing on the adoption of a plan of taxation, but the ad valorem plan of taxation shall be used by the district.

Sec. 9. All powers of the district shall be exercised by a board of five directors. Each director shall serve for his term of office as herein provided, and thereafter until his successor shall be elected or appointed and qualified. No person shall be appointed a director unless he is 21 years of age or over and a resident of the State of Texas. Such director shall not be required to reside within the boundaries of the district. Each director shall qualify by subscribing to the oath of office and giving bond in the amount of \$5,000 for the faithful performance of his duties. The cost of such bond shall be paid by the district. Such bond shall be filed in the office of the county clerk and approved by the county judge or the commissioner's court of the county within which district is situated. Such oath shall be filed with the secretary of the district's board of directors after his selection. The bonds of directors elected or appointed after the directors named below shall be approved by the district's board of directors, filed for record in the office of the county clerk of the county in which the district is located and shall be recorded in a record kept for that purpose in the office of the district and be filed for safekeeping in the depository of the district. Immediately after this Act becomes effective, the following named persons, all of whom are 21 years of age or over and residents of the State of Texas, shall be the directors of the district and shall constitute the board of directors of the district:

Mary Lou Atkins
H. H. DuPre, Jr.
Bert B. Adkins, Jr.
Jack Duncan
Edwina Mosley

Said persons shall qualify as directors within 30 days, or as soon thereafter as practicable, from the effective date of this Act. If any of the

aforementioned persons shall fail or refuse to qualify or to serve, or shall die or become incapacitated, or otherwise not be qualified to assume the duties of a director of the district under this Act, a majority of the remaining directors shall appoint a successor or successors. The directors named above or their duly appointed successor or successors shall serve until the second Tuesday in January 1969. Succeeding directors shall be elected or appointed and shall serve for the term and in the manner provided for by Article 7880—37, Vernon's Texas Civil Statutes. The annual elections shall be ordered by the board of directors. Any vacancy occurring in the board of directors shall be filled for the unexpired term by a majority of the remaining directors. The board of directors shall elect from its number a president, a vice president, and a secretary of the board of directors and of the district, and such other officers as in the judgment of the board are necessary. Three directors shall constitute a quorum at any meeting, and a concurrence of three shall be sufficient in all matters pertaining to the business of the district including the letting of construction contracts and the drawing of warrants in payment for construction work, the purchase of existing facilities, and matters relating to construction work. Warrants to pay current expenses, salaries, and accounts may be drawn and signed by an officer or employee, designated by standing order entered on the minutes of the board of directors, when such accounts have been contracted and ordered paid by the directors. The president may execute all contracts, construction or otherwise, entered into by the board of directors on behalf of the district. The vice president shall perform all duties and exercise all power conferred by this Act or the general law upon the president when the president is absent or fails or declines to act. Any order adopted or other action taken at a meeting of the board of directors at which the president is absent may be signed by the vice president, or the board may authorize the president to sign such order or other action. The secretary shall keep and sign the minutes of the meetings of the board of directors; and in his absence at any board meeting, a secretary pro tem shall be named for that meeting who may exercise all the duties and powers of the secretary for such meeting, and shall sign the minutes thereof, and may attest all orders passed or other action taken at such meeting, or the board may authorize the secretary to attest such orders or other action. The secretary shall be the custodian of all minutes and records of the district. The board shall appoint all necessary engineers, attorneys, auditors, and other employees. The board shall adopt a seal for the district.

Sec. 10. Before issuing any construction bonds, the district shall submit plans and specifications therefor to the Texas Water Rights Commission for approval in the manner required by Article 7880—139, Revised Civil Statutes of Texas, 1925; and the district's project and improvements during the course of construction shall be subject to inspection in the manner provided by said Article 7880—139.

Sec. 11. When any kind of bonds or refunding bonds have been approved by the Attorney General of Texas, registered by the Comptroller of Public Accounts of the State of Texas, and issued by the district, such bonds or refunding bonds shall be negotiable, legal, valid, and binding obligations of the district and shall be incontestable for any cause.

Sec. 12. The power of eminent domain of the district shall be limited to the county or counties in which the district is situated. In the event that the district, in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, rerouting or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telegraph or telephone properties and facilities, or pipeline, all such necessary relocation, raising, rerouting, changing of grade, or alteration of construction shall be accomplished at the sole expense of the district. The

term "sole expense" shall mean the actual cost of such relocation, raising, lowering, rerouting, or change in grade, or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

Sec. 13. This district is hereby created notwithstanding any of the provisions of the Municipal Annexation Act (Article 970a, Revised Civil Statutes of Texas, 1925), as amended, and to the extent of the creation of the district only, said Article 970a shall have no application. In all other respects, the district hereby created is expressly made subject to all provisions of said Article 970a.

Sec. 14. It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published at least 30 days and not more than 90 days prior to the introduction of this Act in the Legislature of Texas, in a newspaper having a general circulation in the county or counties in which this district or any part thereof is situated; that a copy of such notice and a copy of this Act have been delivered to the Governor of Texas, who has submitted such notice and Act to the Texas Water Rights Commission, and said Texas Water Rights Commission has filed its recommendation as to such Act with the Governor, Lieutenant Governor and Speaker of the House of Representatives of Texas within 30 days from the date such notice and Act were received by the Texas Water Rights Commission; and that all the requirements and provisions of Article 16, Section 59(d), Constitution of the State of Texas, have been fulfilled and accomplished as therein provided.

Sec. 15. The board of directors of the district shall select any bank or trust company in the State of Texas to act as depository of the proceeds of the bonds or revenues derived from the operation of the facilities of the district, and said depository shall furnish such indemnity bonds or pledge such securities or meet such other requirements as determined by the board of directors of the district. The district may select one or more depositories.

Sec. 16. In no manner limiting the right, power, or authority of the district, as heretofore granted, the district is specifically granted the right, power, and authority to purchase and construct, or to purchase or construct, or otherwise to acquire waterworks systems, sanitary sewer systems, storm sewer systems and drainage facilities, or parts of such systems or facilities, and to make any and all necessary purchases, constructions, improvements, extension, additions, and repairs thereto, and to purchase or acquire all necessary land, rights-of-way, easements, sites, equipment, buildings, plants, structures, and facilities therefor and to operate and maintain same, and to sell water and other services. The district may exercise any of the rights, powers, and authorities granted in this Act within or without the boundaries of the district and is specifically authorized to exercise any of said rights, powers, and authorities in order to provide water and sewerage services to areas within or without the boundaries of the district. The district may vote and issue any kind of bonds or refunding bonds for any or all of such purposes herein provided, for contiguous or noncontiguous areas, and provide and make payment therefor and for necessary expenses in connection therewith.

Sec. 17. Bonds of the district, other than refunding bonds, may be sold at a price and upon the terms determined by the board of directors of the district, except that such bonds shall not be sold for a less amount than provided by law. Such bonds or refunding bonds may be sold in denominations of \$1,000 each or multiples thereof. Refunding bonds shall be sold at a price and under the terms of the general law applicable to water control and improvement districts. The district may exchange bonds or refunding bonds for property acquired by purchase, or in pay-

ment of the contract price of work done or materials furnished or services furnished for the use and benefit of the district; provided that no notice given pursuant to Article 7880—117, Revised Civil Statutes of Texas, 1925, as amended, shall be predicated upon or require the exchange of bonds or refunding bonds, and said article shall otherwise be applicable to this district in all respects.

Sec. 18. The provisions of Article 7880—77b, Revised Civil Statutes of Texas, 1925, as amended, or any other general law, pertaining to the calling of a hearing for the determination of the dissolution of a district where a bond election has failed shall be inapplicable to this district, and this district shall continue to exist and shall have full power to function and operate regardless of the outcome of any bond election. Upon the failure of any bond election, a subsequent bond election may be called after the expiration of six months from the date of the bond election which failed.

Sec. 19. Notice of all elections may be given under the hand of either the president or the secretary of the district.

Sec. 20. The returns of all elections may be canvassed by the board of directors of the district at any time within seven days after the holding of an election, or as soon thereafter as reasonably practicable. The election returns of the annual election of directors may be canvassed by the board of directors as it was composed at the time of such election, or by the directors elected at such election, or by a combination of both. At the board of directors meeting at which the returns are canvassed, composed as aforesaid, any director newly elected at such election may qualify by filing his official bond and taking the oath of office, either before or after the returns are canvassed, and upon the filing of such bond the board, composed as aforesaid, may approve same.

Sec. 21. The accomplishment of the purposes stated in this Act being for the benefit of the people of this state and for the improvement of their properties and industries, the district in carrying out the purposes of this Act will be performing an essential public function under the Constitution, and the district shall not be required to pay any tax or assessment on the project or any part thereof or on any purchases made by the district, and the bonds issued hereunder and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this state.

Sec. 22. All bonds and refunding bonds of the district shall be and are hereby declared to be legal, eligible, and authorized investments for banks, savings and loan associations, insurance companies, fiduciaries, trustees, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds and refunding bonds shall be eligible to secure the deposit of any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their face value, when accompanied by all unmatured coupons appurtenant thereto.

Sec. 23. If any word, phrase, clause, paragraph, sentence, part, portion, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act shall nevertheless be valid, and the Legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion, or provision.

Acts 1967, 60th Leg., p. 1474, ch. 614, emerg. eff. June 16, 1967.

Title of Act:

An Act creating and establishing a conservation and reclamation district under Article 16, Section 59, Constitution of Tex-

as, known as "Royal Forest Municipal Utility District"; declaring district a governmental agency, body politic and corporate; defining the boundaries; finding the

For Annotations and Historical Notes, see V.A.T.S.

field notes and boundaries form a closure, and related matters; finding a benefit to all land and other property within the district; finding that district is created to serve a public use and benefit; conferring on district the rights, powers, privileges, authority and duties of the general laws of Texas applicable to water control and improvement districts created under Article 16, Section 59, Constitution of Texas, where not in conflict with this Act and adopting same by reference; providing for continuing supervision by the State through the Texas Water Rights Commission; providing for no election for confirmation; providing for no hearing for exclusions, except on written request or the board of directors' own motion; providing for no hearing on plan of taxation and adopting ad valorem plan of taxation for district; providing for governing body of district; providing for qualifications and bonds of directors; naming first board of directors; providing for directors to fill vacancies; providing for terms and election of directors and notice of directors' elections, and related matters; providing for organization of board of directors; providing for the letting of construction contracts and the drawing of warrants; providing for the execution of contracts by the president; providing for a vice president, a secretary, and a secretary pro tem and outlining their duties; providing for employment of engineers, attorneys, auditors, and other employees; providing for a seal for the district; providing for approval of district's plans and specifications by the Texas Water Rights Commission and inspection during construction by said Commission; providing for bonds and refunding bonds to be approved by the Attorney General of Texas and registered by the Comptroller of Public Accounts of Texas, and providing for negotiability, legality, validity, obliga-

tion, and incontestability of the bonds and refunding bonds; providing the power of eminent domain shall be limited to the county or counties within which district is situated; providing district shall bear expenses of relocating, raising, or rerouting any highway, railroad, or utility lines or pipelines made necessary by its exercise of the power of eminent domain; defining "sole expense"; providing that the Municipal Annexation Act shall have no application to the creation of this district; determining and finding the requirements of Article 16, Section 59(d), Constitution of Texas, as to notice of intention to introduce this Act have been fulfilled and accomplished; providing for the selection of a depository or depositories for the district and related matters; providing additional powers of district within and without the boundaries of district; providing for the voting and issuing of bonds to serve areas within or without the boundaries of district; providing for the sale of bonds of the district in denominations of \$1,000 or multiples thereof, for the exchange of bonds for property and services, and for the minimum price of bonds at such sale or exchange; providing that Article 7880—77b (Vernon's Texas Civil Statutes), shall not be applicable to this district, and related matters; providing that notice of all elections shall be under the hand of the president or secretary; providing for canvassing of election returns; providing the bonds of this district and their transfer and income therefrom and profits thereon and purchases made by district shall be tax-free in this State; providing the bonds and refunding bonds of this district shall be eligible investments; enacting other provisions related to the aforementioned subjects; providing for a severability clause; and declaring an emergency. Acts 1967, 60th Leg., p. 1474, ch. 614.

Art. 8280—368. Oak Ridge Municipal Utility District

Section 1. Under and pursuant to the provisions of Article 16, Section 59 of the Constitution of Texas, a conservation and reclamation district is hereby created and established in Montgomery County, Texas, to be known as "Oak Ridge Municipal Utility District," hereinafter called the "district," which shall be a governmental agency and a body politic and corporate. The creation and establishment of the district is hereby declared to be essential to the accomplishment of the purposes of Article 16, Section 59, Constitution of Texas.

Sec. 2. The district shall comprise all of the territory contained within the following described area:

Situated wholly within Montgomery County, Texas, and being 440.02 acres of land, more or less, in the Charles Esterwall (or Eisterwall) Survey, A-191, and the Walker County School Land Survey, A-599, and being more fully described by metes and bounds as follows:

Beginning at a 2" iron pipe marking the northwesterly corner of said Charles Esterwall Survey, in the easterly line of said Walker County School Land Survey.

THENCE, S 89° 35' 00" E, 2734.88 feet along the northerly line of said Charles Esterwall Survey to an iron stake marking the northeasterly corner of said Charles Esterwall Survey.

THENCE, S 0° 14' 00" W, 6803.80 feet along the easterly line of said Charles Esterwall Survey, to an iron bar.

THENCE, S 0° 20' 44" E, 2219.59 feet, continuing along said easterly line of the Charles Esterwall Survey to the most easterly northeast corner of Oak Ridge North Subdivision, Section 3, the plat of which is of record in Volume 7, Page 237 of the Map Records of Montgomery County, Texas.

THENCE, along the northerly boundary of said Oak Ridge North Subdivision, Section 3, as follows:

N 89° 18' 00" W 244.36 feet

N 37° 11' 00" W 2100.81 feet

N 13° 31' 21" W 175.38 feet

N 69° 02' 30" W 200.00 feet

S 81° 10' 30" W, 220.35 feet to the most northerly northwest corner of said Oak Ridge North Subdivision, Section 3, in the easterly line of the right-of-way for Interstate Highway 45 (U. S. Highway 75).

THENCE, along said easterly right-of-way line for Interstate Highway 45 as follows:

N 9° 06' 00" W, 1005.57 feet to a concrete monument.

N 7° 37' 00" W, 1409.90 feet to a concrete monument.

N 81° 04' 00" E, 550.08 feet to a concrete monument.

N 0° 32' 00" E, 220.00 feet to a concrete monument.

N 88° 30' 00" W, 591.14 feet to a concrete monument.

N 11° 23' 00" W, 1020.00 feet to a concrete monument.

N 9° 22' 00" W, 400.00 feet to a concrete monument.

S 80° 38' 00" W, 10.00 feet to a concrete monument.

N 9° 22' 00" W, 180.00 feet to a concrete monument.

N 6° 47' 00" W, 390.00 feet to a concrete monument.

N 4° 24' 00" W, 300.00 feet to a 2" iron pipe.

N 4° 10' 24" W, 326.00 feet to a point.

THENCE, departing from the easterly line of said right-of-way for Interstate Highway 45 (U. S. Highway 75), N 82° 19' 36" E, 150.30 feet to a point.

THENCE, N 4° 10' 24" W, 555.36 feet to a point.

THENCE, N 89° 07' 24" W, 150.58 feet to a point in the easterly line of said right-of-way for Interstate Highway 45 (U. S. Highway 75).

THENCE, N 4° 10' 24" W, 180.00 feet along said easterly right-of-way line of Interstate Highway 45 (U. S. Highway 75) to a 3/4" iron rod.

THENCE, S 89° 07' 24" E, 81.37 feet to an iron rod in the common line between said Charles Esterwall Survey and said Walker County School Land Survey.

THENCE, N 0° 08' 00" E, 1110.32 feet along said common line between the Charles Esterwall Survey and the Walker County School Land Survey, to the point of beginning.

Containing 440.02 acres of land, more or less.

Sec. 3. It is determined and found that the boundaries and field notes of the district form a closure; and if any mistake is made in copying the field notes in the legislative process, or otherwise a mistake is made in the field notes, it shall in no way or manner affect the organization, existence, and validity of the district, or the right of the district to issue any type of bonds or refunding bonds for the purposes for which the district is created, or to pay the principal and interest thereon, or the right to assess, levy, and collect taxes, or the legality or operation of the district or its governing body.

Sec. 4. It is determined and found that all of the land and other property included within the area and boundaries of the district will be benefited by the works and project which are to be accomplished by the district pursuant to the powers conferred by the provisions of Article 16, Section 59, Constitution of Texas, and that said district was and is created to serve a public use and benefit.

Sec. 5. The district shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, authority, and duties conferred and imposed by the general laws of this State now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Article 16, Section 59, Constitution of Texas; but to the extent that the provisions of any such general laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such general laws are hereby adopted and incorporated by reference with the same effect as if incorporated in full in this Act. The powers and duties herein granted to the district shall be subject to the continuing right of supervision of the State, to be exercised by and through the Texas Water Rights Commission.

Sec. 6. It shall not be necessary for the board of directors to call or hold a confirmation election for the confirmation of the district.

Sec. 7. It shall not be necessary for the board of directors to call or hold a hearing on the exclusions of land or other property from the district; provided, however, that the board shall hold such hearing upon the written request of any landowner or other property owner within the district filed with the secretary of the board prior to the calling of the first bond election for the district. The board on its own motion may call and hold an exclusions hearing or hearings in the manner provided by the general law.

Sec. 8. It shall not be necessary for the board of directors to call or hold a hearing on the adoption of a plan of taxation, but the ad valorem plan of taxation shall be used by the district.

Sec. 9. All powers of the district shall be exercised by a board of five directors. Each director shall serve for his term of office as herein provided, and thereafter until his successor shall be elected or appointed and qualified. No person shall be appointed a director unless he is 21 years of age or over and a resident of the State of Texas. Such director shall not be required to reside within the boundaries of the district. Each director shall qualify by subscribing to the oath of office and giving bond in the amount of \$5,000 for the faithful performance of his duties. The cost of such bond shall be paid by the district. Such bond shall be filed in the office of the county clerk and approved by the county judge or the commissioner's court of the county within which district is situated. Such oath shall be filed with the secretary of the district's board of directors after his selection. The bonds of directors elected or appointed after the directors named below shall be approved by the district's board of directors, filed for record in the office of the county clerk of the county in which the district is located and shall be recorded in a record kept for that purpose in the office of the district and be filed for safekeeping in the depository of the district. Immediately after this Act becomes effective, the following named persons, all of whom are 21 years of age or over and residents of the State of Texas, shall be the directors of the district and shall constitute the board of directors of the district:

Harlan Lane
Lon Rose
Jimmy Payne
L. E. Patterson
Harry L. Zunker

Said persons shall qualify as directors within 30 days, or as soon thereafter as practicable, from the effective date of this Act. If any of the aforementioned persons shall fail or refuse to qualify or to serve, or shall die or become incapacitated, or otherwise not be qualified to assume the duties of a director of the district under this Act, a majority of the remaining directors shall appoint a successor or successors. The directors named above or their duly appointed successor or successors shall serve

until the second Tuesday in January 1969. Succeeding directors shall be elected or appointed and shall serve for the term and in the manner provided for by Article 7880—37, Vernon's Texas Civil Statutes. The annual elections shall be ordered by the board of directors. Any vacancy occurring in the board of directors shall be filled for the unexpired term by a majority of the remaining directors. The board of directors shall elect from its number a president, a vice president, and a secretary of the board of directors and of the district, and such other officers as in the judgment of the board are necessary. Three directors shall constitute a quorum at any meeting, and a concurrence of three shall be sufficient in all matters pertaining to the business of the district including the letting of construction contracts and the drawing of warrants in payment for construction work, the purchase of existing facilities, and matters relating to construction work. Warrants to pay current expenses, salaries, and accounts may be drawn and signed by an officer or employee, designated by standing order entered on the minutes of the board of directors, when such accounts have been contracted and ordered paid by the directors. The president may execute all contracts, construction or otherwise, entered into by the board of directors on behalf of the district. The vice president shall perform all duties and exercise all power conferred by this Act or the general law upon the president when the president is absent or fails or declines to act. Any order adopted or other action taken at a meeting of the board of directors at which the president is absent may be signed by the vice president, or the board may authorize the president to sign such order or other action. The secretary shall keep and sign the minutes of the meetings of the board of directors; and in his absence at any board meeting, a secretary pro tem shall be named for that meeting who may exercise all the duties and powers of the secretary for such meeting, and shall sign the minutes thereof, and may attest all orders passed or other action taken at such meeting, or the board may authorize the secretary to attest such orders or other action. The secretary shall be the custodian of all minutes and records of the district. The board shall appoint all necessary engineers, attorneys, auditors, and other employees. The board shall adopt a seal for the district.

Sec. 10. Before issuing any construction bonds, the district shall submit plans and specifications therefor to the Texas Water Rights Commission for approval in the manner required by Article 7880—139, Revised Civil Statutes of Texas, 1925; and the district's project and improvements during the course of construction shall be subject to inspection in the manner provided by said Article 7880—139.

Sec. 11. When any kind of bonds or refunding bonds have been approved by the Attorney General of Texas, registered by the Comptroller of Public Accounts of the State of Texas, and issued by the district, such bonds or refunding bonds shall be negotiable, legal, valid, and binding obligations of the district and shall be incontestable for any cause.

Sec. 12. The power of eminent domain of the district shall be limited to the county or counties in which the district is situated. In the event that the district, in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, rerouting or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telegraph or telephone properties and facilities, or pipeline, all such necessary relocation, raising, rerouting, changing of grade, or alteration of construction shall be accomplished at the sole expense of the district. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, rerouting, or change in grade, or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

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Sec. 13. This district is hereby created notwithstanding any of the provisions of the Municipal Annexation Act (Article 970a, Revised Civil Statutes of Texas, 1925), as amended, and to the extent of the creation of the district only, said Article 970a shall have no application. In all other respects, the district hereby created is expressly made subject to all provisions of said Article 970a.

Sec. 14. It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published at least 30 days and not more than 90 days prior to the introduction of this Act in the Legislature of Texas, in a newspaper having a general circulation in the county or counties in which this district or any part thereof is situated; that a copy of such notice and a copy of this Act have been delivered to the Governor of Texas, who has submitted such notice and Act to the Texas Water Rights Commission, and said Texas Water Rights Commission has filed its recommendation as to such Act with the Governor, Lieutenant Governor and Speaker of the House of Representatives of Texas within 30 days from the date such notice and Act were received by the Texas Water Rights Commission; and that all the requirements and provisions of Article 16, Section 59(d), Constitution of the State of Texas, have been fulfilled and accomplished as therein provided.

Sec. 15. The board of directors of the district shall select any bank or trust company in the State of Texas to act as depository of the proceeds of the bonds or revenues derived from the operation of the facilities of the district, and said depository shall furnish such indemnity bonds or pledge such securities or meet such other requirements as determined by the board of directors of the district. The district may select one or more depositories.

Sec. 16. In no manner limiting the right, power, or authority of the district, as heretofore granted, the district is specifically granted the right, power, and authority to purchase and construct, or to purchase or construct, or otherwise to acquire waterworks systems, sanitary sewer systems, storm sewer systems and drainage facilities, or parts of such systems or facilities, and to make any and all necessary purchases, constructions, improvements, extension, additions, and repairs thereto, and to purchase or acquire all necessary land, rights-of-way, easements, sites, equipment, buildings, plants, structures, and facilities therefor and to operate and maintain same, and to sell water and other services. The district may exercise any of the rights, powers, and authorities granted in this Act within or without the boundaries of the district and is specifically authorized to exercise any of said rights, powers, and authorities in order to provide water and sewerage services to areas within or without the boundaries of the district. The district may vote and issue any kind of bonds or refunding bonds for any or all of such purposes herein provided, for contiguous or noncontiguous areas, and provide and make payment therefor and for necessary expenses in connection therewith.

Sec. 17. Bonds of the district, other than refunding bonds, may be sold at a price and upon the terms determined by the board of directors of the district, except that such bonds shall not be sold for a less amount than provided by law. Such bonds or refunding bonds may be sold in denominations of \$1,000 each or multiples thereof. Refunding bonds shall be sold at a price and under the terms of the general law applicable to water control and improvement districts. The district may exchange bonds or refunding bonds for property acquired by purchase, or in payment of the contract price of work done or materials furnished or services furnished for the use and benefit of the district; provided that no notice given pursuant to Article 7880—117, Revised Civil Statutes of Texas, 1925, as amended, shall be predicated upon or require the exchange of bonds or refunding bonds, and said article shall otherwise be applicable to this district in all respects.

Sec. 18. The provisions of Article 7880—77b, Revised Civil Statutes of Texas, 1925, as amended, or any other general law, pertaining to the calling of a hearing for the determination of the dissolution of a district where a bond election has failed shall be inapplicable to this district, and this district shall continue to exist and shall have full power to function and operate regardless of the outcome of any bond election. Upon the failure of any bond election, a subsequent bond election may be called after the expiration of six months from the date of the bond election which failed.

Sec. 19. Notice of all elections may be given under the hand of either the president or the secretary of the district.

Sec. 20. The returns of all elections may be canvassed by the board of directors of the district at any time within seven days after the holding of an election, or as soon thereafter as reasonably practicable. The election returns of the annual election of directors may be canvassed by the board of directors as it was composed at the time of such election, or by the directors elected at such election, or by a combination of both. At the board of directors meeting at which the returns are canvassed, composed as aforesaid, any director newly elected at such election may qualify by filing his official bond and taking the oath of office, either before or after the returns are canvassed, and upon the filing of such bond the board, composed as aforesaid, may approve same.

Sec. 21. The accomplishment of the purposes stated in this Act being for the benefit of the people of this state and for the improvement of their properties and industries, the district in carrying out the purposes of this Act will be performing an essential public function under the Constitution, and the district shall not be required to pay any tax or assessment on he project or any part thereof or on any purchases made by the district, and the bonds issued hereunder and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this state.

Sec. 22. All bonds and refunding bonds of the district shall be and are hereby declared to be legal, eligible, and authorized investments for banks, savings and loan associations, insurance companies, fiduciaries, trustees, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds and refunding bonds shall be eligible to secure the deposit of any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their face value, when accompanied by all unmatured coupons appurtenant thereto.

Sec. 23. If any word, phrase, clause, paragraph, sentence, part, portion, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act shall nevertheless be valid, and the Legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion, or provision.

Acts 1967, 60th Leg., p. 1483, ch. 615, emerg. eff. June 16, 1967.

Title of Act:

An Act creating and establishing a conservation and reclamation district under Article 16, Section 59, Constitution of Texas, known as "Oak Ridge Municipal Utility District"; declaring district a governmental agency, body politic and corporate; defining the boundaries; finding the field notes and boundaries form a closure, and related matters; finding a benefit to all land and other property within the district; finding that district is created to serve

a public use and benefit; conferring on district the rights, powers, privileges, authority and duties of the general laws of Texas applicable to water control and improvement districts created under Article 16, Section 59, Constitution of Texas, where not in conflict with this Act and adopting same by reference; providing for continuing supervision by the State through the Texas Water Rights Commission; providing for no election for confirmation; providing for no hearing for exclusions, except

For Annotations and Historical Notes, see V.A.T.S.

on written request or the board of directors' own motion; providing for no hearing on plan of taxation and adopting ad valorem plan of taxation for district; providing for governing body of district; providing for qualifications and bonds of directors; naming first board of directors; providing for directors to fill vacancies; providing for terms and election of directors and notice of directors' elections, and related matters; providing for organization of board of directors; providing for the letting of construction contracts and the drawing of warrants; providing for the execution of contracts by the president; providing for a vice president, a secretary, and a secretary pro tem and outlining their duties; providing for employment of engineers, attorneys, auditors, and other employees; providing for a seal for the district; providing for approval of district's plans and specifications by the Texas Water Rights Commission and inspection during construction by said Commission; providing for bonds and refunding bonds to be approved by the Attorney General of Texas and registered by the Comptroller of Public Accounts of Texas, and providing for negotiability, legality, validity, obligation, and incontestability of the bonds and refunding bonds; providing the power of eminent domain shall be limited to the county or counties within which district is situated; providing district shall bear expenses of relocating, raising, or rerouting any highway, railroad, or utility lines or pipelines made necessary by its exercise of

the power of eminent domain; defining "sole expense"; providing that the Municipal Annexation Act shall have no application to the creation of this district; determining and finding the requirements of Article 16, Section 59(d), Constitution of Texas, as to notice of intention to introduce this Act have been fulfilled and accomplished; providing for the selection of a depository or depositories for the district and related matters; providing additional powers of district within and without the boundaries of district; providing for the voting and issuing of bonds to serve areas within or without the boundaries of district; providing for the sale of bonds of the district in denominations of \$1,000 or multiples thereof, for the exchange of bonds for property and services, and for the minimum price of bonds at such sale or exchange; providing that Article 7880—77b (Vernon's Texas Civil Statutes), shall not be applicable to this district, and related matters; providing that notice of all elections shall be under the hand of the president or secretary; providing for canvassing of election returns; providing the bonds of this district and their transfer and income therefrom and profits thereon and purchases made by district shall be tax-free in this State; providing the bonds and refunding bonds of this district shall be eligible investments; enacting other provisions related to the aforementioned subjects; providing for a severability clause; and declaring an emergency. Acts 1967, 60th Leg., p. 1483, ch. 615.

Art. 8280—369. River Club Estates Municipal Utility District

Section 1. Under and pursuant to the provisions of Article 16, Section 59 of the Constitution of Texas, a conservation and reclamation district is hereby created and established in Montgomery County, Texas, to be known as "River Club Estates Municipal Utility District," hereinafter called the "district," which shall be a governmental agency and a body politic and corporate. The creation and establishment of the district is hereby declared to be essential to the accomplishment of the purposes of Article 16, Section 59, Constitution of Texas.

Sec. 2. The district shall comprise all of the territory contained within the following described area:

Situated wholly within Montgomery County, Texas, and being a 296.92 acre, more or less, tract of land, comprising parts of the William Birch Survey, Abstract 74, and the William Massey Survey, Abstract 342, and more particularly described as follows:

Beginning at a point for the Southeast corner of the Mary E. Ross Share No. 1 in that certain partition deed recorded in Volume 288, page 214, of the Deed Records of Montgomery County, Texas, said point also being in the centerline of a 60.00 foot county road known as Sorter's Road, and also being in the East line of said William Birch Survey and West line of said William Massey Survey.

THENCE, N 89° 57' 17" E 417.57 feet along the North line of the Mrs. Gladys Massie Behlow Share No. 2 in said partition deed recorded in Volume 288, page 214, of the Deed Records of Montgomery County, Texas, to a point for the Northeast corner of said Share No. 2 and a corner of the tract herein described.

THENCE, S 00° 05' 09" E 987.73 feet along the East line of said Share No. 2 to a point for the most Easterly Southeast corner of said Share No. 2 and a corner of the tract herein described.

THENCE, S 89° 36' 06" W 417.33 feet along the South line of said Share No. 2 to a point in the centerline of said Sorter's Road in the East line of said William Birch Survey, and in the West line of said William Massey Survey, for a corner of the tract herein described.

THENCE, S 00° 26' 11" E 1,154.28 feet along the centerline of said Sorter's Road, the East line of said William Birch Survey, and the West line of said William Massey Survey, to a point for the Southeast corner of the tract herein described.

THENCE, S 89° 20' 28" W 960.32 feet along the South line of a 133.6149 acre tract of land to a point for corner of said 133.6149 acre tract and a corner of the tract herein described.

THENCE, S 88° 26' 43" W 2,311.18 feet along the South line of said 133.6149 acre tract to a point in the East bank of San Jacinto River, for the Southwest corner of said 133.6149 acre tract and the Southwest corner of the tract herein described.

THENCE, in a Northwesterly direction along the meanders of the East bank of the San Jacinto River as follows:

N 07° 59' 19" E	60.52 feet
N 09° 28' 48" W	166.36 feet
N 00° 39' 25" W	214.52 feet
N 05° 59' 22" W	540.04 feet
N 12° 11' 29" W	412.83 feet
N 20° 55' 00" W	534.31 feet
N 17° 51' 00" W	247.00 feet
N 24° 17' 00" W	302.00 feet
N 14° 25' 00" W	160.93 feet
N 30° 00' 00" W	180.80 feet
N 22° 30' 00" W	181.55 feet
N 13° 37' 00" W	196.00 feet
N 22° 22' 00" W	223.00 feet
N 32° 16' 00" W	208.00 feet
N 36° 51' 00" W	69.52 feet

to a point for the Northwest corner of River Club Estates, Section 2, as recorded in Volume 7, page 375 of the Map Records of Montgomery County, Texas, and the Northwest corner of the tract herein described.

THENCE, S 89° 58' 50" E 4,263.81 feet along the North line of the said River Club Estates, Section 2, to a point in the West right of way line of said Sorter's Road, for the Northeast corner of said River Club Estates, Section 2, and the Northeast corner of the tract herein described.

THENCE, S 00° 15' 00" E 1,284.63 feet along the West right of way line of said Sorter's Road and the East line of said River Club Estates, Section 2, and the East line of River Club Estates, Section 1, as recorded in Volume 7, page 309 of the Map Records of Montgomery County, Texas, to a point in the North line of said Share No. 2 and the South line of said Share No. 1 for the Southeast corner of said River Club Estates, Section 2, and the corner of the tract herein described.

THENCE, N 76° 14' 00" E 30.87 feet along the South line of said Share No. 1 and the North line of said Share No. 2 to the Place of Beginning of the tract herein described.

Containing 296.92 acres, more or less.

Sec. 3. It is determined and found that the boundaries and field notes of the district form a closure; and if any mistake is made in copying the field notes in the legislative process, or otherwise a mistake is made in the field notes, it shall in no way or manner affect the organization, existence, and validity of the district, or the right of the district to issue any type of bonds or refunding bonds for the purposes for which the district is created, or to pay the principal and interest thereon, or the right to assess, levy, and collect taxes, or the legality or operation of the district or its governing body.

For Annotations and Historical Notes, see V.A.T.S.

Sec. 4. It is determined and found that all of the land and other property included within the area and boundaries of the district will be benefited by the works and project which are to be accomplished by the district pursuant to the powers conferred by the provisions of Article 16, Section 59, Constitution of Texas, and that said district was and is created to serve a public use and benefit.

Sec. 5. The district shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, authority, and duties conferred and imposed by the general laws of this State now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Article 16, Section 59, Constitution of Texas; but to the extent that the provisions of any such general laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such general laws are hereby adopted and incorporated by reference with the same effect as if incorporated in full in this Act. The powers and duties herein granted to the district shall be subject to the continuing right of supervision of the State, to be exercised by and through the Texas Water Rights Commission.

Sec. 6. It shall not be necessary for the board of directors to call or hold a confirmation election for the confirmation of the district.

Sec. 7. It shall not be necessary for the board of directors to call or hold a hearing on the exclusions of land or other property from the district; provided, however, that the board shall hold such hearing upon the written request of any landowner or other property owner within the district filed with the secretary of the board prior to the calling of the first bond election for the district. The board on its own motion may call and hold an exclusions hearing or hearings in the manner provided by the general law.

Sec. 8. It shall not be necessary for the board of directors to call or hold a hearing on the adoption of a plan of taxation, but the ad valorem plan of taxation shall be used by the district.

Sec. 9. All powers of the district shall be exercised by a board of five directors. Each director shall serve for his term of office as herein provided, and thereafter until his successor shall be elected or appointed and qualified. No person shall be appointed a director unless he is 21 years of age or over and a resident of the State of Texas. Such director shall not be required to reside within the boundaries of the district. Each director shall qualify by subscribing to the oath of office and giving bond in the amount of \$5,000 for the faithful performance of his duties. The cost of such bond shall be paid by the district. Such bond shall be filed in the office of the county clerk and approved by the county judge or the commissioner's court of the county within which district is situated. Such oath shall be filed with the secretary of the district's board of directors after his selection. The bonds of directors elected or appointed after the directors named below shall be approved by the district's board of directors, filed for record in the office of the county clerk of the county in which the district is located and shall be recorded in a record kept for that purpose in the office of the district and be filed for safekeeping in the depository of the district. Immediately after this Act becomes effective, the following named persons, all of whom are 21 years of age or over and residents of the State of Texas, shall be the directors of the district and shall constitute the board of directors of the district:

Frank W. Stoddard
Alfred C. Pogue
Jeff A. Howeth
Clarence K. Russell
Thomas W. Ferguson

Said persons shall qualify as directors within 30 days, or as soon thereafter as practicable, from the effective date of this Act. If any of the

aforementioned persons shall fail or refuse to qualify or to serve, or shall die or become incapacitated, or otherwise not be qualified to assume the duties of a director of the district under this Act, a majority of the remaining directors shall appoint a successor or successors. The directors named above or their duly appointed successor or successors shall serve until the second Tuesday in January 1969. Succeeding directors shall be elected or appointed and shall serve for the term and in the manner provided for by Article 7880—37, Vernon's Texas Civil Statutes. The annual elections shall be ordered by the board of directors. Any vacancy occurring in the board of directors shall be filled for the unexpired term by a majority of the remaining directors. The board of directors shall elect from its number a president, a vice president, and a secretary of the board of directors and of the district, and such other officers as in the judgment of the board are necessary. Three directors shall constitute a quorum at any meeting, and a concurrence of three shall be sufficient in all matters pertaining to the business of the district including the letting of construction contracts and the drawing of warrants in payment for construction work, the purchase of existing facilities, and matters relating to construction work. Warrants to pay current expenses, salaries, and accounts may be drawn and signed by an officer or employee, designated by standing order entered on the minutes of the board of directors, when such accounts have been contracted and ordered paid by the directors. The president may execute all contracts, construction or otherwise, entered into by the board of directors on behalf of the district. The vice president shall perform all duties and exercise all power conferred by this Act or the general law upon the president when the president is absent or fails or declines to act. Any order adopted or other action taken at a meeting of the board of directors at which the president is absent may be signed by the vice president, or the board may authorize the president to sign such order or other action. The secretary shall keep and sign the minutes of the meetings of the board of directors; and in his absence at any board meeting, a secretary pro tem shall be named for that meeting who may exercise all the duties and powers of the secretary for such meeting, and shall sign the minutes thereof, and may attest all orders passed or other action taken at such meeting, or the board may authorize the secretary to attest such orders or other action. The secretary shall be the custodian of all minutes and records of the district. The board shall appoint all necessary engineers, attorneys, auditors, and other employees. The board shall adopt a seal for the district.

Sec. 10. Before issuing any construction bonds, the district shall submit plans and specifications therefor to the Texas Water Rights Commission for approval in the manner required by Article 7880—139, Revised Civil Statutes of Texas, 1925; and the district's project and improvements during the course of construction shall be subject to inspection in the manner provided by said Article 7880—139.

Sec. 11. When any kind of bonds or refunding bonds have been approved by the Attorney General of Texas, registered by the Comptroller of Public Accounts of the State of Texas, and issued by the district, such bonds or refunding bonds shall be negotiable, legal, valid, and binding obligations of the district and shall be incontestable for any cause.

Sec. 12. The power of eminent domain of the district shall be limited to the county or counties in which the district is situated. In the event that the district, in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, rerouting or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telegraph or telephone properties and facilities, or pipeline, all such necessary relocation, raising, rerouting, changing of grade, or alteration of construction shall be accomplished at the sole expense of the district. The term

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“sole expense” shall mean the actual cost of such relocation, raising, lowering, rerouting, or change in grade, or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

Sec. 13. This district is hereby created notwithstanding any of the provisions of the Municipal Annexation Act (Article 970a, Revised Civil Statutes of Texas, 1925), as amended, and to the extent of the creation of the district only, said Article 970a shall have no application. In all other respects, the district hereby created is expressly made subject to all provisions of said Article 970a.

Sec. 14. It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published at least 30 days and not more than 90 days prior to the introduction of this Act in the Legislature of Texas, in a newspaper having a general circulation in the county or counties in which this district or any part thereof is situated; that a copy of such notice and a copy of this Act have been delivered to the Governor of Texas, who has submitted such notice and Act to the Texas Water Rights Commission, and said Texas Water Rights Commission has filed its recommendation as to such Act with the Governor, Lieutenant Governor and Speaker of the House of Representatives of Texas within 30 days from the date such notice and Act were received by the Texas Water Rights Commission; and that all the requirements and provisions of Article 16, Section 59(d), Constitution of the State of Texas, have been fulfilled and accomplished as therein provided.

Sec. 15. The board of directors of the district shall select any bank or trust company in the State of Texas to act as depository of the proceeds of the bonds or revenues derived from the operation of the facilities of the district, and said depository shall furnish such indemnity bonds or pledge such securities or meet such other requirements as determined by the board of directors of the district. The district may select one or more depositories.

Sec. 16. In no manner limiting the right, power, or authority of the district, as heretofore granted, the district is specifically granted the right, power, and authority to purchase and construct, or to purchase or construct, or otherwise to acquire waterworks systems, sanitary sewer systems, storm sewer systems and drainage facilities, or parts of such systems or facilities, and to make any and all necessary purchases, constructions, improvements, extension, additions, and repairs thereto, and to purchase or acquire all necessary land, rights-of-way, easements, sites, equipment, buildings, plants, structures, and facilities therefor and to operate and maintain same, and to sell water and other services. The district may exercise any of the rights, powers, and authorities granted in this Act within or without the boundaries of the district and is specifically authorized to exercise any of said rights, powers, and authorities in order to provide water and sewerage services to areas within or without the boundaries of the district. The district may vote and issue any kind of bonds or refunding bonds for any or all of such purposes herein provided, for contiguous or noncontiguous areas, and provide and make payment therefor and for necessary expenses in connection therewith.

Sec. 17. Bonds of the district, other than refunding bonds, may be sold at a price and upon the terms determined by the board of directors of the district, except that such bonds shall not be sold for a less amount than provided by law. Such bonds or refunding bonds may be sold in denominations of \$1,000 each or multiples thereof. Refunding bonds shall be sold at a price and under the terms of the general law applicable to water control and improvement districts. The district may exchange

bonds or refunding bonds for property acquired by purchase, or in payment of the contract price of work done or materials furnished or services furnished for the use and benefit of the district; provided that no notice given pursuant to Article 7880—117, Revised Civil Statutes of Texas, 1925, as amended, shall be predicated upon or require the exchange of bonds or refunding bonds, and said article shall otherwise be applicable to this district in all respects.

Sec. 18. The provisions of Article 7880—77b, Revised Civil Statutes of Texas, 1925, as amended, or any other general law, pertaining to the calling of a hearing for the determination of the dissolution of a district where a bond election has failed shall be inapplicable to this district, and this district shall continue to exist and shall have full power to function and operate regardless of the outcome of any bond election. Upon the failure of any bond election, a subsequent bond election may be called after the expiration of six months from the date of the bond election which failed.

Sec. 19. Notice of all elections may be given under the hand of either the president or the secretary of the district.

Sec. 20. The returns of all elections may be canvassed by the board of directors of the district at any time within seven days after the holding of an election, or as soon thereafter as reasonably practicable. The election returns of the annual election of directors may be canvassed by the board of directors as it was composed at the time of such election, or by the directors elected at such election, or by a combination of both. At the board of directors meeting at which the returns are canvassed, composed as aforesaid, any director newly elected at such election may qualify by filing his official bond and taking the oath of office, either before or after the returns are canvassed, and upon the filing of such bond the board, composed as aforesaid, may approve same.

Sec. 21. The accomplishment of the purposes stated in this Act being for the benefit of the people of this state and for the improvement of their properties and industries, the district in carrying out the purposes of this Act will be performing an essential public function under the Constitution, and the district shall not be required to pay any tax or assessment on the project or any part thereof or on any purchases made by the district, and the bonds issued hereunder and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this state.

Sec. 22. All bonds and refunding bonds of the district shall be and are hereby declared to be legal, eligible, and authorized investments for banks, savings and loan associations, insurance companies, fiduciaries, trustees, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds and refunding bonds shall be eligible to secure the deposit of any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their face value, when accompanied by all unmatured coupons appurtenant thereto.

Sec. 23. If any word, phrase, clause, paragraph, sentence, part, portion, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act shall nevertheless be valid, and the Legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion, or provision.

Acts 1967, 60th Leg., p. 1490, ch. 616, emerg. eff. June 16, 1967.

Title of Act:

An Act creating and establishing a conservation and reclamation district under

Article 16, Section 59, Constitution of Texas, known as "River Club Estates Municipal Utility District"; declaring district a

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governmental agency, body politic and corporate; defining the boundaries; finding the field notes and boundaries form a closure, and related matters; finding a benefit to all land and other property within the district; finding that district is created to serve a public use and benefit; conferring on district the rights, powers, privileges, authority and duties of the general laws of Texas applicable to water control and improvement districts created under Article 16, Section 59, Constitution of Texas, where not in conflict with this Act and adopting same by reference; providing for continuing supervision by the State through the Texas Water Rights Commission; providing for no election for confirmation; providing for no hearing for exclusions, except on written request or the board of directors' own motion; providing for no hearing on plan of taxation and adopting ad valorem plan of taxation for district; providing for governing body of district; providing for qualifications and bonds of directors; naming first board of directors; providing for directors to fill vacancies; providing for terms and election of directors and notice of directors' elections, and related matters; providing for organization of board of directors; providing for the letting of construction contracts and the drawing of warrants; providing for the execution of contracts by the president; providing for a vice president, a secretary, and a secretary pro tem and outlining their duties; providing for employment of engineers, attorneys, auditors, and other employees; providing for a seal for the district; providing for approval of district's plans and specifications by the Texas Water Rights Commission and inspection during construction by said Commission; providing for bonds and refunding bonds to be approved by the Attorney General of Texas and registered by the Comptroller of Public Accounts of Texas, and providing

for negotiability, legality, validity, obligation, and incontestability of the bonds and refunding bonds; providing the power of eminent domain shall be limited to the county or counties within which district is situated; providing district shall bear expenses of relocating, raising, or rerouting any highway, railroad, or utility lines or pipelines made necessary by its exercise of the power of eminent domain; defining "sole expense"; providing that the Municipal Annexation Act shall have no application to the creation of this district; determining and finding the requirements of Article 16, Section 59(d), Constitution of Texas, as to notice of intention to introduce this Act have been fulfilled and accomplished; providing for the selection of a depository or depositories for the district and related matters; providing additional powers of district within and without the boundaries of district; providing for the voting and issuing of bonds to serve areas within or without the boundaries of district; providing for the sale of bonds of the district in denominations of \$1,000 or multiples thereof, for the exchange of bonds of this district and their transfer and income therefrom and profits sale or exchange; providing that Article 7880—77b (Vernon's Texas Civil Statutes), shall not be applicable to this district, and related matters; providing that notice of all elections shall be under the hand of the president or secretary; providing for canvassing of election returns; providing the bonds of this district and their transfer and income therefrom and profits thereon and purchases made by district shall be tax-free in this State; providing the bonds and refunding bonds of this district shall be eligible investments; enacting other provisions related to the aforementioned subjects; providing for a severability clause; and declaring an emergency. Acts 1967, 60th Leg., p. 1490, ch. 616.

Art. 8280—370. Nugent's Cove Municipal Utility District

Section 1. Under and pursuant to the provisions of Article 16, Section 59 of the Constitution of Texas, a conservation and reclamation district is hereby created and established in Polk County, Texas, to be known as "Nugent's Cove Municipal Utility District," hereinafter called the "district," which shall be a governmental agency and a body politic and corporate. The creation and establishment of the district is hereby declared to be essential to the accomplishment of the purposes of Article 16, Section 59, Constitution of Texas.

Sec. 2. The district shall comprise all of the territory contained within the following described area:

Situated wholly within Polk County, Texas, and being 177.8805 acres, more or less, out of the William Moore Survey, A-414, and the J. B. Winn Survey, A-81, described as follows:

Beginning at a concrete monument in the southeasterly line of said William Moore Survey at the most northerly corner of said J. B. Winn Survey and the most westerly corner of the L. T. Sloan Survey, A-993.

THENCE, S 49° 00' 00" E 700.00 feet along the northeasterly line of said J. B. Winn Survey and the southwesterly line of said L. T. Sloan Survey to a concrete monument for the most easterly corner of the tract described herein.

THENCE, S 41° 32' 00" W 2754.20 feet across said J. B. Winn Survey to a concrete monument set in the proposed easterly shore line of proposed Lake Livingston.

THENCE, in a northwesterly direction along said proposed easterly shore line of proposed Lake Livingston as follows:

N 62° 13' 00" W 35.6 feet,
N 56° 50' 00" W 338.50 feet,
N 73° 56' 00" W 392.10 feet to a concrete monument.
N 00° 50' 00" E 31.00 feet,
N 51° 27' 00" W 776.39 feet,
N 17° 25' 00" W 37.70 feet,
N 48° 20' 00" W 413.50 feet,
N 02° 04' 00" W 290.00 feet,
N 39° 57' 00" E 488.50 feet,
S 73° 02' 00" W 373.30 feet,
S 27° 51' 00" W 392.60 feet,
S 45° 21' 00" W 22.30 feet to a concrete monument.

THENCE, N 48° 16' 00" W 1693.00 feet to a concrete monument.

THENCE, N 30° 00' 00" W 1291.70 feet to a concrete monument.

THENCE, N 41° 30' 00" E 958.30 feet to a concrete monument.

THENCE, S 48° 30' 00" E 4507.30 feet to a concrete monument in the southeasterly line of said William Moore Survey and the northwesterly line of said J. B. Winn Survey.

THENCE, N 41° 18' 00" E 1618.20 feet along said southeasterly line of the William Moore Survey and said northwesterly line of the J. B. Winn Survey to the point of beginning.

Containing 177.8805 acres of land, more or less.

Sec. 3. It is determined and found that the boundaries and field notes of the district form a closure; and if any mistake is made in copying the field notes in the legislative process, or otherwise a mistake is made in the field notes, it shall in no way or manner affect the organization, existence, and validity of the district, or the right of the district to issue any type of bonds or refunding bonds for the purposes for which the district is created, or to pay the principal and interest thereon, or the right to assess, levy, and collect taxes, or the legality or operation of the district or its governing body.

Sec. 4. It is determined and found that all of the land and other property included within the area and boundaries of the district will be benefited by the works and project which are to be accomplished by the district pursuant to the powers conferred by the provisions of Article 16, Section 59, Constitution of Texas, and that said district was and is created to serve a public use and benefit.

Sec. 5. The district shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, authority, and duties conferred and imposed by the general laws of this State now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Article 16, Section 59, Constitution of Texas; but to the extent that the provisions of any such general laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such general laws are hereby adopted and incorporated by reference with the same effect as if incorporated in full in this Act. The powers and duties herein granted to the district shall be subject to the continuing right of supervision of the State, to be exercised by and through the Texas Water Rights Commission.

Sec. 6. It shall not be necessary for the board of directors to call or hold a confirmation election for the confirmation of the district.

Sec. 7. It shall not be necessary for the board of directors to call or hold a hearing on the exclusions of land or other property from the dis-

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trict; provided, however, that the board shall hold such hearing upon the written request of any landowner or other property owner within the district filed with the secretary of the board prior to the calling of the first bond election for the district. The board on its own motion may call and hold an exclusions hearing or hearings in the manner provided by the general law.

Sec. 8. It shall not be necessary for the board of directors to call or hold a hearing on the adoption of a plan of taxation, but the ad valorem plan of taxation shall be used by the district.

Sec. 9. All powers of the district shall be exercised by a board of five directors. Each director shall serve for his term of office as herein provided, and thereafter until his successor shall be elected or appointed and qualified. No person shall be appointed a director unless he is 21 years of age or over and a resident of the State of Texas. Such director shall not be required to reside within the boundaries of the district. Each director shall qualify by subscribing to the oath of office and giving bond in the amount of \$5,000 for the faithful performance of his duties. The cost of such bond shall be paid by the district. Such bond shall be filed in the office of the county clerk and approved by the county judge or the commissioner's court of the county within which district is situated. Such oath shall be filed with the secretary of the district's board of directors after his selection. The bonds of directors elected or appointed after the directors named below shall be approved by the district's board of directors, filed for record in the office of the county clerk of the county in which the district is located and shall be recorded in a record kept for that purpose in the office of the district and be filed for safekeeping in the depository of the district. Immediately after this Act becomes effective, the following named persons, all of whom are 21 years of age or over and residents of the State of Texas, shall be the directors of the district and shall constitute the board of directors of the district:

W. A. Cook
R. H. Riley
Myrtle Wiggins
Jewel Shotwell
T. J. Hendrix

Said persons shall qualify as directors within 30 days, or as soon thereafter as practicable, from the effective date of this Act. If any of the aforementioned persons shall fail or refuse to qualify or to serve, or shall die or become incapacitated, or otherwise not be qualified to assume the duties of a director of the district under this Act, a majority of the remaining directors shall appoint a successor or successors. The directors named above or their duly appointed successor or successors shall serve until the second Tuesday in January 1969. Succeeding directors shall be elected or appointed and shall serve for the term and in the manner provided for by Article 7880—37, Vernon's Texas Civil Statutes. The annual elections shall be ordered by the board of directors. Any vacancy occurring in the board of directors shall be filled for the unexpired term by a majority of the remaining directors. The board of directors shall elect from its number a president, a vice president, and a secretary of the board of directors and of the district, and such other officers as in the judgment of the board are necessary. Three directors shall constitute a quorum at any meeting, and a concurrence of three shall be sufficient in all matters pertaining to the business of the district including the letting of construction contracts and the drawing of warrants in payment for construction work, the purchase of existing facilities, and matters relating to construction work. Warrants to pay current expenses, salaries, and accounts may be drawn and signed by an officer or employee, designated by standing order entered on the minutes of the board of directors, when

such accounts have been contracted and ordered paid by the directors. The president may execute all contracts, construction or otherwise, entered into by the board of directors on behalf of the district. The vice president shall perform all duties and exercise all power conferred by this Act or the general law upon the president when the president is absent or fails or declines to act. Any order adopted or other action taken at a meeting of the board of directors at which the president is absent may be signed by the vice president, or the board may authorize the president to sign such order or other action. The secretary shall keep and sign the minutes of the meetings of the board of directors; and in his absence at any board meeting, a secretary pro tem shall be named for that meeting who may exercise all the duties and powers of the secretary for such meeting, and shall sign the minutes thereof, and may attest all orders passed or other action taken at such meeting, or the board may authorize the secretary to attest such orders or other action. The secretary shall be the custodian of all minutes and records of the district. The board shall appoint all necessary engineers, attorneys, auditors, and other employees. The board shall adopt a seal for the district.

Sec. 10. Before issuing any construction bonds, the district shall submit plans and specifications therefor to the Texas Water Rights Commission for approval in the manner required by Article 7880—139, Revised Civil Statutes of Texas, 1925; and the district's project and improvements during the course of construction shall be subject to inspection in the manner provided by said Article 7880—139.

Sec. 11. When any kind of bonds or refunding bonds have been approved by the Attorney General of Texas, registered by the Comptroller of Public Accounts of the State of Texas, and issued by the district, such bonds or refunding bonds shall be negotiable, legal, valid, and binding obligations of the district and shall be incontestable for any cause.

Sec. 12. The power of eminent domain of the district shall be limited to the county or counties in which the district is situated. In the event that the district, in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, rerouting or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telegraph or telephone properties and facilities, or pipeline, all such necessary relocation, raising, rerouting, changing of grade, or alteration of construction shall be accomplished at the sole expense of the district. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, rerouting, or change in grade, or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

Sec. 13. This district is hereby created notwithstanding any of the provisions of the Municipal Annexation Act (Article 970a, Revised Civil Statutes of Texas, 1925), as amended, and to the extent of the creation of the district only, said Article 970a shall have no application. In all other respects, the district hereby created is expressly made subject to all provisions of said Article 970a.

Sec. 14. It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published at least 30 days and not more than 90 days prior to the introduction of this Act in the Legislature of Texas, in a newspaper having a general circulation in the county or counties in which this district or any part thereof is situated; that a copy of such notice and a copy of this Act have been delivered to the Governor of Texas, who has submitted such notice and Act to the Texas Water Rights Commission, and said Texas Water Rights Commission has filed its recommendation as to such Act with the Governor, Lieutenant Governor and

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Speaker of the House of Representatives of Texas within 30 days from the date such notice and Act were received by the Texas Water Rights Commission; and that all the requirements and provisions of Article 16, Section 59(d), Constitution of the State of Texas, have been fulfilled and accomplished as therein provided.

Sec. 15. The board of directors of the district shall select any bank or trust company in the State of Texas to act as depository of the proceeds of the bonds or revenues derived from the operation of the facilities of the district, and said depository shall furnish such indemnity bonds or pledge such securities or meet such other requirements as determined by the board of directors of the district. The district may select one or more depositories.

Sec. 16. In no manner limiting the right, power, or authority of the district, as heretofore granted, the district is specifically granted the right, power, and authority to purchase and construct, or to purchase or construct, or otherwise to acquire waterworks systems, sanitary sewer systems, storm sewer systems and drainage facilities, or parts of such systems or facilities, and to make any and all necessary purchases, constructions, improvements, extension, additions, and repairs thereto, and to purchase or acquire all necessary land, rights-of-way, easements, sites, equipment, buildings, plants, structures, and facilities therefor and to operate and maintain same, and to sell water and other services. The district may exercise any of the rights, powers, and authorities granted in this Act within or without the boundaries of the district and is specifically authorized to exercise any of said rights, powers, and authorities in order to provide water and sewerage services to areas within or without the boundaries of the district. The district may vote and issue any kind of bonds or refunding bonds for any or all of such purposes herein provided, for contiguous or noncontiguous areas, and provide and make payment therefor and for necessary expenses in connection therewith.

Sec. 17. Bonds of the district, other than refunding bonds, may be sold at a price and upon the terms determined by the board of directors of the district, except that such bonds shall not be sold for a less amount than provided by law. Such bonds or refunding bonds may be sold in denominations of \$1,000 each or multiples thereof. Refunding bonds shall be sold at a price and under the terms of the general law applicable to water control and improvement districts. The district may exchange bonds or refunding bonds for property acquired by purchase, or in payment of the contract price of work done or materials furnished or services furnished for the use and benefit of the district; provided that no notice given pursuant to Article 7880—117, Revised Civil Statutes of Texas, 1925, as amended, shall be predicated upon or require the exchange of bonds or refunding bonds, and said article shall otherwise be applicable to this district in all respects.

Sec. 18. The provisions of Article 7880—77b, Revised Civil Statutes of Texas, 1925, as amended, or any other general law, pertaining to the calling of a hearing for the determination of the dissolution of a district where a bond election has failed shall be inapplicable to this district, and this district shall continue to exist and shall have full power to function and operate regardless of the outcome of any bond election. Upon the failure of any bond election, a subsequent bond election may be called after the expiration of six months from the date of the bond election which failed.

Sec. 19. Notice of all elections may be given under the hand of either the president or the secretary of the district.

Sec. 20. The returns of all elections may be canvassed by the board of directors of the district at any time within seven days after the holding of an election, or as soon thereafter as reasonably practicable. The

election returns of the annual election of directors may be canvassed by the board of directors as it was composed at the time of such election, or by the directors elected at such election, or by a combination of both. At the board of directors meeting at which the returns are canvassed, composed as aforesaid, any director newly elected at such election may qualify by filing his official bond and taking the oath of office, either before or after the returns are canvassed, and upon the filing of such bond the board, composed as aforesaid, may approve same.

Sec. 21. The accomplishment of the purposes stated in this Act being for the benefit of the people of this state and for the improvement of their properties and industries, the district in carrying out the purposes of this Act will be performing an essential public function under the Constitution, and the district shall not be required to pay any tax or assessment on the project or any part thereof or on any purchases made by the district, and the bonds issued hereunder and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this state.

Sec. 22. All bonds and refunding bonds of the district shall be and are hereby declared to be legal, eligible, and authorized investments for banks, savings and loan associations, insurance companies, fiduciaries, trustees, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds and refunding bonds shall be eligible to secure the deposit of any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their face value, when accompanied by all unmatured coupons appurtenant thereto.

Sec. 23. If any word, phrase, clause, paragraph, sentence, part, portion, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act shall nevertheless be valid, and the Legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion, or provision.

Acts 1967, 60th Leg., p. 1497, ch. 617, emerg. eff. June 16, 1967.

Title of Act:

An Act creating and establishing a conservation and reclamation district under Article 16, Section 59, Constitution of Texas, known as "Nugent's Cove Municipal Utility District"; declaring district a governmental agency, body politic and corporate; defining the boundaries; finding the field notes and boundaries form a closure, and related matters; finding a benefit to all land and other property within the district; finding that district is created to serve a public use and benefit; conferring on district the rights, powers, privileges, authority and duties of the general laws of Texas applicable to water control and improvement districts created under Article 16, Section 59, Constitution of Texas, where not in conflict with this Act and adopting same by reference; providing for continuing supervision by the State through the Texas Water Rights Commission; providing for no election for confirmation; providing for no hearing for exclusions, except on written request or the board of directors' own motion; providing for no hearing on plan of taxation and adopting ad valorem plan of taxation for district; providing

for governing body of district; providing for qualifications and bonds of directors; naming first board of directors; providing for directors to fill vacancies; providing for terms and election of directors and notice of directors' elections, and related matters; providing for organization of board of directors; providing for the letting of construction contracts and the drawing of warrants; providing for the execution of contracts by the president; providing for a vice president, a secretary, and a secretary pro tem and outlining their duties; providing for employment of engineers, attorneys, auditors and other employees; providing for a seal for the district; providing for approval of district's plans and specifications by the Texas Water Rights Commission and inspection during construction by said Commission; providing for bonds and refunding bonds to be approved by the Attorney General of Texas and registered by the Comptroller of Public Accounts of Texas, and providing for negotiability, legality, validity, obligation, and incontestability of the bonds and refunding bonds; providing the power of eminent domain shall be limited to the county or counties with-

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in which district is situated; providing district shall bear expenses of relocating, raising, or rerouting any highway, railroad, or utility lines or pipelines made necessary by its exercise of the power of eminent domain; defining "sole expense"; providing that the Municipal Annexation Act shall have no application to the creation of this district; determining and finding the requirements of Article 16, Section 59(d), Constitution of Texas, as to notice of intention to introduce this Act have been fulfilled and accomplished; providing for the selection of a depository or depositories for the district and related matters; providing additional powers of district within and without the boundaries of district; providing for the voting and issuing of bonds to serve areas within or without the boundaries of district; providing for the sale of bonds of the district

in denominations of \$1,000 or multiples thereof, for the exchange of bonds for property and services, and for the minimum price of bonds at such sale or exchange; providing that Article 7880—77b (Vernon's Texas Civil Statutes), shall not be applicable to this district, and related matters; providing that notice of all elections shall be under the hand of the president or secretary; providing for canvassing of election returns; providing the bonds of this district and their transfer and income therefrom and profits thereon and purchases made by district shall be tax-free in this State; providing the bonds and re-funding bonds of this district shall be eligible investments; enacting other provisions related to the aforementioned subjects; providing for a severability clause; and declaring an emergency. Acts 1967, 60th Leg., p. 1497, ch. 617.

Art. 8280—371. Crescent Shores Municipal Utility District

Section 1. Under and pursuant to the provisions of Article 16, Section 59 of the Constitution of Texas, a conservation and reclamation district is hereby created and established in Polk County, Texas, to be known as "Crescent Shores Municipal Utility District," hereinafter called the "district," which shall be a governmental agency and a body politic and corporate. The creation and establishment of the district is hereby declared to be essential to the accomplishment of the purposes of Article 16, Section 59, Constitution of Texas.

Sec. 2. The district shall comprise all of the territory contained within the following described area:

Situated in Polk County, Texas, and being 42.3032 acres, more or less, out of the James Smith Survey, A-527, more particularly described by metes and bounds as follows:

Beginning at the northeast corner of the Mamie Corrine Stone 370-acre tract, as described in Volume 154, Page 312 of the Deed Records of Polk County, Texas, at an 8" x 8" concrete monument for corner in the east line of said James Smith Survey.

THENCE, S 38° 47' 00" W 1037.96 feet along the east line of the said James Smith Survey to a point for corner in a proposed northerly shoreline of the proposed Lake Livingston.

THENCE, in a westerly direction along the meanders of said proposed northerly shoreline of proposed Lake Livingston, as follows:

N 08° 40' 00" E 4.85 feet to a point
 S 49° 50' 00" W 320.57 feet to a point
 N 54° 30' 00" W 502.63 feet to a point
 N 41° 22' 00" W 401.71 feet to a point
 N 36° 56' 00" W 324.90 feet to a point
 N 16° 05' 00" W 237.52 feet to a point
 N 14° 42' 00" E 480.30 feet to a point
 N 75° 56' 00" E 152.35 feet to a point
 S 46° 41' 00" E 188.00 feet to a point
 N 35° 17' 00" W 347.75 feet to a point
 N 09° 58' 00" E 0.79 feet to a point

THENCE, S 42° 49' 00" E 438.33 feet to an 8" x 8" concrete monument for corner.

THENCE, N 57° 11' 00" E 572.20 feet to an 8" x 8" concrete monument for corner.

THENCE, S 42° 49' 00" E 277.80 feet to an 8" x 8" concrete monument for corner.

THENCE, S 51° 49' 00" E 830.50 feet to the point of beginning.

Containing 42.3032 acres, more or less.

Sec. 3. It is determined and found that the boundaries and field notes of the district form a closure; and if any mistake is made in copying the field notes in the legislative process, or otherwise a mistake is made in the field notes, it shall in no way or manner affect the organization, existence, and validity of the district, or the right of the district to issue any type of bonds or refunding bonds for the purposes for which the district is created, or to pay the principal and interest thereon, or the right to assess, levy, and collect taxes, or the legality or operation of the district or its governing body.

Sec. 4. It is determined and found that all of the land and other property included within the area and boundaries of the district will be benefited by the works and project which are to be accomplished by the district pursuant to the powers conferred by the provisions of Article 16, Section 59, Constitution of Texas, and that said district was and is created to serve a public use and benefit.

Sec. 5. The district shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, authority, and duties conferred and imposed by the general laws of this State now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Article 16, Section 59, Constitution of Texas; but to the extent that the provisions of any such general laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such general laws are hereby adopted and incorporated by reference with the same effect as if incorporated in full in this Act. The powers and duties herein granted to the district shall be subject to the continuing right of supervision of the State, to be exercised by and through the Texas Water Rights Commission.

Sec. 6. It shall not be necessary for the board of directors to call or hold a confirmation election for the confirmation of the district.

Sec. 7. It shall not be necessary for the board of directors to call or hold a hearing on the exclusions of land or other property from the district; provided, however, that the board shall hold such hearing upon the written request of any landowner or other property owner within the district filed with the secretary of the board prior to the calling of the first bond election for the district. The board on its own motion may call and hold an exclusions hearing or hearings in the manner provided by the general law.

Sec. 8. It shall not be necessary for the board of directors to call or hold a hearing on the adoption of a plan of taxation, but the ad valorem plan of taxation shall be used by the district.

Sec. 9. All powers of the district shall be exercised by a board of five directors. Each director shall serve for his term of office as herein provided, and thereafter until his successor shall be elected or appointed and qualified. No person shall be appointed a director unless he is 21 years of age or over and a resident of the State of Texas. Such director shall not be required to reside within the boundaries of the district. Each director shall qualify by subscribing to the oath of office and giving bond in the amount of \$5,000 for the faithful performance of his duties. The cost of such bond shall be paid by the district. Such bond shall be filed in the office of the county clerk and approved by the county judge or the commissioner's court of the county within which district is situated. Such oath shall be filed with the secretary of the district's board of directors after his selection. The bonds of directors elected or appointed after the directors named below shall be approved by the district's board of directors, filed for record in the office of the county clerk of the county in which the district is located and shall be recorded in a record kept for

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that purpose in the office of the district and be filed for safekeeping in the depository of the district. Immediately after this Act becomes effective, the following named persons, all of whom are 21 years of age or over and residents of the State of Texas, shall be the directors of the district and shall constitute the board of directors of the district:

Billie Jean McInturff
Jean Pemberton
Maurice Hollyfield
Mary Fick
W. A. Henry

Said persons shall qualify as directors within 30 days, or as soon thereafter as practicable, from the effective date of this Act. If any of the aforementioned persons shall fail or refuse to qualify or to serve, or shall die or become incapacitated, or otherwise not be qualified to assume the duties of a director of the district under this Act, a majority of the remaining directors shall appoint a successor or successors. The directors named above or their duly appointed successor or successors shall serve until the second Tuesday in January 1969. Succeeding directors shall be elected or appointed and shall serve for the term and in the manner provided for by Article 7880—37, Vernon's Texas Civil Statutes. The annual elections shall be ordered by the board of directors. Any vacancy occurring in the board of directors shall be filled for the unexpired term by a majority of the remaining directors. The board of directors shall elect from its number a president, a vice president, and a secretary of the board of directors and of the district, and such other officers as in the judgment of the board are necessary. Three directors shall constitute a quorum at any meeting, and a concurrence of three shall be sufficient in all matters pertaining to the business of the district including the letting of construction contracts and the drawing of warrants in payment for construction work, the purchase of existing facilities, and matters relating to construction work. Warrants to pay current expenses, salaries, and accounts may be drawn and signed by an officer or employee, designated by standing order entered on the minutes of the board of directors, when such accounts have been contracted and ordered paid by the directors. The president may execute all contracts, construction or otherwise, entered into by the board of directors on behalf of the district. The vice president shall perform all duties and exercise all power conferred by this Act or the general law upon the president when the president is absent or fails or declines to act. Any order adopted or other action taken at a meeting of the board of directors at which the president is absent may be signed by the vice president, or the board may authorize the president to sign such order or other action. The secretary shall keep and sign the minutes of the meetings of the board of directors; and in his absence at any board meeting, a secretary pro tem shall be named for that meeting who may exercise all the duties and powers of the secretary for such meeting, and shall sign the minutes thereof, and may attest all orders passed or other action taken at such meeting, or the board may authorize the secretary to attest such orders or other action. The secretary shall be the custodian of all minutes and records of the district. The board shall appoint all necessary engineers, attorneys, auditors, and other employees. The board shall adopt a seal for the district.

Sec. 10. Before issuing any construction bonds, the district shall submit plans and specifications therefor to the Texas Water Rights Commission for approval in the manner required by Article 7880—139, Revised Civil Statutes of Texas, 1925; and the district's project and improvements during the course of construction shall be subject to inspection in the manner provided by said Article 7880—139.

Sec. 11. When any kind of bonds or refunding bonds have been approved by the Attorney General of Texas, registered by the Comptroller

of Public Accounts of the State of Texas, and issued by the district, such bonds or refunding bonds shall be negotiable, legal, valid, and binding obligations of the district and shall be incontestable for any cause.

Sec. 12. The power of eminent domain of the district shall be limited to the county or counties in which the district is situated. In the event that the district, in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, rerouting or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telegraph or telephone properties and facilities, or pipeline, all such necessary relocation, raising, rerouting, changing of grade, or alteration of construction shall be accomplished at the sole expense of the district. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, rerouting, or change in grade, or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

Sec. 13. This district is hereby created notwithstanding any of the provisions of the Municipal Annexation Act (Article 970a, Revised Civil Statutes of Texas, 1925), as amended, and to the extent of the creation of the district only, said Article 970a shall have no application. In all other respects, the district hereby created is expressly made subject to all provisions of said Article 970a.

Sec. 14. It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published at least 30 days and not more than 90 days prior to the introduction of this Act in the Legislature of Texas, in a newspaper having a general circulation in the county or counties in which this district or any part thereof is situated; that a copy of such notice and a copy of this Act have been delivered to the Governor of Texas, who has submitted such notice and Act to the Texas Water Rights Commission, and said Texas Water Rights Commission has filed its recommendation as to such Act with the Governor, Lieutenant Governor and Speaker of the House of Representatives of Texas within 30 days from the date such notice and Act were received by the Texas Water Rights Commission; and that all the requirements and provisions of Article 16, Section 59(d), Constitution of the State of Texas, have been fulfilled and accomplished as therein provided.

Sec. 15. The board of directors of the district shall select any bank or trust company in the State of Texas to act as depository of the proceeds of the bonds or revenues derived from the operation of the facilities of the district, and said depository shall furnish such indemnity bonds or pledge such securities or meet such other requirements as determined by the board of directors of the district. The district may select one or more depositories.

Sec. 16. In no manner limiting the right, power, or authority of the district, as heretofore granted, the district is specifically granted the right, power, and authority to purchase and construct, or to purchase or construct, or otherwise to acquire waterworks systems, sanitary sewer systems, storm sewer systems and drainage facilities, or parts of such systems or facilities, and to make any and all necessary purchases, constructions, improvements, extension, additions, and repairs thereto, and to purchase or acquire all necessary land, rights-of-way, easements, sites, equipment, buildings, plants, structures, and facilities therefor and to operate and maintain same, and to sell water and other services. The district may exercise any of the rights, powers, and authorities granted in this Act within or without the boundaries of the district and is specifically authorized to exercise any of said rights, powers, and authorities in order to provide water and sewerage services to areas within or without the boun-

daries of the district. The district may vote and issue any kind of bonds or refunding bonds for any or all of such purposes herein provided, for contiguous or noncontiguous areas, and provide and make payment therefor and for necessary expenses in connection therewith.

Sec. 17. Bonds of the district, other than refunding bonds, may be sold at a price and upon the terms determined by the board of directors of the district, except that such bonds shall not be sold for a less amount than provided by law. Such bonds or refunding bonds may be sold in denominations of \$1,000 each or multiples thereof. Refunding bonds shall be sold at a price and under the terms of the general law applicable to water control and improvement districts. The district may exchange bonds or refunding bonds for property acquired by purchase, or in payment of the contract price of work done or materials furnished or services furnished for the use and benefit of the district; provided that no notice given pursuant to Article 7880—117, Revised Civil Statutes of Texas, 1925, as amended, shall be predicated upon or require the exchange of bonds or refunding bonds, and said article shall otherwise be applicable to this district in all respects.

Sec. 18. The provisions of Article 7880—77b, Revised Civil Statutes of Texas, 1925, as amended, or any other general law, pertaining to the calling of a hearing for the determination of the dissolution of a district where a bond election has failed shall be inapplicable to this district, and this district shall continue to exist and shall have full power to function and operate regardless of the outcome of any bond election. Upon the failure of any bond election, a subsequent bond election may be called after the expiration of six months from the date of the bond election which failed.

Sec. 19. Notice of all elections may be given under the hand of either the president or the secretary of the district.

Sec. 20. The returns of all elections may be canvassed by the board of directors of the district at any time within seven days after the holding of an election, or as soon thereafter as reasonably practicable. The election returns of the annual election of directors may be canvassed by the board of directors as it was composed at the time of such election, or by the directors elected at such election, or by a combination of both. At the board of directors meeting at which the returns are canvassed, composed as aforesaid, any director newly elected at such election may qualify by filing his official bond and taking the oath of office, either before or after the returns are canvassed, and upon the filing of such bond the board, composed as aforesaid, may approve same.

Sec. 21. The accomplishment of the purposes stated in this Act being for the benefit of the people of this state and for the improvement of their properties and industries, the district in carrying out the purposes of this Act will be performing an essential public function under the Constitution, and the district shall not be required to pay any tax or assessment on the project or any part thereof or on any purchases made by the district, and the bonds issued hereunder and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this state.

Sec. 22. All bonds and refunding bonds of the district shall be and are hereby declared to be legal, eligible, and authorized investments for banks, savings and loan associations, insurance companies, fiduciaries, trustees, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds and refunding bonds shall be eligible to secure the deposit of any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said

deposits to the extent of their face value, when accompanied by all unmatured coupons appurtenant thereto.

Sec. 23. If any word, phrase, clause, paragraph, sentence, part, portion, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act shall nevertheless be valid, and the Legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion, or provision.

Acts 1967, 60th Leg., p. 1503, ch. 618, emerg. eff. June 16, 1967.

Title of Act:

An Act creating and establishing a conservation and reclamation district under Article 16, Section 59, Constitution of Texas, known as "Crescent Shores Municipal Utility District"; declaring district a governmental agency, body politic and corporate; defining the boundaries; finding the field notes and boundaries form a closure, and related matters; finding a benefit to all land and other property within the district; finding that district is created to serve a public use and benefit; conferring on district the rights, powers, privileges, authority and duties of the general laws of Texas applicable to water control and improvement districts created under Article 16, Section 59, Constitution of Texas, where not in conflict with this Act and adopting same by reference; providing for continuing supervision by the State through the Texas Water Rights Commission; providing for no election for confirmation; providing for no hearing for exclusions, except on written request or the board of directors' own motion; providing for no hearing on plan of taxation and adopting ad valorem plan of taxation for district; providing for governing body of district; providing for qualifications and bonds of directors; naming first board of directors; providing for directors to fill vacancies; providing for terms and election of directors and notice of directors' elections, and related matters; providing for organization of board of directors; providing for the letting of construction contracts and the drawing of warrants; providing for the execution of contracts by the president; providing for a vice president, a secretary, and a secretary pro tem and outlining their duties; providing for employment of engineers, attorneys, auditors, and other employees; providing for a seal for the district; providing for approval of district's plans and specifications by the Texas Water Rights Commission and inspection during construction by said Commission; providing for bonds and refunding

bonds to be approved by the Attorney General of Texas and registered by the Comptroller of Public Accounts of Texas, and providing for negotiability, legality, validity, obligation, and incontestability of the bonds and refunding bonds; providing the power of eminent domain shall be limited to the county or counties within which district is situated; providing district shall bear expenses of relocating, raising, or rerouting any highway, railroad, or utility lines or pipelines made necessary by its exercise of the power of eminent domain; defining "sole expense"; providing that the Municipal Annexation Act shall have no application to the creation of this district; determining and finding the requirements of Article 16, Section 59(d), Constitution of Texas, as to notice of intention to introduce this Act have been fulfilled and accomplished; providing for the selection of a depository or depositories for the district and related matters; providing additional powers of district within and without the boundaries of district; providing for the voting and issuing of bonds to serve areas within or without the boundaries of district; providing for the sale of bonds of the district in denominations of \$1,000 or multiples thereof, for the exchange of bonds for property and services, and for the minimum price of bonds at such sale or exchange; providing that Article 7880—77b (Vernon's Texas Civil Statutes), shall not be applicable to this district, and related matters; providing that notice of all elections shall be under the hand of the president or secretary; providing for canvassing of election returns; providing the bonds of this district and their transfer and income therefrom and profits thereon and purchases made by district shall be tax-free in this State; providing the bonds and refunding bonds of this district shall be eligible investments; enacting other provisions related to the aforementioned subjects; providing for a severability clause; and declaring an emergency. Acts 1967, 60th Leg., p. 1503, ch. 618.

Art. 8280—372. River Oaks Municipal Utility District

Section 1. Under and pursuant to the provisions of Article 16, Section 59 of the Constitution of Texas, a conservation and reclamation district is hereby created and established in San Jacinto County, Texas, to be known as "River Oaks Municipal Utility District," hereinafter called the "district," which shall be a governmental agency and a body politic and corporate. The creation and establishment of the district is hereby de-

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clared to be essential to the accomplishment of the purposes of Article 16, Section 59, Constitution of Texas.

Sec. 2. The district shall comprise all of the territory contained within the following described area:

Situated wholly in San Jacinto County, Texas, and being 72.3581 acres, more or less, out of the Drury McGee League, A-28 and described as follows:

Beginning at an iron pipe at the northeast corner of a tract of land described as Tract No. 2 in the decree entered March 15, 1965 in cause entitled "Mrs. I. T. Patrick, et al. v. Alton Cordier, et al.," No. 5247 in the District Court of San Jacinto County, Texas, which decree is recorded in Volume O, page 477 of the Civil Minutes of the District Court of San Jacinto County, Texas, said point being on the proposed shoreline of proposed Lake Livingston.

THENCE, S 35° 27' 00" W 1811.43 feet along a line of said Tract No. 2 to an iron pipe for corner.

THENCE, S 83° 55' 00" W 572.40 feet to an iron pipe for corner.

THENCE, S 16° 01' 00" W 936.00 feet to a concrete monument in the east right-of-way line of FM 224.

THENCE, continuing S 16° 01' 00" W 129.73 feet, crossing said FM 224, to an iron pipe for corner in the west right-of-way line of said road.

THENCE, following the west right-of-way line of said road, as follows:

N 27° 58' 00" W 95.23 feet,

N 01° 26' 00" W 584.53 feet,

N 14° 06' 00" W 441.10 feet,

N 00° 13' 00" E 490.44 feet,

N 08° 30' 00" E 171.00 feet to an iron pipe for the most southern corner of Tract No. 1A as described in said decree entered in Cause No. 5247 in the District Court of San Jacinto County, Texas.

THENCE, N 23° 13' 17" W 301.62 feet to an iron pipe for corner.

THENCE, N 21° 00' 00" W at 172.00 feet pass an iron pipe for the most northern corner of said Tract No. 1-A, being located in the west right-of-way line of FM 224, in all a distance of 310.21 feet to a concrete monument in the east right-of-way line of said FM 224.

THENCE, continuing N 21° 00' 00" W 120.00 feet to an iron pipe for corner.

THENCE, N 49° 30' 00" W 153.90 feet to an iron pipe for corner.

THENCE, N 62° 54' 00" W 147.86 feet to an iron pipe for corner in the proposed shoreline of proposed Lake Livingston, from which a concrete monument bears S 06° 52' 00" E 24.00 feet.

THENCE, with said proposed shoreline as follows:

N 13° 57' 00" W 118.00 feet,

N 25° 13' 00" E 188.89 feet,

N 65° 47' 00" E 272.34 feet,

N 24° 32' 00" E 134.82 feet,

S 75° 54' 00" E 91.14 feet,

S 05° 31' 00" W 109.94 feet,

S 21° 17' 00" E 213.88 feet,

N 08° 56' 00" E 228.84 feet,

S 69° 17' 00" E 296.64 feet,

N 87° 07' 08" E 125.89 feet,

S 35° 22' 00" W 273.44 feet,

N 67° 18' 00" E 70.35 feet,

N 55° 29' 00" E 153.10 feet,

N 52° 09' 00" E 333.66 feet,

S 66° 52' 00" E 551.13 feet to the northwest corner of a 3-acre tract conveyed by Mrs. I. T. Patrick to Thomas D. Patrick out of the above men-

tioned Tract No. 2, by deed dated March 20, 1965, recorded in Volume 95, Page 472 of the Deed Records of San Jacinto County, Texas;

THENCE, S 20° 44' 00" W 399.31 feet to an iron pipe for corner, being a corner of said 3-acre Thomas D. Patrick tract.

THENCE, S 66° 52' 00" E 360.00 feet to an iron pipe for corner, being another corner of said 3-acre Thomas D. Patrick tract in the proposed shoreline of proposed Lake Livingston.

THENCE, continuing with said proposed shoreline as follows:

S 00° 08' 00" W 153.55 feet,

N 23° 42' 00" E 221.29 feet,

N 66° 12' 00" E 167.38 feet,

N 57° 08' 00" E 204.51 feet,

N 78° 32' 00" E 242.97 feet to the point of beginning.

Containing 72.3581 acres of land, more or less.

Sec. 3. It is determined and found that the boundaries and field notes of the district form a closure; and if any mistake is made in copying the field notes in the legislative process, or otherwise a mistake is made in the field notes, it shall in no way or manner affect the organization, existence, and validity of the district, or the right of the district to issue any type of bonds or refunding bonds for the purposes for which the district is created, or to pay the principal and interest thereon, or the right to assess, levy, and collect taxes, or the legality or operation of the district or its governing body.

Sec. 4. It is determined and found that all of the land and other property included within the area and boundaries of the district will be benefited by the works and project which are to be accomplished by the district pursuant to the powers conferred by the provisions of Article 16, Section 59, Constitution of Texas, and that said district was and is created to serve a public use and benefit.

Sec. 5. The district shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, authority, and duties conferred and imposed by the general laws of this State now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Article 16, Section 59, Constitution of Texas; but to the extent that the provisions of any such general laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such general laws are hereby adopted and incorporated by reference with the same effect as if incorporated in full in this Act. The powers and duties herein granted to the district shall be subject to the continuing right of supervision of the State, to be exercised by and through the Texas Water Rights Commission.

Sec. 6. It shall not be necessary for the board of directors to call or hold a confirmation election for the confirmation of the district.

Sec. 7. It shall not be necessary for the board of directors to call or hold a hearing on the exclusions of land or other property from the district; provided, however, that the board shall hold such hearing upon the written request of any landowner or other property owner within the district filed with the secretary of the board prior to the calling of the first bond election for the district. The board on its own motion may call and hold an exclusions hearing or hearings in the manner provided by the general law.

Sec. 8. It shall not be necessary for the board of directors to call or hold a hearing on the adoption of a plan of taxation, but the ad valorem plan of taxation shall be used by the district.

Sec. 9. All powers of the district shall be exercised by a board of five directors. Each director shall serve for his term of office as herein provided, and thereafter until his successor shall be elected or appointed

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and qualified. No person shall be appointed a director unless he is 21 years of age or over and a resident of the State of Texas. Such director shall not be required to reside within the boundaries of the district. Each director shall qualify by subscribing to the oath of office and giving bond in the amount of \$5,000 for the faithful performance of his duties. The cost of such bond shall be paid by the district. Such bond shall be filed in the office of the county clerk and approved by the county judge or the commissioner's court of the county within which district is situated. Such oath shall be filed with the secretary of the district's board of directors after his selection. The bonds of directors elected or appointed after the directors named below shall be approved by the district's board of directors, filed for record in the office of the county clerk of the county in which the district is located and shall be recorded in a record kept for that purpose in the office of the district and be filed for safekeeping in the depository of the district. Immediately after this Act becomes effective, the following named persons, all of whom are 21 years of age or over and residents of the State of Texas, shall be the directors of the district and shall constitute the board of directors of the district:

Cladie Hollyfield
Johnny Klevenhagen, Jr.
Ruth Wilcoxon
Marcille Bruecher
Dan Maloney

Said persons shall qualify as directors within 30 days, or as soon thereafter as practicable, from the effective date of this Act. If any of the aforementioned persons shall fail or refuse to qualify or to serve, or shall die or become incapacitated, or otherwise not be qualified to assume the duties of a director of the district under this Act, a majority of the remaining directors shall appoint a successor or successors. The directors named above or their duly appointed successor or successors shall serve until the second Tuesday in January 1969. Succeeding directors shall be elected or appointed and shall serve for the term and in the manner provided for by Article 7880—37, Vernon's Texas Civil Statutes. The annual elections shall be ordered by the board of directors. Any vacancy occurring in the board of directors shall be filled for the unexpired term by a majority of the remaining directors. The board of directors shall elect from its number a president, a vice president, and a secretary of the board of directors and of the district, and such other officers as in the judgment of the board are necessary. Three directors shall constitute a quorum at any meeting, and a concurrence of three shall be sufficient in all matters pertaining to the business of the district including the letting of construction contracts and the drawing of warrants in payment for construction work, the purchase of existing facilities, and matters relating to construction work. Warrants to pay current expenses, salaries, and accounts may be drawn and signed by an officer or employee, designated by standing order entered on the minutes of the board of directors, when such accounts have been contracted and ordered paid by the directors. The president may execute all contracts, construction or otherwise, entered into by the board of directors on behalf of the district. The vice president shall perform all duties and exercise all power conferred by this Act or the general law upon the president when the president is absent or fails or declines to act. Any order adopted or other action taken at a meeting of the board of directors at which the president is absent may be signed by the vice president, or the board may authorize the president to sign such order or other action. The secretary shall keep and sign the minutes of the meetings of the board of directors; and in his absence at any board meeting, a secretary pro tem shall be

named for that meeting who may exercise all the duties and powers of the secretary for such meeting, and shall sign the minutes thereof, and may attest all orders passed or other action taken at such meeting, or the board may authorize the secretary to attest such orders or other action. The secretary shall be the custodian of all minutes and records of the district. The board shall appoint all necessary engineers, attorneys, auditors, and other employees. The board shall adopt a seal for the district.

Sec. 10. Before issuing any construction bonds, the district shall submit plans and specifications therefor to the Texas Water Rights Commission for approval in the manner required by Article 7880—139, Revised Civil Statutes of Texas, 1925; and the district's project and improvements during the course of construction shall be subject to inspection in the manner provided by said Article 7880—139.

Sec. 11. When any kind of bonds or refunding bonds have been approved by the Attorney General of Texas, registered by the Comptroller of Public Accounts of the State of Texas, and issued by the district, such bonds or refunding bonds shall be negotiable, legal, valid, and binding obligations of the district and shall be incontestable for any cause.

Sec. 12. The power of eminent domain of the district shall be limited to the county or counties in which the district is situated. In the event that the district, in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, rerouting or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telegraph or telephone properties and facilities, or pipeline, all such necessary relocation, raising, rerouting, changing of grade, or alteration of construction shall be accomplished at the sole expense of the district. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, rerouting, or change in grade, or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

Sec. 13. This district is hereby created notwithstanding any of the provisions of the Municipal Annexation Act (Article 970a, Revised Civil Statutes of Texas, 1925), as amended, and to the extent of the creation of the district only, said Article 970a shall have no application. In all other respects, the district hereby created is expressly made subject to all provisions of said Article 970a.

Sec. 14. It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published at least 30 days and not more than 90 days prior to the introduction of this Act in the Legislature of Texas, in a newspaper having a general circulation in the county or counties in which this district or any part thereof is situated; that a copy of such notice and a copy of this Act have been delivered to the Governor of Texas, who has submitted such notice and Act to the Texas Water Rights Commission, and said Texas Water Rights Commission has filed its recommendation as to such Act with the Governor, Lieutenant Governor and Speaker of the House of Representatives of Texas within 30 days from the date such notice and Act were received by the Texas Water Rights Commission; and that all the requirements and provisions of Article 16, Section 59(d), Constitution of the State of Texas, have been fulfilled and accomplished as therein provided.

Sec. 15. The board of directors of the district shall select any bank or trust company in the State of Texas to act as depository of the proceeds of the bonds or revenues derived from the operation of the facilities of the district, and said depository shall furnish such indemnity

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bonds or pledge such securities or meet such other requirements as determined by the board of directors of the district. The district may select one or more depositories.

Sec. 16. In no manner limiting the right, power, or authority of the district, as heretofore granted, the district is specifically granted the right, power, and authority to purchase and construct, or to purchase or construct, or otherwise to acquire waterworks systems, sanitary sewer systems, storm sewer systems and drainage facilities, or parts of such systems or facilities, and to make any and all necessary purchases, constructions, improvements, extension, additions, and repairs thereto, and to purchase or acquire all necessary land, rights-of-way, easements, sites, equipment, buildings, plants, structures, and facilities therefor and to operate and maintain same, and to sell water and other services. The district may exercise any of the rights, powers, and authorities granted in this Act within or without the boundaries of the district and is specifically authorized to exercise any of said rights, powers, and authorities in order to provide water and sewerage services to areas within or without the boundaries of the district. The district may vote and issue any kind of bonds or refunding bonds for any or all of such purposes herein provided, for contiguous or noncontiguous areas, and provide and make payment therefor and for necessary expenses in connection therewith.

Sec. 17. Bonds of the district, other than refunding bonds, may be sold at a price and upon the terms determined by the board of directors of the district, except that such bonds shall not be sold for a less amount than provided by law. Such bonds or refunding bonds may be sold in denominations of \$1,000 each or multiples thereof. Refunding bonds shall be sold at a price and under the terms of the general law applicable to water control and improvement districts. The district may exchange bonds or refunding bonds for property acquired by purchase, or in payment of the contract price of work done or materials furnished or services furnished for the use and benefit of the district; provided that no notice given pursuant to Article 7880—117, Revised Civil Statutes of Texas, 1925, as amended, shall be predicated upon or require the exchange of bonds or refunding bonds, and said article shall otherwise be applicable to this district in all respects.

Sec. 18. The provisions of Article 7880—77b, Revised Civil Statutes of Texas, 1925, as amended, or any other general law, pertaining to the calling of a hearing for the determination of the dissolution of a district where a bond election has failed shall be inapplicable to this district, and this district shall continue to exist and shall have full power to function and operate regardless of the outcome of any bond election. Upon the failure of any bond election, a subsequent bond election may be called after the expiration of six months from the date of the bond election which failed.

Sec. 19. Notice of all elections may be given under the hand of either the president or the secretary of the district.

Sec. 20. The returns of all elections may be canvassed by the board of directors of the district at any time within seven days after the holding of an election, or as soon thereafter as reasonably practicable. The election returns of the annual election of directors may be canvassed by the board of directors as it was composed at the time of such election, or by the directors elected at such election, or by a combination of both. At the board of directors meeting at which the returns are canvassed, composed as aforesaid, any director newly elected at such election may qualify by filing his official bond and taking the oath of office, either before or after the returns are canvassed, and upon the filing of such bond the board, composed as aforesaid, may approve same.

Sec. 21. The accomplishment of the purposes stated in this Act being for the benefit of the people of this state and for the improvement of

their properties and industries, the district in carrying out the purposes of this Act will be performing an essential public function under the Constitution, and the district shall not be required to pay any tax or assessment on the project or any part thereof or on any purchases made by the district, and the bonds issued hereunder and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this state.

Sec. 22. All bonds and refunding bonds of the district shall be and are hereby declared to be legal, eligible, and authorized investments for banks, savings and loan associations, insurance companies, fiduciaries, trustees, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds and refunding bonds shall be eligible to secure the deposit of any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their face value, when accompanied by all unmatured coupons appurtenant thereto.

Sec. 23. If any word, phrase, clause, paragraph, sentence, part, portion, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act shall nevertheless be valid, and the Legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion, or provision.

Acts 1967, 60th Leg., p. 1509, ch. 619, emerg. eff. June 16, 1967.

Title of Act:

An Act creating and establishing a conservation and reclamation district under Article 16, Section 59, Constitution of Texas, known as "River Oaks Municipal Utility District"; declaring district a governmental agency, body politic and corporate; defining the boundaries; finding the field notes and boundaries form a closure, and related matters; finding a benefit to all land and other property within the district; finding that district is created to serve a public use and benefit; conferring on district the rights, powers, privileges, authority and duties of the general laws of Texas applicable to water control and improvement districts created under Article 16, Section 59, Constitution of Texas, where not in conflict with this Act and adopting same by reference; providing for continuing supervision by the State through the Texas Water Rights Commission; providing for no election for confirmation; providing for no hearing for exclusions, except on written request or the board of directors' own motion; providing for no hearing on plan of taxation and adopting ad valorem plan of taxation for district; providing for governing body of district; providing for qualifications and bonds of directors; naming first board of directors; providing for directors to fill vacancies; providing for terms and election of directors and notice of directors' elections, and related matters; providing for organization of board of directors, providing for the letting of construction contracts and the drawing of warrants; providing for the execution of contracts by the president; providing for a vice president, a secretary, and a secretary pro tem and outlining their duties;

providing for employment of engineers, attorneys, auditors, and other employees; providing for a seal for the district; providing for approval of district's plans and specifications by the Texas Water Rights Commission and inspection during construction by said Commission; providing for bonds and refunding bonds to be approved by the Attorney General of Texas and registered by the Comptroller of Public Accounts of Texas, and providing for negotiability, legality, validity, obligation, and incontestability of the bonds and refunding bonds; providing the power of eminent domain shall be limited to the county or counties within which district is situated; providing district shall bear expenses of relocating, raising, or rerouting any highway, railroad, or utility lines or pipelines made necessary by its exercise of the power of eminent domain; defining "sole expense"; providing that the Municipal Annexation Act shall have no application to the creation of this district; determining and finding the requirements of Article 16, Section 59(d), Constitution of Texas, as to notice of intention to introduce this Act have been fulfilled and accomplished; providing for the selection of a depository or depositories for the district and related matters; providing additional powers of district within and without the boundaries of district; providing for the voting and issuing of bonds to serve areas within or without the boundaries of district; providing for the sale of bonds of the district in denominations of \$1,000 or multiples thereof, for the exchange of bonds for property and services, and for the minimum price of bonds at such sale or exchange; providing that Article 7880—77b (Vernon's Texas Civil Statutes), shall

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not be applicable to this district, and related matters; providing that notice of all elections shall be under the hand of the president or secretary; providing for canvassing of election returns; providing the bonds of this district and their transfer and income therefrom and profits thereon and purchases made by district

shall be tax-free in this State; providing the bonds and refunding bonds of this district shall be eligible investments; enacting other provisions related to the aforementioned subjects; providing for a severability clause; and declaring an emergency. Acts 1967, 60th Leg., p. 1509, ch. 619.

Art. 8280—373. Indian Hill Estates Municipal Utility District

Section 1. Under and pursuant to the provisions of Article 16, Section 59 of the Constitution of Texas, a conservation and reclamation district is hereby created and established in Polk County, Texas, to be known as "Indian Hill Estates Municipal Utility District," hereinafter called the "district," which shall be a governmental agency and a body politic and corporate. The creation and establishment of the district is hereby declared to be essential to the accomplishment of the purposes of Article 16, Section 59, Constitution of Texas.

Sec. 2. The district shall comprise all of the territory contained within the following described area:

Lying wholly within Polk County, Texas, and being 200.9536 acres of land, more or less, out of the Thomas Burris League, Abstract Number 10, said 200.9536 acres being composed of two noncontiguous tracts described separately as Tract A and Tract B, as follows:

TRACT A

Commencing for reference at the intersection of the center line of Pinwah Slough with the south line of the Elijah Ratcliff Survey, Abstract Number 65, and the north line of said Thomas Burris League.

THENCE, N 71° 17' 00" W 2881.46 feet along said south line of the Elijah Ratcliff Survey and said north line of the Thomas Burris League to a point, and S 08° 08' 00" W 781.68 feet to a point in the proposed easterly shoreline of proposed Lake Livingston for the Point of Beginning of the tract described herein.

THENCE, in a southeasterly direction along the meanders of said proposed easterly shoreline of proposed Lake Livingston as follows:

N 40° 46' 59" E 64.62 feet to a point,
 S 63° 13' 28" E 222.25 feet to a point,
 S 54° 20' 28" W 110.31 feet to a point,
 S 49° 40' 28" E 200.16 feet to a point,
 N 54° 44' 46" E 117.08 feet to a point,
 S 77° 39' 56" E 221.23 feet to a point,
 S 61° 01' 56" E 307.94 feet to a point,
 S 73° 39' 56" E 132.91 feet to a point,
 S 65° 58' 58" E 148.79 feet to a point,
 S 87° 59' 39" E 130.86 feet to a point,
 S 65° 45' 10" E 223.80 feet to a point,
 S 44° 10' 00" E 97.83 feet to a point,
 N 28° 10' 00" E 104.89 feet to a point,
 N 04° 29' 00" W 72.96 feet to a point,
 S 87° 00' 00" E 115.72 feet to a point,
 S 78° 30' 04" E 157.56 feet to a point,
 N 68° 02' 00" E 239.63 feet to a point,
 N 75° 28' 00" E 139.20 feet to a point,
 N 51° 59' 22" E 271.67 feet to a point,
 N 75° 51' 00" E 89.30 feet to a point,
 S 43° 15' 08" E 289.00 feet to a point,
 S 25° 26' 04" E 152.56 feet to a point,
 S 00° 16' 22" W 195.73 feet to a point,
 S 59° 57' 23" E 853.01 feet to a point,
 S 30° 14' 23" E 397.19 feet to a point,

S 38° 45' 07" W 402.55 feet to a point,
 S 46° 20' 37" W 562.40 feet to a point,
 S 00° 12' 07" W 746.61 feet to a point,
 S 07° 14' 53" E 627.32 feet to a point,
 S 31° 37' 27" E 433.15 feet to a point,
 S 10° 26' 28" E 167.64 feet to a point,
 S 33° 37' 22" E 158.44 feet to a point,
 S 71° 39' 22" E 330.98 feet to a point,
 S 08° 06' 08" W 37.38 feet to a point in the north line of the Southland Paper Mills, Inc. 1200.84-acre tract for the most southerly corner of the tract described herein.

THENCE, N 71° 53' 05" W 907.80 feet along said north line of the Southland Paper Mills, Inc. 1200.84-acre tract to a point in a proposed easterly shoreline of proposed Lake Livingston.

THENCE, in a northwesterly direction along the meanders of said proposed easterly shoreline of proposed Lake Livingston as follows:

N 15° 50' 08" W 554.42 feet to a point,

N 30° 44' 08" W 405.93 feet to a point,

N 43° 46' 30" W 290.58 feet to a point in the east line of the Southland Paper Mills, Inc. 160-acre tract.

THENCE, N 18° 37' 54" E 776.63 feet along said east line of the Southland Paper Mills, Inc. 160-acre tract to its northeast corner for a westerly interior corner of the tract described herein.

THENCE, N 71° 16' 00" W 1164.30 feet along the north line of said Southland Paper Mills, Inc. 160-acre tract to a point in a proposed easterly shoreline of proposed Lake Livingston.

THENCE, in a westerly direction along the meanders of said proposed easterly shoreline of proposed Lake Livingston as follows:

N 00° 06' 33" E 225.46 feet to a point,

S 88° 15' 07" W 604.53 feet to a point on said north line of the Southland Paper Mills, Inc. 160-acre tract, and continuing along the meanders of said proposed easterly shoreline of proposed Lake Livingston N 65° 31' 53" W 541.98 feet to a point, and N 52° 52' 58" W 394.37 feet to a point from which the northwest corner of said Thomas Burris League bears N 63° 19' 17" W 12,818 feet.

THENCE, N 70° 01' 00" W 556.71 feet to a point.

THENCE, N 60° 07' 30" W 1155.60 feet to a point for the most westerly corner of the tract described herein.

THENCE, N 18° 33' 00" E 780.27 feet to a point.

THENCE, N 89° 55' 00" E 910.05 feet to a point.

THENCE, N 80° 30' 30" E 176.40 feet to a point in a proposed easterly shoreline of proposed Lake Livingston.

THENCE, in an easterly direction along the meanders of said proposed easterly shoreline as follows:

S 43° 56' 00" E 294.97 feet to a point,

S 16° 02' 00" E 69.69 feet to a point,

S 54° 54' 00" W 140.89 feet to a point,

S 53° 34' 00" E 102.70 feet to a point,

S 25° 56' 00" E 83.00 feet to a point,

S 29° 59' 00" W 62.36 feet to a point,

S 81° 36' 00" E 195.13 feet to a point,

N 52° 41' 00" E 94.09 feet to a point,

S 61° 46' 00" E 62.20 feet to the point of beginning, containing 162.6916 acres of land, more or less.

TRACT B

Commencing for reference at a point in the north line of a Southland Paper Mills, Inc. 1200.84-acre tract of land in the Thomas Burris League,

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Abstract Number 10, in Polk County, Texas, said commencing point being also the most southerly corner of Tract A above described.

THENCE, S 71° 53' 05" E 103.14 feet along said northerly line of the Southland Paper Mills, Inc. 1200.84-acre tract of land to a point in a proposed easterly shoreline of proposed Lake Livingston for the Point of Beginning for the most westerly corner of the tract described herein.

THENCE, in an easterly direction, along the meanders of said proposed easterly shoreline as follows:

N 81° 07' 48" E 19.12 feet to a point,
 S 72° 12' 12" E 211.24 feet to a point,
 N 44° 26' 48" E 124.48 feet to a point,
 S 87° 59' 12" E 105.29 feet to a point,
 N 62° 58' 48" E 75.22 feet to a point,
 S 22° 31' 12" E 114.83 feet to a point,
 S 75° 11' 12" E 95.22 feet to a point,
 N 25° 10' 48" E 189.67 feet to a point,
 S 59° 51' 12" E 283.88 feet to a point,
 S 43° 50' 12" E 221.02 feet to a point,
 N 65° 55' 48" E 453.82 feet to a point,
 N 02° 49' 12" W 264.37 feet to a point,
 N 48° 10' 48" E 192.95 feet to a point,
 S 30° 07' 12" E 145.91 feet to a point,
 S 06° 50' 48" W 149.31 feet to a point,
 S 58° 57' 12" E 214.34 feet to a point,
 S 85° 52' 12" E 228.45 feet to a point,
 N 12° 22' 12" W 164.47 feet to a point,
 N 78° 53' 48" E 292.37 feet to a point,
 N 32° 02' 12" W 403.49 feet to a point,
 N 59° 55' 48" E 77.28 feet to a point,
 S 84° 13' 12" E 176.11 feet to a point,
 S 38° 04' 20" E 162.76 feet to a point,
 N 23° 40' 48" E 102.77 feet to a point,
 N 75° 17' 48" E 56.29 feet to a point,
 S 72° 45' 12" E 73.59 feet to a point,
 S 31° 10' 12" E 134.94 feet to a point,
 N 31° 38' 48" E 105.37 feet to a point,
 S 88° 13' 12" E 118.14 feet to a point,
 S 51° 07' 12" E 96.49 feet to a point,
 N 19° 20' 48" E 117.70 feet to a point,
 N 40° 49' 48" E 105.75 feet to a point,
 N 79° 05' 48" E 41.71 feet to a point in a westerly boundary of said

Southland Paper Mills, Inc. 1200.84-acre tract for the most northerly corner of the tract described herein.

THENCE, S 18° 01' 04" W 1560.14 feet along said westerly line of the Southland Paper Mills, Inc. 1200.84-acre tract to a point for its interior corner for the southeast corner of the tract described herein.

THENCE N 71° 53' 05" W 2775.28 feet along a northerly line of said Southland Paper Mills, Inc. 1200.84-acre tract to the Point of Beginning, containing 38.2620 acres of land, more or less.

The above two described tracts contain a total of 200.9536 acres of land, more or less.

Sec. 3. It is determined and found that the boundaries and field notes of the district form a closure; and if any mistake is made in copying the field notes in the legislative process, or otherwise a mistake is made in the field notes, it shall in no way or manner affect the organization, existence, and validity of the district, or the right of the district to issue any type of bonds or refunding bonds for the purposes for which the district is created, or to pay the principal and interest thereon, or the right to assess, levy, and collect taxes, or the legality or operation of the district or its governing body.

Sec. 4. It is determined and found that all of the land and other property included within the area and boundaries of the district will be benefited by the works and project which are to be accomplished by the district pursuant to the powers conferred by the provisions of Article 16, Section 59, Constitution of Texas, and that said district was and is created to serve a public use and benefit.

Sec. 5. The district shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, authority, and duties conferred and imposed by the general laws of this State now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Article 16, Section 59, Constitution of Texas; but to the extent that the provisions of any such general laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such general laws are hereby adopted and incorporated by reference with the same effect as if incorporated in full in this Act. The powers and duties herein granted to the district shall be subject to the continuing right of supervision of the State, to be exercised by and through the Texas Water Rights Commission.

Sec. 6. It shall not be necessary for the board of directors to call or hold a confirmation election for the confirmation of the district.

Sec. 7. It shall not be necessary for the board of directors to call or hold a hearing on the exclusions of land or other property from the district; provided, however, that the board shall hold such hearing upon the written request of any landowner or other property owner within the district filed with the secretary of the board prior to the calling of the first bond election for the district. The board on its own motion may call and hold an exclusions hearing or hearings in the manner provided by the general law.

Sec. 8. It shall not be necessary for the board of directors to call or hold a hearing on the adoption of a plan of taxation, but the ad valorem plan of taxation shall be used by the district.

Sec. 9. All powers of the district shall be exercised by a board of five directors. Each director shall serve for his term of office as herein provided, and thereafter until his successor shall be elected or appointed and qualified. No person shall be appointed a director unless he is 21 years of age or over and a resident of the State of Texas. Such director shall not be required to reside within the boundaries of the district. Each director shall qualify by subscribing to the oath of office and giving bond in the amount of \$5,000 for the faithful performance of his duties. The cost of such bond shall be paid by the district. Such bond shall be filed in the office of the county clerk and approved by the county judge or the commissioner's court of the county within which district is situated. Such oath shall be filed with the secretary of the district's board of directors after his selection. The bonds of directors elected or appointed after the directors named below shall be approved by the district's board of directors, filed for record in the office of the county clerk of the county in which the district is located and shall be recorded in a record kept for that purpose in the office of the district and be filed for safekeeping in the depository of the district. Immediately after this Act becomes effective, the following named persons, all of whom are 21 years of age or over and residents of the State of Texas, shall be the directors of the district and shall constitute the board of directors of the district:

William L. Orand
H. D. McMahan
J. D. Galloway
E. P. Dee
Herman Mead

Said persons shall qualify as directors within 30 days, or as soon thereafter as practicable, from the effective date of this Act. If any of the

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aforementioned persons shall fail or refuse to qualify or to serve, or shall die or become incapacitated, or otherwise not be qualified to assume the duties of a director of the district under this Act, a majority of the remaining directors shall appoint a successor or successors. The directors named above or their duly appointed successor or successors shall serve until the second Tuesday in January 1969. Succeeding directors shall be elected or appointed and shall serve for the term and in the manner provided for by Article 7880—37, Vernon's Texas Civil Statutes. The annual elections shall be ordered by the board of directors. Any vacancy occurring in the board of directors shall be filled for the unexpired term by a majority of the remaining directors. The board of directors shall elect from its number a president, a vice president, and a secretary of the board of directors and of the district, and such other officers as in the judgment of the board are necessary. Three directors shall constitute a quorum at any meeting, and a concurrence of three shall be sufficient in all matters pertaining to the business of the district including the letting of construction contracts and the drawing of warrants in payment for construction work, the purchase of existing facilities, and matters relating to construction work. Warrants to pay current expenses, salaries, and accounts may be drawn and signed by an officer or employee, designated by standing order entered on the minutes of the board of directors, when such accounts have been contracted and ordered paid by the directors. The president may execute all contracts, construction or otherwise, entered into by the board of directors on behalf of the district. The vice president shall perform all duties and exercise all power conferred by this Act or the general law upon the president when the president is absent or fails or declines to act. Any order adopted or other action taken at a meeting of the board of directors at which the president is absent may be signed by the vice president, or the board may authorize the president to sign such order or other action. The secretary shall keep and sign the minutes of the meetings of the board of directors; and in his absence at any board meeting, a secretary pro tem shall be named for that meeting who may exercise all the duties and powers of the secretary for such meeting, and shall sign the minutes thereof, and may attest all orders passed or other action taken at such meeting, or the board may authorize the secretary to attest such orders or other action. The secretary shall be the custodian of all minutes and records of the district. The board shall appoint all necessary engineers, attorneys, auditors, and other employees. The board shall adopt a seal for the district.

Sec. 10. Before issuing any construction bonds, the district shall submit plans and specifications therefor to the Texas Water Rights Commission for approval in the manner required by Article 7880—139, Revised Civil Statutes of Texas, 1925; and the district's project and improvements during the course of construction shall be subject to inspection in the manner provided by said Article 7880—139.

Sec. 11. When any kind of bonds or refunding bonds have been approved by the Attorney General of Texas, registered by the Comptroller of Public Accounts of the State of Texas, and issued by the district, such bonds or refunding bonds shall be negotiable, legal, valid, and binding obligations of the district and shall be incontestable for any cause.

Sec. 12. The power of eminent domain of the district shall be limited to the county or counties in which the district is situated. In the event that the district, in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, rerouting or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telegraph or telephone properties and facilities, or pipeline, all such necessary relocation, raising, rerouting, changing of grade, or alteration of construction shall be accomplished at the sole expense of the district. The

term "sole expense" shall mean the actual cost of such relocation, raising, lowering, rerouting, or change in grade, or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

Sec. 13. This district is hereby created notwithstanding any of the provisions of the Municipal Annexation Act (Article 970a, Revised Civil Statutes of Texas, 1925), as amended, and to the extent of the creation of the district only, said Article 970a shall have no application. In all other respects, the district hereby created is expressly made subject to all provisions of said Article 970a.

Sec. 14. It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published at least 30 days and not more than 90 days prior to the introduction of this Act in the Legislature of Texas, in a newspaper having a general circulation in the county or counties in which this district or any part thereof is situated; that a copy of such notice and a copy of this Act have been delivered to the Governor of Texas, who has submitted such notice and Act to the Texas Water Rights Commission, and said Texas Water Rights Commission has filed its recommendation as to such Act with the Governor, Lieutenant Governor and Speaker of the House of Representatives of Texas within 30 days from the date such notice and Act were received by the Texas Water Rights Commission; and that all the requirements and provisions of Article 16, Section 59(d), Constitution of the State of Texas, have been fulfilled and accomplished as therein provided.

Sec. 15. The board of directors of the district shall select any bank or trust company in the State of Texas to act as depository of the proceeds of the bonds or revenues derived from the operation of the facilities of the district, and said depository shall furnish such indemnity bonds or pledge such securities or meet such other requirements as determined by the board of directors of the district. The district may select one or more depositories.

Sec. 16. In no manner limiting the right, power, or authority of the district, as heretofore granted, the district is specifically granted the right, power, and authority to purchase and construct, or to purchase or construct, or otherwise to acquire waterworks systems, sanitary sewer systems, storm sewer systems and drainage facilities, or parts of such systems or facilities, and to make any and all necessary purchases, constructions, improvements, extension, additions, and repairs thereto, and to purchase or acquire all necessary land, rights-of-way, easements, sites, equipment, buildings, plants, structures, and facilities therefor and to operate and maintain same, and to sell water and other services. The district may exercise any of the rights, powers, and authorities granted in this Act within or without the boundaries of the district and is specifically authorized to exercise any of said rights, powers, and authorities in order to provide water and sewerage services to areas within or without the boundaries of the district. The district may vote and issue any kind of bonds or refunding bonds for any or all of such purposes herein provided, for contiguous or noncontiguous areas, and provide and make payment therefor and for necessary expenses in connection therewith.

Sec. 17. Bonds of the district, other than refunding bonds, may be sold at a price and upon the terms determined by the board of directors of the district, except that such bonds shall not be sold for a less amount than provided by law. Such bonds or refunding bonds may be sold in denominations of \$1,000 each or multiples thereof. Refunding bonds shall be sold at a price and under the terms of the general law applicable to water control and improvement districts. The district may exchange bonds or refunding bonds for property acquired by purchase, or in payment of the

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contract price of work done or materials furnished or services furnished for the use and benefit of the district; provided that no notice given pursuant to Article 7880—117, Revised Civil Statutes of Texas, 1925, as amended, shall be predicated upon or require the exchange of bonds or refunding bonds, and said article shall otherwise be applicable to this district in all respects.

Sec. 18. The provisions of Article 7880—77b, Revised Civil Statutes of Texas, 1925, as amended, or any other general law, pertaining to the calling of a hearing for the determination of the dissolution of a district where a bond election has failed shall be inapplicable to this district, and this district shall continue to exist and shall have full power to function and operate regardless of the outcome of any bond election. Upon the failure of any bond election, a subsequent bond election may be called after the expiration of six months from the date of the bond election which failed.

Sec. 19. Notice of all elections may be given under the hand of either the president or the secretary of the district.

Sec. 20. The returns of all elections may be canvassed by the board of directors of the district at any time within seven days after the holding of an election, or as soon thereafter as reasonably practicable. The election returns of the annual election of directors may be canvassed by the board of directors as it was composed at the time of such election, or by the directors elected at such election, or by a combination of both. At the board of directors meeting at which the returns are canvassed, composed as aforesaid, any director newly elected at such election may qualify by filing his official bond and taking the oath of office, either before or after the returns are canvassed, and upon the filing of such bond the board, composed as aforesaid, may approve same.

Sec. 21. The accomplishment of the purposes stated in this Act being for the benefit of the people of this state and for the improvement of their properties and industries, the district in carrying out the purposes of this Act will be performing an essential public function under the Constitution, and the district shall not be required to pay any tax or assessment on the project or any part thereof or on any purchases made by the district, and the bonds issued hereunder and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this state.

Sec. 22. All bonds and refunding bonds of the district shall be and are hereby declared to be legal, eligible, and authorized investments for banks, savings and loan associations, insurance companies, fiduciaries, trustees, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds and refunding bonds shall be eligible to secure the deposit of any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their face value, when accompanied by all unmatured coupons appurtenant thereto.

Sec. 23. If any word, phrase, clause, paragraph, sentence, part, portion, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act shall nevertheless be valid, and the Legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion, or provision.

Acts 1967, 60th Leg., p. 1516, ch. 620, emerg. eff. June 16, 1967.

Title of Act: Article 10, Section 59, Constitution of Texas, known as "Indian Hill Estates
An Act creating and establishing a conservation and reclamation district under Municipal Utility District"; declaring dis-

trict a governmental agency, body politic and corporate; defining the boundaries; finding the field notes and boundaries form a closure, and related matters; finding a benefit to all land and other property within the district; finding that district is created to serve a public use and benefit; conferring on district the rights, powers, privileges, authority and duties of the general laws of Texas applicable to water control and improvement districts created under Article 16, Section 59, Constitution of Texas, where not in conflict with this Act and adopting same by reference; providing for continuing supervision by the State through the Texas Water Rights Commission; providing for no election for confirmation; providing for no hearing for exclusions, except on written request or the board of directors' own motion; providing for no hearing on plan of taxation and adopting ad valorem plan of taxation for district; providing for governing body of district; providing for qualifications and bonds of directors; naming first board of directors; providing for directors to fill vacancies; providing for terms and election of directors and notice of directors' elections, and related matters; providing for organization of board of directors; providing for the letting of construction contracts and the drawing of warrants; providing for the execution of contracts by the president; providing for a vice president, a secretary, and a secretary pro tem and outlining their duties; providing for employment of engineers, attorneys, auditors, and other employees; providing for a seal for the district; providing for approval of district's plans and specifications by the Texas Water Rights Commission and inspection during construction by said Commission; providing for bonds and refunding bonds to be approved by the Attorney General of Texas and registered by the Comptroller of Public Accounts of Texas, and pro-

viding for negotiability, legality, validity, obligation, and incontestability of the bonds and refunding bonds; providing the power of eminent domain shall be limited to the county or counties within which district is situated; providing district shall bear expenses of relocating, raising, or rerouting any highway, railroad, or utility lines or pipelines made necessary by its exercise of the power of eminent domain; defining "sole expense"; providing that the Municipal Annexation Act shall have no application to the creation of this district; determining and finding the requirements of Article 16, Section 59(d), Constitution of Texas, as to notice of intention to introduce this Act have been fulfilled and accomplished; providing for the selection of a depository or depositories for the district and related matters; providing additional powers of district within and without the boundaries of district; providing for the voting and issuing of bonds to serve areas within or without the boundaries of district; providing for the sale of bonds of the district in denominations of \$1,000 or multiples thereof, for the exchange of bonds for property and services, and for the minimum price of bonds at such sale or exchange; providing that Article 7880—77b (Vernon's Texas Civil Statutes), shall not be applicable to this district, and related matters; providing that notice of all elections shall be under the hand of the president or secretary; providing for canvassing of election returns; providing the bonds of this district and their transfer and income therefrom and profits thereon and purchases made by district shall be tax-free in this State; providing the bonds and refunding bonds of this district shall be eligible investments; enacting other provisions related to the aforementioned subjects; providing for a severability clause; and declaring an emergency. Acts 1967, 60th Leg., p. 1516, ch. 620.

Art. 8280—374. Indian Hill No. 2 Municipal Utility District

Section 1. Under and pursuant to the provisions of Article 16, Section 59 of the Constitution of Texas, a conservation and reclamation district is hereby created and established in Polk County, Texas, to be known as "Indian Hill No. 2 Municipal Utility District," hereinafter called the "district," which shall be a governmental agency and a body politic and corporate. The creation and establishment of the district is hereby declared to be essential to the accomplishment of the purposes of Article 16, Section 59, Constitution of Texas.

Sec. 2. The district shall comprise all of the territory contained within the following described area:

Lying wholly in Polk County, Texas, and being a total of 97.7705 acres, more or less, out of the Augustin Viesca Survey, A-78. Said 97.7705 acres of land are composed of four noncontiguous tracts described separately as Tracts A, B, C and D, as follows:

TRACT A

Being 55.7419 acres, more or less, more particularly described as follows:

Beginning at the most northerly corner of Lot 6, Block 22, of a revised plat of Indian Hill, No. 2, which is recorded in Volume 2, Page 40, of the

For Annotations and Historical Notes, see V.A.T.S.

Plat Records of Polk County, Texas, said point of beginning also being the most northerly corner of the tract described herein.

THENCE, S 51° 14' 00" E, 2879.00 feet along the most northern northerly line of said revised plat of Indian Hill, No. 2, to the most easterly corner of said subdivision.

THENCE, S 35° 31' 00" W, 129.20 feet to an eastern corner of said subdivision.

THENCE, N 69° 54' 00" W, 416.00 feet to a corner of said subdivision.

THENCE, S 35° 31' 00" W, 208.60 feet to a corner of said subdivision.

THENCE, S 67° 54' 00" E, 280.30 feet to a corner of said subdivision.

THENCE, N 89° 53' 00" W, 189.90 feet.

THENCE, N 08° 44' 00" W, 71.70 feet.

THENCE, S 83° 53' 00" W, 103.31 feet.

THENCE, N 49° 14' 00" W, 138.28 feet.

THENCE, N 57° 40' 00" W, 127.22 feet.

THENCE, N 66° 18' 00" W, 96.56 feet.

THENCE, S 87° 18' 00" W, 253.91 feet.

THENCE, N 69° 42' 00" W, 521.35 feet.

THENCE, N 18° 15' 00" W, 343.39 feet.

THENCE, N 68° 02' 00" W, 295.44 feet.

THENCE, N 79° 31' 00" W, 196.79 feet.

THENCE, N 41° 10' 00" W, 228.90 feet.

THENCE, S 03° 08' 00" W, 185.49 feet.

THENCE, S 12° 01' 00" E, 371.83 feet.

THENCE, S 50° 30' 00" W, 179.25 feet.

THENCE, S 86° 29' 00" W, 522.38 feet.

THENCE, S 72° 56' 00" W, 131.71 feet to the southeast corner of Lot 18, Block 15, of said Indian Hill No. 2.

THENCE, N 17° 04' 00" W, 140.00 feet along the eastern line of said Lot 18 and its extension to a point for corner in the center line of Valley View Drive 40-foot right of way.

THENCE, S 72° 56' 00" W, 88.64 feet along the center line of Valley View Drive to its intersection with the center line of Timber Side Drive 40-foot right of way.

THENCE, N 36° 29' 00" E, 1294.75 feet along the center line of Timber Side Drive to its intersection with the center line of Post Oak Drive 60-foot right of way.

THENCE, N 53° 31' 00" W, 145.00 feet along the center line of Post Oak Drive to a point for corner in the most northern westerly line of said subdivision.

THENCE, N 36° 29' 00" E, 581.60 feet along the most northern westerly line of said Indian Hill No. 2 to the point of beginning.

Containing 55.7419 acres, more or less.

TRACT B

Being 12.1211 acres, more or less, more particularly described as follows:

Beginning at the most eastern corner of Lot 7, Block 11, of Indian Hill, No. 2, a subdivision in Polk County, Texas, a revised plat of which is recorded in Volume 2, Page 40 of the Plat Records of said County, said point of beginning also being the most eastern corner of the tract described herein.

THENCE, in a southwesterly direction along a southerly line of said Indian Hill, No. 2, as follows:

- S 38° 37' 00" W, 118.12 feet.
- S 89° 37' 00" W, 212.89 feet.
- S 86° 06' 00" W, 115.25 feet.
- N 54° 28' 00" W, 218.91 feet.
- S 32° 14' 00" E, 167.36 feet.
- S 39° 27' 00" E, 169.58 feet.
- S 50° 27' 00" W, 328.94 feet.
- S 39° 26' 00" W, 255.72 feet.
- N 41° 33' 00" W, 396.75 feet.

N 89° 38' 00" W, 127.76 feet to a point in the most southerly west line of the aforementioned subdivision.

THENCE, N 37° 52' 00" E, 1011.14 feet along the most southerly west line of the aforementioned subdivision to a point for corner, being the most northern corner of the herein described tract.

THENCE, S 52° 09' 00" E, 720.64 feet along the most southerly north line of the aforementioned subdivision to the point of beginning.

Containing 12.1211 acres, more or less.

TRACT C

Being 4.6217 acres, more or less, more particularly described as follows:

Beginning at the most western corner of Lot 10, Block 7, of Indian Hill, No. 2, a subdivision in Polk County, Texas, a revised plat of which is recorded in Volume 2, Page 40 of the Plat Records of said County, said point of beginning being also the most western corner of the tract described herein.

THENCE, N 37° 52' 00" E, 963.84 feet along the most southern westerly line of the aforementioned subdivision to a point for corner, being the most northerly corner of the herein described tract.

THENCE, in a southerly direction along an easterly line of the said subdivision, as follows:

- S 52° 13' 00" E, 189.47 feet.
- S 05° 09' 00" W, 197.57 feet.
- S 87° 47' 00" W, 201.52 feet.
- S 00° 39' 00" E, 130.28 feet.
- S 41° 37' 00" W, 119.81 feet.
- S 34° 33' 00" W, 309.15 feet.
- N 89° 01' 00" W, 161.59 feet.

N 73° 40' 00" W, 111.79 feet to the point of beginning.

Containing 4.6217 acres, more or less.

TRACT D

Being 25.2858 acres, more or less, more particularly described as follows:

Beginning at the most westerly corner of Lot 1, Block 1, of Indian Hill, No. 2, a subdivision in Polk County, Texas, a revised plat of which is recorded in Volume 2, Page 40 of the Plat Records of said County, said point of beginning being also the most western corner of the tract described herein.

THENCE, N 37° 52' 00" E, 967.89 feet along the most southern westerly line of said subdivision, to a point for corner.

THENCE, along the boundary line of said subdivision, as follows:

- S 75° 03' 00" E, 155.65 feet.
- S 49° 52' 00" E, 183.61 feet.
- S 18° 41' 00" E, 111.83 feet.
- N 09° 40' 00" E, 136.61 feet.
- N 63° 37' 00" E, 96.88 feet.
- S 87° 59' 00" E, 118.97 feet.

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N 34° 35' 00" E, 273.72 feet.

S 75° 42' 00" E, 226.79 feet.

S 78° 46' 00" E, 195.83 feet.

S 53° 32' 00" E, 128.40 feet.

S 19° 54' 00" W, 471.85 feet.

S 68° 25' 00" W, 276.73 feet.

S 76° 22' 00" W, 448.74 feet.

N 72° 01' 00" W, 167.89 feet.

S 06° 41' 00" E, 69.92 feet.

S 17° 25' 00" W, 247.82 feet.

S 59° 37' 00" W, 349.68 feet to a point for corner in the most southern southerly line of said subdivision.

THENCE, N 51° 04' 00" W, 563.53 feet along the most southern southerly line of said subdivision to the point of beginning.

Containing 25.2858 acres, more or less.

Sec. 3. It is determined and found that the boundaries and field notes of the district form a closure; and if any mistake is made in copying the field notes in the legislative process, or otherwise a mistake is made in the field notes, it shall in no way or manner affect the organization, existence, and validity of the district, or the right of the district to issue any type of bonds or refunding bonds for the purposes for which the district is created, or to pay the principal and interest thereon, or the right to assess, levy, and collect taxes, or the legality or operation of the district or its governing body.

Sec. 4. It is determined and found that all of the land and other property included within the area and boundaries of the district will be benefited by the works and project which are to be accomplished by the district pursuant to the powers conferred by the provisions of Article 16, Section 59, Constitution of Texas, and that said district was and is created to serve a public use and benefit.

Sec. 5. The district shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, authority, and duties conferred and imposed by the general laws of this State now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Article 16, Section 59, Constitution of Texas; but to the extent that the provisions of any such general laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such general laws are hereby adopted and incorporated by reference with the same effect as if incorporated in full in this Act. The powers and duties herein granted to the district shall be subject to the continuing right of supervision of the State, to be exercised by and through the Texas Water Rights Commission.

Sec. 6. It shall not be necessary for the board of directors to call or hold a confirmation election for the confirmation of the district.

Sec. 7. It shall not be necessary for the board of directors to call or hold a hearing on the exclusions of land or other property from the district; provided, however, that the board shall hold such hearing upon the written request of any landowner or other property owner within the district filed with the secretary of the board prior to the calling of the first bond election for the district. The board on its own motion may call and hold an exclusions hearing or hearings in the manner provided by the general law.

Sec. 8. It shall not be necessary for the board of directors to call or hold a hearing on the adoption of a plan of taxation, but the ad valorem plan of taxation shall be used by the district.

Sec. 9. All powers of the district shall be exercised by a board of five directors. Each director shall serve for his term of office as herein provided, and thereafter until his successor shall be elected or appointed and

qualified. No person shall be appointed a director unless he is 21 years of age or over and a resident of the State of Texas. Such director shall not be required to reside within the boundaries of the district. Each director shall qualify by subscribing to the oath of office and giving bond in the amount of \$5,000 for the faithful performance of his duties. The cost of such bond shall be paid by the district. Such bond shall be filed in the office of the county clerk and approved by the county judge or the commissioner's court of the county within which district is situated. Such oath shall be filed with the secretary of the district's board of directors after his selection. The bonds of directors elected or appointed after the directors named below shall be approved by the district's board of directors, filed for record in the office of the county clerk of the county in which the district is located and shall be recorded in a record kept for that purpose in the office of the district and be filed for safekeeping in the depository of the district. Immediately after this Act becomes effective, the following named persons, all of whom are 21 years of age or over and residents of the State of Texas, shall be the directors of the district and shall constitute the board of directors of the district:

Paul Berry
Ray Beck
Carol Montgomery
Louise M. Montgomery
John W. Luker

Said persons shall qualify as directors within 30 days, or as soon thereafter as practicable, from the effective date of this Act. If any of the aforementioned persons shall fail or refuse to qualify or to serve, or shall die or become incapacitated, or otherwise not be qualified to assume the duties of a director of the district under this Act, a majority of the remaining directors shall appoint a successor or successors. The directors named above or their duly appointed successor or successors shall serve until the second Tuesday in January 1969. Succeeding directors shall be elected or appointed and shall serve for the term and in the manner provided for by Article 7880—37, Vernon's Texas Civil Statutes. The annual elections shall be ordered by the board of directors. Any vacancy occurring in the board of directors shall be filled for the unexpired term by a majority of the remaining directors. The board of directors shall elect from its number a president, a vice president, and a secretary of the board of directors and of the district, and such other officers as in the judgment of the board are necessary. Three directors shall constitute a quorum at any meeting, and a concurrence of three shall be sufficient in all matters pertaining to the business of the district including the letting of construction contracts and the drawing of warrants in payment for construction work, the purchase of existing facilities, and matters relating to construction work. Warrants to pay current expenses, salaries, and accounts may be drawn and signed by an officer or employee, designated by standing order entered on the minutes of the board of directors, when such accounts have been contracted and ordered paid by the directors. The president may execute all contracts, construction or otherwise, entered into by the board of directors on behalf of the district. The vice president shall perform all duties and exercise all power conferred by this Act or the general law upon the president when the president is absent or fails or declines to act. Any order adopted or other action taken at a meeting of the board of directors at which the president is absent may be signed by the vice president, or the board may authorize the president to sign such order or other action. The secretary shall keep and sign the minutes of the meetings of the board of directors; and in his absence at any board meeting, a secretary pro tem shall be named for that meeting who may exercise all the duties and powers of the secretary for such meeting, and

For Annotations and Historical Notes, see V.A.T.S.

shall sign the minutes thereof, and may attest all orders passed or other action taken at such meeting, or the board may authorize the secretary to attest such orders or other action. The secretary shall be the custodian of all minutes and records of the district. The board shall appoint all necessary engineers, attorneys, auditors, and other employees. The board shall adopt a seal for the district.

Sec. 10. Before issuing any construction bonds, the district shall submit plans and specifications therefor to the Texas Water Rights Commission for approval in the manner required by Article 7880—139, Revised Civil Statutes of Texas, 1925; and the district's project and improvements during the course of construction shall be subject to inspection in the manner provided by said Article 7880—139.

Sec. 11. When any kind of bonds or refunding bonds have been approved by the Attorney General of Texas, registered by the Comptroller of Public Accounts of the State of Texas, and issued by the district, such bonds or refunding bonds shall be negotiable, legal, valid, and binding obligations of the district and shall be incontestable for any cause.

Sec. 12. The power of eminent domain of the district shall be limited to the county or counties in which the district is situated. In the event that the district, in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, rerouting or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telegraph or telephone properties and facilities, or pipeline, all such necessary relocation, raising, rerouting, changing of grade, or alteration of construction shall be accomplished at the sole expense of the district. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, rerouting, or change in grade, or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

Sec. 13. This district is hereby created notwithstanding any of the provisions of the Municipal Annexation Act (Article 970a, Revised Civil Statutes of Texas, 1925), as amended, and to the extent of the creation of the district only, said Article 970a shall have no application. In all other respects, the district hereby created is expressly made subject to all provisions of said Article 970a.

Sec. 14. It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published at least 30 days and not more than 90 days prior to the introduction of this Act in the Legislature of Texas, in a newspaper having a general circulation in the county or counties in which this district or any part thereof is situated; that a copy of such notice and a copy of this Act have been delivered to the Governor of Texas, who has submitted such notice and Act to the Texas Water Rights Commission, and said Texas Water Rights Commission has filed its recommendation as to such Act with the Governor, Lieutenant Governor and Speaker of the House of Representatives of Texas within 30 days from the date such notice and Act were received by the Texas Water Rights Commission; and that all the requirements and provisions of Article 16, Section 59(d), Constitution of the State of Texas, have been fulfilled and accomplished as therein provided.

Sec. 15. The board of directors of the district shall select any bank or trust company in the State of Texas to act as depository of the proceeds of the bonds or revenues derived from the operation of the facilities of the district, and said depository shall furnish such indemnity bonds or pledge such securities or meet such other requirements as determined by the board of directors of the district. The district may select one or more depositories.

Sec. 16. In no manner limiting the right, power, or authority of the district, as heretofore granted, the district is specifically granted the right, power, and authority to purchase and construct, or to purchase or construct, or otherwise to acquire waterworks systems, sanitary sewer systems, storm sewer systems and drainage facilities, or parts of such systems or facilities, and to make any and all necessary purchases, constructions, improvements, extension, additions, and repairs thereto, and to purchase or acquire all necessary land, rights-of-way, easements, sites, equipment, buildings, plants, structures, and facilities therefor and to operate and maintain same, and to sell water and other services. The district may exercise any of the rights, powers, and authorities granted in this Act within or without the boundaries of the district and is specifically authorized to exercise any of said rights, powers, and authorities in order to provide water and sewerage services to areas within or without the boundaries of the district. The district may vote and issue any kind of bonds or refunding bonds for any or all of such purposes herein provided, for contiguous or noncontiguous areas, and provide and make payment therefor and for necessary expenses in connection therewith.

Sec. 17. Bonds of the district, other than refunding bonds, may be sold at a price and upon the terms determined by the board of directors of the district, except that such bonds shall not be sold for a less amount than provided by law. Such bonds or refunding bonds may be sold in denominations of \$1,000 each or multiples thereof. Refunding bonds shall be sold at a price and under the terms of the general law applicable to water control and improvement districts. The district may exchange bonds or refunding bonds for property acquired by purchase, or in payment of the contract price of work done or materials furnished or services furnished for the use and benefit of the district; provided that no notice given pursuant to Article 7880—117, Revised Civil Statutes of Texas, 1925, as amended, shall be predicated upon or require the exchange of bonds or refunding bonds, and said article shall otherwise be applicable to this district in all respects.

Sec. 18. The provisions of Article 7880—77b, Revised Civil Statutes of Texas, 1925, as amended, or any other general law, pertaining to the calling of a hearing for the determination of the dissolution of a district where a bond election has failed shall be inapplicable to this district, and this district shall continue to exist and shall have full power to function and operate regardless of the outcome of any bond election. Upon the failure of any bond election, a subsequent bond election may be called after the expiration of six months from the date of the bond election which failed.

Sec. 19. Notice of all elections may be given under the hand of either the president or the secretary of the district.

Sec. 20. The returns of all elections may be canvassed by the board of directors of the district at any time within seven days after the holding of an election, or as soon thereafter as reasonably practicable. The election returns of the annual election of directors may be canvassed by the board of directors as it was composed at the time of such election, or by the directors elected at such election, or by a combination of both. At the board of directors meeting at which the returns are canvassed, composed as aforesaid, any director newly elected at such election may qualify by filing his official bond and taking the oath of office, either before or after the returns are canvassed, and upon the filing of such bond the board, composed as aforesaid, may approve same.

Sec. 21. The accomplishment of the purposes stated in this Act being for the benefit of the people of this state and for the improvement of their properties and industries, the district in carrying out the purposes of this Act will be performing an essential public function under the Constitution, and the district shall not be required to pay any tax or assessment on the

For Annotations and Historical Notes, see V.A.T.S.

project or any part thereof or on any purchases made by the district, and the bonds issued hereunder and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this state.

Sec. 22. All bonds and refunding bonds of the district shall be and are hereby declared to be legal, eligible, and authorized investments for banks, savings and loan associations, insurance companies, fiduciaries, trustees, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds and refunding bonds shall be eligible to secure the deposit of any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their face value, when accompanied by all unmatured coupons appurtenant thereto.

Sec. 23. If any word, phrase, clause, paragraph, sentence, part, portion, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act shall nevertheless be valid, and the Legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion, or provision.

Acts 1967, 60th Leg., p. 1524, ch. 621, emerg. eff. June 16, 1967.

Title of Act:

An Act creating and establishing a conservation and reclamation district under Article 16, Section 59, Constitution of Texas, known as "Indian Hill No. 2 Municipal Utility District"; declaring district a governmental agency, body politic and corporate; defining the boundaries; finding the field notes and boundaries form a closure, and related matters; finding a benefit to all land and other property within the district; finding that district is created to serve a public use and benefit; conferring on district the rights, powers, privileges, authority and duties of the general laws of Texas applicable to water control and improvement districts created under Article 16, Section 59, Constitution of Texas, where not in conflict with this Act and adopting same by reference; providing for continuing supervision by the State through the Texas Water Rights Commission; providing for no election for confirmation; providing for no hearing for exclusions, except on written request or the board of directors' own motion; providing for no hearing on plan of taxation and adopting ad valorem plan of taxation for district; providing for governing body of district; providing for qualifications and bonds of directors; naming first board of directors; providing for directors to fill vacancies; providing for terms and election of directors and notice of directors' elections, and related matters; providing for organization of board of directors; providing for the letting of construction contracts and the drawing of warrants; providing for the execution of contracts by the president; providing for a vice president, a secretary, and a secretary pro tem and outlining their duties; providing for employment of engineers, attorneys, auditors, and other employees; providing for a seal for the district; providing for approval of

district's plans and specifications by the Texas Water Rights Commission and inspection during construction by said Commission; providing for bonds and refunding bonds to be approved by the Attorney General of Texas and registered by the Comptroller of Public Accounts of Texas, and providing for negotiability, legality, validity, obligation, and incontestability of the bonds and refunding bonds; providing the power of eminent domain shall be limited to the county or counties within which district is situated; providing district shall bear expenses of relocating, raising, or re-routing any highway, railroad, or utility lines or pipelines made necessary by its exercise of the power of eminent domain; defining "sole expense"; providing that the Municipal Annexation Act shall have no application to the creation of this district; determining and finding the requirements of Article 16, Section 59(d), Constitution of Texas, as to notice of intention to introduce this Act have been fulfilled and accomplished; providing for the selection of a depository or depositories for the district and related matters; providing additional powers of district within and without the boundaries of district; providing for the voting and issuing of bonds to serve areas within or without the boundaries of district; providing for the sale of bonds of the district in denominations of \$1,000 or multiples thereof, for the exchange of bonds for property and services, and for the minimum price of bonds at such sale or exchange; providing that Article 7880—77b (Vernon's Texas Civil Statutes), shall not be applicable to this district, and related matters; providing that notice of all elections shall be under the hand of the president or secretary; providing for canvassing of election returns; providing the bonds of this district and their transfer and income therefrom and profits thereon and purchases

made by district shall be tax-free in this State; providing the bonds and refunding bonds of this district shall be eligible investments; enacting other provisions related to the aforementioned subjects; providing for a severability clause; and declaring an emergency. Acts 1967, 60th Leg., p. 1524, ch. 621.

Art. 8280—375. Willowisp Municipal Utility District

Section 1. Under and pursuant to the provisions of Article 16, Section 59 of the Constitution of Texas, a conservation and reclamation district is hereby created and established in Fort Bend County, Texas, to be known as "Willowisp Municipal Utility District," hereinafter called the "district," which shall be a governmental agency and a body politic and corporate. The creation and establishment of the district is hereby declared to be essential to the accomplishment of the purposes of Article 16, Section 59, Constitution of Texas.

Sec. 2. The district shall comprise all of the territory contained within the following described area:

Lying wholly within Fort Bend County, Texas, and wholly within Missouri City, Texas, and being 164.95 acres, more or less, out of the I. & G. N. R. R. Co. Survey No. 4, A-263, and the George B. Lucas Survey, A-626, and described as follows:

Beginning at a point in the east line of said I. & G. N. R. R. Co. Survey No. 4, which point is S 00° 05' 27" W 2122.34 feet from the northeast corner of said I. & G. N. R. R. Co. Survey No. 4, for the southeast corner of a 150.00-acre tract as described in deed from H. H. Brochstein to Sandy Lakes Country Club, Inc. recorded in Volume 426, Page 482 of the Fort Bend County Deed Records, and for the southeast corner of the tract herein described.

THENCE, N 89° 48' 33" W 3166.00 feet along the South line of said 150.00-acre tract to a point for corner of said 150.00-acre tract and for corner of the tract herein described.

THENCE, N 00° 04' 46" W 440.97 feet along a boundary line of said 150.00-acre tract to a point for corner of said 150.00-acre tract and for a corner of the tract herein described.

THENCE, N 89° 49' 21" W 341.23 feet along a boundary line of said 150.00-acre tract to a point in the west line of said I. & G. N. R. R. Co. Survey No. 4, for a corner of said 150.00-acre tract and for a corner of the tract herein described.

THENCE, S 00° 04' 46" E 148.60 feet along the west line of said I. & G. N. R. R. Co. Survey No. 4 and a boundary line of said 150.00-acre tract to a point for a corner of said 150.00-acre tract and for a corner of the tract herein described.

THENCE, N 89° 49' 21" W 202.00 feet along a boundary line of said 150.00-acre tract to a point for the most westerly southwest corner of the tract herein described.

THENCE, N 00° 40' 38" E 968.82 feet to a point in the south right-of-way line of Settegast Road, based on 60.00 feet in width, for the northwest corner of the tract herein described.

THENCE, N 68° 30' 00" E 3979.40 feet along the south right-of-way line of said Settegast Road to a point for the northeast corner of said 150.00-acre tract and for the northeast corner of the tract herein described.

THENCE, S 00° 05' 27" W 2731.81 feet along the east line of said 150.00-acre tract and the east line of said I. & G. N. R. R. Co. Survey No. 4 to the place of beginning.

Containing 164.95 acres, more or less.

Sec. 3. It is determined and found that the boundaries and field notes of the district form a closure; and if any mistake is made in copying the

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field notes in the legislative process, or otherwise a mistake is made in the field notes, it shall in no way or manner affect the organization, existence, and validity of the district, or the right of the district to issue any type of bonds or refunding bonds for the purposes for which the district is created, or to pay the principal and interest thereon, or the right to assess, levy, and collect taxes, or the legality or operation of the district or its governing body.

Sec. 4. It is determined and found that all of the land and other property included within the area and boundaries of the district will be benefited by the works and project which are to be accomplished by the district pursuant to the powers conferred by the provisions of Article 16, Section 59, Constitution of Texas, and that said district was and is created to serve a public use and benefit.

Sec. 5. The district shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, authority, and duties conferred and imposed by the general laws of this State now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Article 16, Section 59, Constitution of Texas; but to the extent that the provisions of any such general laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such general laws are hereby adopted and incorporated by reference with the same effect as if incorporated in full in this Act. The powers and duties herein granted to the district shall be subject to the continuing right of supervision of the State, to be exercised by and through the Texas Water Rights Commission.

Sec. 6. It shall not be necessary for the board of directors to call or hold a confirmation election for the confirmation of the district.

Sec. 7. It shall not be necessary for the board of directors to call or hold a hearing on the exclusions of land or other property from the district; provided, however, that the board shall hold such hearing upon the written request of any landowner or other property owner within the district filed with the secretary of the board prior to the calling of the first bond election for the district. The board on its own motion may call and hold an exclusions hearing or hearings in the manner provided by the general law.

Sec. 8. It shall not be necessary for the board of directors to call or hold a hearing on the adoption of a plan of taxation, but the ad valorem plan of taxation shall be used by the district.

Sec. 9. All powers of the district shall be exercised by a board of five directors. Each director shall serve for his term of office as herein provided, and thereafter until his successor shall be elected or appointed and qualified. No person shall be appointed a director unless he is 21 years of age or over and a resident of the State of Texas. Such director shall not be required to reside within the boundaries of the district. Each director shall qualify by subscribing to the oath of office and giving bond in the amount of \$5,000 for the faithful performance of his duties. The cost of such bond shall be paid by the district. Such bond shall be filed in the office of the county clerk and approved by the county judge or the commissioner's court of the county within which district is situated. Such oath shall be filed with the secretary of the district's board of directors after his selection. The bonds of directors elected or appointed after the directors named below shall be approved by the district's board of directors, filed for record in the office of the county clerk of the county in which the district is located and shall be recorded in a record kept for that purpose in the office of the district and be filed for safekeeping in the depository of the district. Immediately after this Act becomes effective, the following named persons, all of whom are 21 years of age or over

and residents of the State of Texas, shall be the directors of the district and shall constitute the board of directors of the district:

Robert W. Simmer
W. S. McMeans
R. L. Curtis
Charles W. Palmer
Jerry J. Knauff

Said persons shall qualify as directors within 30 days, or as soon thereafter as practicable, from the effective date of this Act. If any of the aforementioned persons shall fail or refuse to qualify or to serve, or shall die or become incapacitated, or otherwise not be qualified to assume the duties of a director of the district under this Act, a majority of the remaining directors shall appoint a successor or successors. The directors named above or their duly appointed successor or successors shall serve until the second Tuesday in January 1969. Succeeding directors shall be elected or appointed and shall serve for the term and in the manner provided for by Article 7880-37, Vernon's Texas Civil Statutes. The annual elections shall be ordered by the board of directors. Any vacancy occurring in the board of directors shall be filled for the unexpired term by a majority of the remaining directors. The board of directors shall elect from its number a president, a vice president, and a secretary of the board of directors and of the district, and such other officers as in the judgment of the board are necessary. Three directors shall constitute a quorum at any meeting, and a concurrence of three shall be sufficient in all matters pertaining to the business of the district including the letting of construction contracts and the drawing of warrants in payment for construction work, the purchase of existing facilities, and matters relating to construction work. Warrants to pay current expenses, salaries, and accounts may be drawn and signed by an officer or employee, designated by standing order entered on the minutes of the board of directors, when such accounts have been contracted and ordered paid by the directors. The president may execute all contracts, construction or otherwise, entered into by the board of directors on behalf of the district. The vice president shall perform all duties and exercise all power conferred by this Act or the general law upon the president when the president is absent or fails or declines to act. Any order adopted or other action taken at a meeting of the board of directors at which the president is absent may be signed by the vice president, or the board may authorize the president to sign such order or other action. The secretary shall keep and sign the minutes of the meetings of the board of directors; and in his absence at any board meeting, a secretary pro tem shall be named for that meeting who may exercise all the duties and powers of the secretary for such meeting, and shall sign the minutes thereof, and may attest all orders passed or other action taken at such meeting, or the board may authorize the secretary to attest such orders or other action. The secretary shall be the custodian of all minutes and records of the district. The board shall appoint all necessary engineers, attorneys, auditors, and other employees. The board shall adopt a seal for the district.

Sec. 10. Before issuing any construction bonds, the district shall submit plans and specifications therefor to the Texas Water Rights Commission for approval in the manner required by Article 7880—139, Revised Civil Statutes of Texas, 1925; and the district's project and improvements during the course of construction shall be subject to inspection in the manner provided by said Article 7880—139.

Sec. 11. When any kind of bonds or refunding bonds have been approved by the Attorney General of Texas, registered by the Comptroller of Public Accounts of the State of Texas, and issued by the district, such bonds or refunding bonds shall be negotiable, legal, valid, and binding obligations of the district and shall be incontestable for any cause.

Sec. 12. The power of eminent domain of the district shall be limited to the county or counties in which the district is situated. In the event that the district, in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, rerouting or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telegraph or telephone properties and facilities, or pipeline, all such necessary relocation, raising, rerouting, changing of grade, or alteration of construction shall be accomplished at the sole expense of the district. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, rerouting, or change in grade, or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

Sec. 13. This district is hereby created notwithstanding any of the provisions of the Municipal Annexation Act (Article 970a, Revised Civil Statutes of Texas, 1925), as amended, and to the extent of the creation of the district only, said Article 970a shall have no application. In all other respects, the district hereby created is expressly made subject to all provisions of said Article 970a.

Sec. 14. It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published at least 30 days and not more than 90 days prior to the introduction of this Act in the Legislature of Texas, in a newspaper having a general circulation in the county or counties in which this district or any part thereof is situated; that a copy of such notice and a copy of this Act have been delivered to the Governor of Texas, who has submitted such notice and Act to the Texas Water Rights Commission, and said Texas Water Rights Commission has filed its recommendation as to such Act with the Governor, Lieutenant Governor and Speaker of the House of Representatives of Texas within 30 days from the date such notice and Act were received by the Texas Water Rights Commission; and that all the requirements and provisions of Article 16, Section 59(d), Constitution of the State of Texas, have been fulfilled and accomplished as therein provided.

Sec. 15. The board of directors of the district shall select any bank or trust company in the State of Texas to act as depository of the proceeds of the bonds or revenues derived from the operation of the facilities of the district, and said depository shall furnish such indemnity bonds or pledge such securities or meet such other requirements as determined by the board of directors of the district. The district may select one or more depositories.

Sec. 16. In no manner limiting the right, power, or authority of the district, as heretofore granted, the district is specifically granted the right, power, and authority to purchase and construct, or to purchase or construct, or otherwise to acquire waterworks systems, sanitary sewer systems, storm sewer systems and drainage facilities, or parts of such systems or facilities, and to make any and all necessary purchases, constructions, improvements, extension, additions, and repairs thereto, and to purchase or acquire all necessary land, rights-of-way, easements, sites, equipment, buildings, plants, structures, and facilities therefor and to operate and maintain same, and to sell water and other services. The district may exercise any of the rights, powers, and authorities granted in this Act within or without the boundaries of the district and is specifically authorized to exercise any of said rights, powers, and authorities in order to provide water and sewerage services to areas within or without the boundaries of the district. The district may vote and issue any kind of bonds or refunding bonds for any or all of such purposes herein provided, for contiguous or noncontiguous areas, and provide and make payment therefor and for necessary expenses in connection therewith.

Sec. 17. Bonds of the district, other than refunding bonds, may be sold at a price and upon the terms determined by the board of directors of the district, except that such bonds shall not be sold for a less amount than provided by law. Such bonds or refunding bonds may be sold in denominations of \$1,000 each or multiples thereof. Refunding bonds shall be sold at a price and under the terms of the general law applicable to water control and improvement districts. The district may exchange bonds or refunding bonds for property acquired by purchase, or in payment of the contract price of work done or materials furnished or services furnished for the use and benefit of the district; provided that no notice given pursuant to Article 7880—117, Revised Civil Statutes of Texas, 1925, as amended, shall be predicated upon or require the exchange of bonds or refunding bonds, and said article shall otherwise be applicable to this district in all respects.

Sec. 18. The provisions of Article 7880—77b, Revised Civil Statutes of Texas, 1925, as amended, or any other general law, pertaining to the calling of a hearing for the determination of the dissolution of a district where a bond election has failed shall be inapplicable to this district, and this district shall continue to exist and shall have full power to function and operate regardless of the outcome of any bond election. Upon the failure of any bond election, a subsequent bond election may be called after the expiration of six months from the date of the bond election which failed.

Sec. 19. Notice of all elections may be given under the hand of either the president or the secretary of the district.

Sec. 20. The returns of all elections may be canvassed by the board of directors of the district at any time within seven days after the holding of an election, or as soon thereafter as reasonably practicable. The election returns of the annual election of directors may be canvassed by the board of directors as it was composed at the time of such election, or by the directors elected at such election, or by a combination of both. At the board of directors meeting at which the returns are canvassed, composed as aforesaid, any director newly elected at such election may qualify by filing his official bond and taking the oath of office, either before or after the returns are canvassed, and upon the filing of such bond the board, composed as aforesaid, may approve same.

Sec. 21. The accomplishment of the purposes stated in this Act being for the benefit of the people of this state and for the improvement of their properties and industries, the district in carrying out the purposes of this Act will be performing an essential public function under the Constitution, and the district shall not be required to pay any tax or assessment on the project or any part thereof or on any purchases made by the district, and the bonds issued hereunder and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this state.

Sec. 22. All bonds and refunding bonds of the district shall be and are hereby declared to be legal, eligible, and authorized investments for banks, savings and loan associations, insurance companies, fiduciaries, trustees, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds and refunding bonds shall be eligible to secure the deposit of any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their face value, when accompanied by all unmatured coupons appurtenant thereto.

Sec. 23. If any word, phrase, clause, paragraph, sentence, part, portion, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the

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remainder of the Act shall nevertheless be valid, and the Legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion or provision.

Acts 1967, 60th Leg., p. 1533, ch. 623, emerg. eff. June 16, 1967.

Title of Act:

An Act creating and establishing a conservation and reclamation district under Article 16, Section 59, Constitution of Texas, known as "Willowisp Municipal Utility District"; declaring district a governmental agency, body politic and corporate; defining the boundaries; finding the field notes and boundaries form a closure, and related matters; finding a benefit to all land and other property within the district; finding that district is created to serve a public use and benefit; conferring on district the rights, powers, privileges, authority and duties of the general laws of Texas applicable to water control and improvement districts created under Article 16, Section 59, Constitution of Texas, where not in conflict with this Act and adopting same by reference; providing for continuing supervision by the State through the Texas Water Rights Commission; providing for no election for confirmation; providing for no hearing for exclusions, except on written request or the board of directors' own motion; providing for no hearing on plan of taxation and adopting ad valorem plan of taxation for district; providing for governing body of district; providing for qualifications and bonds of directors; naming first board of directors; providing for directors to fill vacancies; providing for terms and election of directors and notice of directors' elections, and related matters; providing for organization of board of directors; providing for the letting of construction contracts and the drawing of warrants; providing for the execution of contracts by the president; providing for a vice president, a secretary, and a secretary pro tem and outlining their duties; providing for employment of engineers, attorneys, auditors, and other employees; providing for a seal for the district; providing for approval of district's plans and specifications by the Texas Water Rights Commission and inspection during construction by said Commission; providing for bonds and refunding bonds to be approved by the Attorney

General of Texas and registered by the Comptroller of Public Accounts of Texas, and providing for negotiability, legality, validity, obligation, and incontestability of the bonds and refunding bonds; providing the power of eminent domain shall be limited to the county or counties within which district is situated; providing district shall bear expenses of relocating, raising, or rerouting any highway, railroad, or utility lines or pipelines made necessary by its exercise of the power of eminent domain; defining "sole expense"; providing that the Municipal Annexation Act shall have no application to the creation of this district; determining and finding the requirements of Article 16, Section 59(d), Constitution of Texas, as to notice of intention to introduce this Act have been fulfilled and accomplished; providing for the selection of a depository or depositories for the district and related matters; providing additional powers of district within and without the boundaries of district; providing for the voting and issuing of bonds to serve areas within or without the boundaries of district; providing for the sale of bonds of the district in denominations of \$1,000 or multiples thereof, for the exchange of bonds for property and services, and for the minimum price of bonds at such sale or exchange; providing that Article 7880—77b (Vernon's Texas Civil Statutes), shall not be applicable to this district, and related matters; providing that notice of all elections shall be under the hand of the president or secretary; providing for canvassing of election returns; providing the bonds of this district and their transfer and income therefrom and profits thereon and purchases made by district shall be tax-free in this State; providing the bonds and refunding bonds of this district shall be eligible investments; enacting other provisions related to the aforementioned subjects; providing for a severability clause; and declaring an emergency. Acts 1967, 60th Leg., p. 1533, ch. 623.

Art. 8280—376. Yupon Cove Municipal Utility District

Section 1. Under and pursuant to the provisions of Article 16, Section 59 of the Constitution of Texas, a conservation and reclamation district is hereby created and established in Polk County, Texas, to be known as "Yupon Cove Municipal Utility District," hereinafter called the "district," which shall be a governmental agency and a body politic and corporate. The creation and establishment of the district is hereby declared to be essential to the accomplishment of the purposes of Article 16, Section 59, Constitution of Texas.

Sec. 2. The district shall comprise all of the territory contained within the following described area:

Lying wholly within Polk County, Texas, and being 81,402 acres, more or less, of land out of the John Burgess League, A-7; also being a part

of the 120-acre tract described in deed from Ben Tanner to E. E. Cochran recorded in Volume 210, page 26, Deed Records of Polk County, Texas; and described as follows:

Beginning at the northwest corner of said 120-acre tract in the north line of said John Burgess League, for the northwest corner of the tract described herein.

THENCE, N 65° 50' E 768.00 feet along the north line of said John Burgess League to a point for the most northerly northeast corner of the tract described herein.

THENCE, S 22° 05' E 1378.00 feet to a point for corner.

THENCE, N 65° 19' E 2187.00 feet to an iron rod for corner, same being the intersection of the fee acquisition line of Lake Livingston and a north line of the tract described herein.

THENCE, with the meanders of said fee line as follows:

S 62° 33' E 40.20 feet,

S 36° 08' E 72.60 feet,

S 15° 50' E 151.50 feet,

S 01° 52' W 164.20 feet,

S 41° 30' W 85.90 feet,

N 80° 56' W 215.90 feet,

N 72° 45' W 156.50 feet,

S 13° 10' W 226.20 feet,

S 36° 04' W 119.80 feet,

S 57° 40' W 81.50 feet,

S 39° 19' W 253.80 feet,

S 22° 16' W 183.10 feet,

S 81° 36' W 117.90 feet,

S 54° 03' E 158.90 feet,

S 37° 19' E 91.90 feet,

S 24° 00' E 207.20 feet,

S 22° 12' E 136.20 feet,

S 00° 20' E 97.70 feet,

S 30° 42' W 86.60 feet,

N 49° 55' W 185.20 feet,

N 28° 07' W 110.30 feet,

N 42° 44' W 137.30 feet,

N 88° 23' W 143.40 feet,

S 78° 44' W 149.60 feet,

S 75° 28' E 274.00 feet,

S 09° 17' E 109.20 feet,

S 28° 12' E 215.70 feet,

S 05° 26' E 107.90 feet,

S 74° 26' W 130.70 feet,

N 86° 20' W 60.20 feet,

N 36° 06' W 82.30 feet,

S 54° 03' W 84.80 feet,

S 63° 44' W 10.80 feet,

N 84° 06' W 97.10 feet,

N 60° 24' W 4.60 feet,

N 35° 08' W 160.60 feet,

S 20° 09' W 124.60 feet,

S 23° 12' E 2.50 feet, to a point in the south line of the tract described herein.

THENCE, N 84° 06' W 1154.89 feet to a concrete monument at the southwest corner of the tract described herein.

THENCE, N 22° 05' W 2024.38 feet to the place of beginning.

Containing 81.402 acres, more or less.

Sec. 3. It is determined and found that the boundaries and field notes of the district form a closure; and if any mistake is made in copying the

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field notes in the legislative process, or otherwise a mistake is made in the field notes, it shall in no way or manner affect the organization, existence, and validity of the district, or the right of the district to issue any type of bonds or refunding bonds for the purposes for which the district is created, or to pay the principal and interest thereon, or the right to assess, levy, and collect taxes, or the legality or operation of the district or its governing body.

Sec. 4. It is determined and found that all of the land and other property included within the area and boundaries of the district will be benefited by the works and project which are to be accomplished by the district pursuant to the powers conferred by the provisions of Article 16, Section 59, Constitution of Texas, and that said district was and is created to serve a public use and benefit.

Sec. 5. The district shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, authority, and duties conferred and imposed by the general laws of this State now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Article 16, Section 59, Constitution of Texas; but to the extent that the provisions of any such general laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such general laws are hereby adopted and incorporated by reference with the same effect as if incorporated in full in this Act. The powers and duties herein granted to the district shall be subject to the continuing right of supervision of the State, to be exercised by and through the Texas Water Rights Commission.

Sec. 6. It shall not be necessary for the board of directors to call or hold a confirmation election for the confirmation of the district.

Sec. 7. It shall not be necessary for the board of directors to call or hold a hearing on the exclusions of land or other property from the district; provided, however, that the board shall hold such hearing upon the written request of any landowner or other property owner within the district filed with the secretary of the board prior to the calling of the first bond election for the district. The board on its own motion may call and hold an exclusions hearing or hearings in the manner provided by the general law.

Sec. 8. It shall not be necessary for the board of directors to call or hold a hearing on the adoption of a plan of taxation, but the ad valorem plan of taxation shall be used by the district.

Sec. 9. All powers of the district shall be exercised by a board of five directors. Each director shall serve for his term of office as herein provided, and thereafter until his successor shall be elected or appointed and qualified. No person shall be appointed a director unless he is 21 years of age or over and a resident of the State of Texas. Such director shall not be required to reside within the boundaries of the district. Each director shall qualify by subscribing to the oath of office and giving bond in the amount of \$5,000 for the faithful performance of his duties. The cost of such bond shall be paid by the district. Such bond shall be filed in the office of the county clerk and approved by the county judge or the commissioner's court of the county within which district is situated. Such oath shall be filed with the secretary of the district's board of directors after his selection. The bonds of directors elected or appointed after the directors named below shall be approved by the district's board of directors, filed for record in the office of the county clerk of the county in which the district is located and shall be recorded in a record kept for that purpose in the office of the district and be filed for safekeeping in the depository of the district. Immediately after this Act becomes effective, the following named persons, all of whom are 21 years of age or over

and residents of the State of Texas, shall be the directors of the district and shall constitute the board of directors of the district:

Ernest Cochran
H. T. Collins
E. H. Cochran
W. L. Crawford
H. B. Davis, III

Said persons shall qualify as directors within 30 days, or as soon thereafter as practicable, from the effective date of this Act. If any of the aforementioned persons shall fail or refuse to qualify or to serve, or shall die or become incapacitated, or otherwise not be qualified to assume the duties of a director of the district under this Act, a majority of the remaining directors shall appoint a successor or successors. The directors named above or their duly appointed successor or successors shall serve until the second Tuesday in January 1969. Succeeding directors shall be elected or appointed and shall serve for the term and in the manner provided for by Article 7880—37, Vernon's Texas Civil Statutes. The annual elections shall be ordered by the board of directors. Any vacancy occurring in the board of directors shall be filled for the unexpired term by a majority of the remaining directors. The board of directors shall elect from its number a president, a vice president, and a secretary of the board of directors and of the district, and such other officers as in the judgment of the board are necessary. Three directors shall constitute a quorum at any meeting, and a concurrence of three shall be sufficient in all matters pertaining to the business of the district including the letting of construction contracts and the drawing of warrants in payment for construction work, the purchase of existing facilities, and matters relating to construction work. Warrants to pay current expenses, salaries, and accounts may be drawn and signed by an officer or employee, designated by standing order entered on the minutes of the board of directors, when such accounts have been contracted and ordered paid by the directors. The president may execute all contracts, construction or otherwise, entered into by the board of directors on behalf of the district. The vice president shall perform all duties and exercise all power conferred by this Act or the general law upon the president when the president is absent or fails or declines to act. Any order adopted or other action taken at a meeting of the board of directors at which the president is absent may be signed by the vice president, or the board may authorize the president to sign such order or other action. The secretary shall keep and sign the minutes of the meetings of the board of directors; and in his absence at any board meeting, a secretary pro tem shall be named for that meeting who may exercise all the duties and powers of the secretary for such meeting, and shall sign the minutes thereof, and may attest all orders passed or other action taken at such meeting, or the board may authorize the secretary to attest such orders or other action. The secretary shall be the custodian of all minutes and records of the district. The board shall appoint all necessary engineers, attorneys, auditors, and other employees. The board shall adopt a seal for the district.

Sec. 10. Before issuing any construction bonds, the district shall submit plans and specifications therefor to the Texas Water Rights Commission for approval in the manner required by Article 7880—139, Revised Civil Statutes of Texas, 1925; and the district's project and improvements during the course of construction shall be subject to inspection in the manner provided by said Article 7880—139.

Sec. 11. When any kind of bonds or refunding bonds have been approved by the Attorney General of Texas, registered by the Comptroller of Public Accounts of the State of Texas, and issued by the district, such

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bonds or refunding bonds shall be negotiable, legal, valid, and binding obligations of the district and shall be incontestable for any cause.

Sec. 12. The power of eminent domain of the district shall be limited to the county or counties in which the district is situated. In the event that the district, in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, rerouting or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telegraph or telephone properties and facilities, or pipeline, all such necessary relocation, raising, rerouting, changing of grade, or alteration of construction shall be accomplished at the sole expense of the district. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, rerouting, or change in grade, or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

Sec. 13. This district is hereby created notwithstanding any of the provisions of the Municipal Annexation Act (Article 970a, Revised Civil Statutes of Texas, 1925), as amended, and to the extent of the creation of the district only, said Article 970a shall have no application. In all other respects, the district hereby created is expressly made subject to all provisions of said Article 970a.

Sec. 14. It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published at least 30 days and not more than 90 days prior to the introduction of this Act in the Legislature of Texas, in a newspaper having a general circulation in the county or counties in which this district or any part thereof is situated; that a copy of such notice and a copy of this Act have been delivered to the Governor of Texas, who has submitted such notice and Act to the Texas Water Rights Commission, and said Texas Water Rights Commission has filed its recommendation as to such Act with the Governor, Lieutenant Governor and Speaker of the House of Representatives of Texas within 30 days from the date such notice and Act were received by the Texas Water Rights Commission; and that all the requirements and provisions of Article 16, Section 59(d), Constitution of the State of Texas, have been fulfilled and accomplished as therein provided.

Sec. 15. The board of directors of the district shall select any bank or trust company in the State of Texas to act as depository of the proceeds of the bonds or revenues derived from the operation of the facilities of the district, and said depository shall furnish such indemnity bonds or pledge such securities or meet such other requirements as determined by the board of directors of the district. The district may select one or more depositories.

Sec. 16. In no manner limiting the right, power, or authority of the district, as heretofore granted, the district is specifically granted the right, power, and authority to purchase and construct, or to purchase or construct, or otherwise to acquire waterworks systems, sanitary sewer systems, storm sewer systems and drainage facilities, or parts of such systems or facilities, and to make any and all necessary purchases, constructions, improvements, extension, additions, and repairs thereto, and to purchase or acquire all necessary land, rights-of-way, easements, sites, equipment, buildings, plants, structures, and facilities therefor and to operate and maintain same, and to sell water and other services. The district may exercise any of the rights, powers, and authorities granted in this Act within or without the boundaries of the district and is specifically authorized to exercise any of said rights, powers, and authorities in order to provide water and sewerage services to areas within or without the boundaries of the district. The

district may vote and issue any kind of bonds or refunding bonds for any or all of such purposes herein provided, for contiguous or noncontiguous areas, and provide and make payment therefor and for necessary expenses in connection therewith.

Sec. 17. Bonds of the district, other than refunding bonds, may be sold at a price and upon the terms determined by the board of directors of the district, except that such bonds shall not be sold for a less amount than provided by law. Such bonds or refunding bonds may be sold in denominations of \$1,000 each or multiples thereof. Refunding bonds shall be sold at a price and under the terms of the general law applicable to water control and improvement districts. The district may exchange bonds or refunding bonds for property acquired by purchase, or in payment of the contract price of work done or materials furnished or services furnished for the use and benefit of the district; provided that no notice given pursuant to Article 7880—117, Revised Civil Statutes of Texas, 1925, as amended, shall be predicated upon or require the exchange of bonds or refunding bonds, and said article shall otherwise be applicable to this district in all respects.

Sec. 18. The provisions of Article 7880—77b, Revised Civil Statutes of Texas, 1925, as amended, or any other general law, pertaining to the calling of a hearing for the determination of the dissolution of a district where a bond election has failed shall be inapplicable to this district, and this district shall continue to exist and shall have full power to function and operate regardless of the outcome of any bond election. Upon the failure of any bond election, a subsequent bond election may be called after the expiration of six months from the date of the bond election which failed.

Sec. 19. Notice of all elections may be given under the hand of either the president or the secretary of the district.

Sec. 20. The returns of all elections may be canvassed by the board of directors of the district at any time within seven days after the holding of an election, or as soon thereafter as reasonably practicable. The election returns of the annual election of directors may be canvassed by the board of directors as it was composed at the time of such election, or by the directors elected at such election, or by a combination of both. At the board of directors meeting at which the returns are canvassed, composed as aforesaid, any director newly elected at such election may qualify by filing his official bond and taking the oath of office, either before or after the returns are canvassed, and upon the filing of such bond the board, composed as aforesaid, may approve same.

Sec. 21. The accomplishment of the purposes stated in this Act being for the benefit of the people of this state and for the improvement of their properties and industries, the district in carrying out the purposes of this Act will be performing an essential public function under the Constitution, and the district shall not be required to pay any tax or assessment on the project or any part thereof or on any purchases made by the district, and the bonds issued hereunder and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this state.

Sec. 22. All bonds and refunding bonds of the district shall be and are hereby declared to be legal, eligible, and authorized investments for banks, savings and loan associations, insurance companies, fiduciaries, trustees, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds and refunding bonds shall be eligible to secure the deposit of any and all public funds of cities, towns, vil-

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lages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their face value, when accompanied by all unmatured coupons appurtenant thereto.

Sec. 23. If any word, phrase, clause, paragraph, sentence, part, portion, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act shall nevertheless be valid, and the Legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion, or provision.

Acts 1967, 60th Leg., p. 1548, ch. 625, emerg. eff. June 16, 1967.

Title of Act:

An Act creating and establishing a conservation and reclamation district under Article 16, Section 59, Constitution of Texas, known as "Yupon Cove Municipal Utility District"; declaring district a governmental agency, body politic and corporate; defining the boundaries; finding the field notes and boundaries form a closure, and related matters; finding a benefit to all land and other property within the district; finding that district is created to serve a public use and benefit; conferring on district the rights, powers, privileges, authority and duties of the general laws of Texas applicable to water control and improvement districts created under Article 16, Section 59, Constitution of Texas, where not in conflict with this Act and adopting same by reference; providing for continuing supervision by the State through the Texas Water Rights Commission; providing for no election for confirmation; providing for no hearing for exclusions, except on written request or the board of directors' own motion; providing for no hearing on plan of taxation and adopting ad valorem plan of taxation for district; providing for governing body of district; providing for qualifications and bonds of directors; naming first board of directors; providing for directors to fill vacancies; providing for terms and election of directors and notice of directors' elections, and related matters; providing for organization of board of directors; providing for the letting of construction contracts and the drawing of warrants; providing for the execution of contracts by the president; providing for a vice president, a secretary, and a secretary pro tem and outlining their duties; providing for employment of engineers, attorneys, auditors, and other employees; providing for a seal for the district; providing for approval of district's plans and specifications by the Texas Water Rights Commission and inspection during construction by said Commission; providing for bonds and refunding bonds to be approved by the At-

torney General of Texas and registered by the Comptroller of Public Accounts of Texas, and providing for negotiability, legality, validity, obligation, and incontestability of the bonds and refunding bonds; providing the power of eminent domain shall be limited to the county or counties within which district is situated; providing district shall bear expenses of relocating, raising, or rerouting any highway, railroad, or utility lines or pipelines made necessary by its exercise of the power of eminent domain; defining "sole expense"; providing that the Municipal Annexation Act shall have no application to the creation of this district; determining and finding the requirements of Article 16, Section 59(d), Constitution of Texas, as to notice of intention to introduce this Act have been fulfilled and accomplished; providing for the selection of a depository or depositories for the district and related matters; providing additional powers of district within and without the boundaries of district; providing for the voting and issuing of bonds to serve areas within or without the boundaries of district; providing for the sale of bonds of the district in denominations of \$1,000 or multiples thereof, for the exchange of bonds for property and services, and for the minimum price of bonds at such sale or exchange; providing that Article 7880—77b (Vernon's Texas Civil Statutes), shall not be applicable to this district, and related matters; providing that notice of all elections shall be under the hand of the president or secretary; providing for canvassing of election returns; providing the bonds of this district and their transfer and income therefrom and profits thereon and purchases made by district shall be tax-free in this State; providing the bonds and refunding bonds of this district shall be eligible investments; enacting other provisions related to the aforementioned subjects; providing for a severability clause; and declaring an emergency. Acts 1967, 60th Leg., p. 1548, ch. 625.

Art. 8280—377. Indian Hill No. 1 Municipal Utility District

Section 1. Under and pursuant to the provisions of Article 16, Section 59 of the Constitution of Texas, a conservation and reclamation district is hereby created and established in Polk County, Texas, to be known as "Indian Hill No. 1 Municipal Utility District," hereinafter called the "district," which shall be a governmental agency and a body

politic and corporate. The creation and establishment of the district is hereby declared to be essential to the accomplishment of the purposes of Article 16, Section 59, Constitution of Texas.

Sec. 2. The district shall comprise all of the territory contained within the following described area:

Situated wholly within Polk County, Texas, and being 101.8072 acres, more or less, of land out of the C. Devore League, Abstract Number 207, described as follows:

Beginning at the most northerly corner of Reserve D out of Indian Hill No. One, Section One, a subdivision in Polk County, Texas, a plat of which is recorded in Volume 195, Page 97, of the Deed Records of Polk County, said point of beginning being also the most northerly corner of the tract described herein.

THENCE, S 52° 45' 00" E 2832.00 feet along the northeasterly boundary of said Indian Hill No. One, Section One, to its most easterly corner.

THENCE, S 37° 25' 00" W 1439.93 feet along the southeasterly boundary of said Indian Hill No. One, Section One, to its most easterly south corner.

THENCE, N 52° 01' 00" W 455.04 feet to a point for the most southerly interior corner of said Indian Hill No. One, Section One.

THENCE, S 37° 17' 00" W 468.36 feet to a point for the most westerly south corner of said Indian Hill No. One, Section One.

THENCE, in a Northwesterly direction along the westerly boundary of said Indian Hill No. One, Section One, as follows:

N 52° 43' 00" W 553.80 feet,

N 70° 12' 00" W 186.80 feet,

N 52° 45' 00" W 450.80 feet,

N 37° 13' 00" E 1.40 feet,

N 47° 44' 00" E 107.50 feet,

S 85° 10' 00" W 66.30 feet,

N 05° 28' 00" E 296.60 feet,

N 84° 06' 00" E 80.00 feet,

N 48° 43' 00" W 64.90 feet,

N 76° 52' 00" E 140.30 feet,

N 76° 22' 00" W 168.60 feet,

N 40° 20' 00" E 68.50 feet,

N 49° 26' 00" W 47.90 feet,

N 46° 31' 00" E 111.90 feet,

N 52° 09' 00" W 109.60 feet,

N 40° 51' 00" E 59.10 feet,

N 38° 24' 00" W 162.70 feet,

N 46° 56' 00" E 89.20 feet,

N 38° 44' 00" W 154.10 feet,

N 15° 50' 00" E 182.20 feet,

N 87° 42' 00" W 158.90 feet,

N 29° 39' 00" W 266.40 feet,

N 42° 45' 00" W 88.90 feet to a point for the most westerly corner of said Indian Hill No. One, Section One.

THENCE, N 38° 32' 00" E 937.90 feet along the northwesterly boundary of said Indian Hill No. One, Section One, to the point of beginning.

Containing 101.8072 acres of land, more or less.

Sec. 3. It is determined and found that the boundaries and field notes of the district form a closure; and if any mistake is made in copying the field notes in the legislative process, or otherwise a mistake is made in the field notes, it shall in no way or manner affect the organiza-

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tion, existence, and validity of the district, or the right of the district to issue any type of bonds or refunding bonds for the purposes for which the district is created, or to pay the principal and interest thereon, or the right to assess, levy, and collect taxes, or the legality or operation of the district or its governing body.

Sec. 4. It is determined and found that all of the land and other property included within the area and boundaries of the district will be benefited by the works and project which are to be accomplished by the district pursuant to the powers conferred by the provisions of Article 16, Section 59, Constitution of Texas, and that said district was and is created to serve a public use and benefit.

Sec. 5. The district shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, authority, and duties conferred and imposed by the general laws of this State now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Article 16, Section 59, Constitution of Texas; but to the extent that the provisions of any such general laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such general laws are hereby adopted and incorporated by reference with the same effect as if incorporated in full in this Act. The powers and duties herein granted to the district shall be subject to the continuing right of supervision of the State, to be exercised by and through the Texas Water Rights Commission.

Sec. 6. It shall not be necessary for the board of directors to call or hold a confirmation election for the confirmation of the district.

Sec. 7. It shall not be necessary for the board of directors to call or hold a hearing on the exclusions of land or other property from the district; provided, however, that the board shall hold such hearing upon the written request of any landowner or other property owner within the district filed with the secretary of the board prior to the calling of the first bond election for the district. The board on its own motion may call and hold an exclusions hearing or hearings in the manner provided by the general law.

Sec. 8. It shall not be necessary for the board of directors to call or hold a hearing on the adoption of a plan of taxation, but the ad valorem plan of taxation shall be used by the district.

Sec. 9. All powers of the district shall be exercised by a board of five directors. Each director shall serve for his term of office as herein provided, and thereafter until his successor shall be elected or appointed and qualified. No person shall be appointed a director unless he is 21 years of age or over and a resident of the State of Texas. Such director shall not be required to reside within the boundaries of the district. Each director shall qualify by subscribing to the oath of office and giving bond in the amount of \$5,000 for the faithful performance of his duties. The cost of such bond shall be paid by the district. Such bond shall be filed in the office of the county clerk and approved by the county judge or the commissioner's court of the county within which district is situated. Such oath shall be filed with the secretary of the district's board of directors after his selection. The bonds of directors elected or appointed after the directors named below shall be approved by the district's board of directors, filed for record in the office of the county clerk of the county in which the district is located and shall be recorded in a record kept for that purpose in the office of the district and be filed for safekeeping in the depository of the district. Immediately after this Act becomes effective, the following named persons, all of whom are 21 years of age or over

and residents of the State of Texas, shall be the directors of the district and shall constitute the board of directors of the district:

T. G. Lilley
Alvin Wells
John Martin
H. N. Denham
J. B. Cook

Said persons shall qualify as directors within 30 days, or as soon thereafter as practicable, from the effective date of this Act. If any of the aforementioned persons shall fail or refuse to qualify or to serve, or shall die or become incapacitated, or otherwise not be qualified to assume the duties of a director of the district under this Act, a majority of the remaining directors shall appoint a successor or successors. The directors named above or their duly appointed successor or successors shall serve until the second Tuesday in January 1969. Succeeding directors shall be elected or appointed and shall serve for the term and in the manner provided for by Article 7880-37, Vernon's Texas Civil Statutes. The annual elections shall be ordered by the board of directors. Any vacancy occurring in the board of directors shall be filled for the unexpired term by a majority of the remaining directors. The board of directors shall elect from its number a president, a vice president, and a secretary of the board of directors and of the district, and such other officers as in the judgment of the board are necessary. Three directors shall constitute a quorum at any meeting, and a concurrence of three shall be sufficient in all matters pertaining to the business of the district including the letting of construction contracts and the drawing of warrants in payment for construction work, the purchase of existing facilities, and matters relating to construction work. Warrants to pay current expenses, salaries, and accounts may be drawn and signed by an officer or employee, designated by standing order entered on the minutes of the board of directors, when such accounts have been contracted and ordered paid by the directors. The president may execute all contracts, construction or otherwise, entered into by the board of directors on behalf of the district. The vice president shall perform all duties and exercise all power conferred by this Act or the general law upon the president when the president is absent or fails or declines to act. Any order adopted or other action taken at a meeting of the board of directors at which the president is absent may be signed by the vice president, or the board may authorize the president to sign such order or other action. The secretary shall keep and sign the minutes of the meetings of the board of directors; and in his absence at any board meeting, a secretary pro tem shall be named for that meeting who may exercise all the duties and powers of the secretary for such meeting, and shall sign the minutes thereof, and may attest all orders passed or other action taken at such meeting, or the board may authorize the secretary to attest such orders or other action. The secretary shall be the custodian of all minutes and records of the district. The board shall appoint all necessary engineers, attorneys, auditors, and other employees. The board shall adopt a seal for the district.

Sec. 10. Before issuing any construction bonds, the district shall submit plans and specifications therefor to the Texas Water Rights Commission for approval in the manner required by Article 7880—139, Revised Civil Statutes of Texas, 1925; and the district's project and improvements during the course of construction shall be subject to inspection in the manner provided by said Article 7880—139.

Sec. 11. When any kind of bonds or refunding bonds have been approved by the Attorney General of Texas, registered by the Comptroller of Public Accounts of the State of Texas, and issued by the district, such

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bonds or refunding bonds shall be negotiable, legal, valid, and binding obligations of the district and shall be incontestable for any cause.

Sec. 12. The power of eminent domain of the district shall be limited to the county or counties in which the district is situated. In the event that the district, in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, rerouting or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telegraph or telephone properties and facilities, or pipeline, all such necessary relocation, raising, rerouting, changing of grade, or alteration of construction shall be accomplished at the sole expense of the district. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, rerouting, or change in grade, or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

Sec. 13. This district is hereby created notwithstanding any of the provisions of the Municipal Annexation Act (Article 970a, Revised Civil Statutes of Texas, 1925), as amended, and to the extent of the creation of the district only, said Article 970a shall have no application. In all other respects, the district hereby created is expressly made subject to all provisions of said Article 970a.

Sec. 14. It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published at least 30 days and not more than 90 days prior to the introduction of this Act in the Legislature of Texas, in a newspaper having a general circulation in the county or counties in which this district or any part thereof is situated; that a copy of such notice and a copy of this Act have been delivered to the Governor of Texas, who has submitted such notice and Act to the Texas Water Rights Commission, and said Texas Water Rights Commission has filed its recommendation as to such Act with the Governor, Lieutenant Governor and Speaker of the House of Representatives of Texas within 30 days from the date such notice and Act were received by the Texas Water Rights Commission; and that all the requirements and provisions of Article 16, Section 59(d), Constitution of the State of Texas, have been fulfilled and accomplished as therein provided.

Sec. 15. The board of directors of the district shall select any bank or trust company in the State of Texas to act as depository of the proceeds of the bonds or revenues derived from the operation of the facilities of the district, and said depository shall furnish such indemnity bonds or pledge such securities or meet such other requirements as determined by the board of directors of the district. The district may select one or more depositories.

Sec. 16. In no manner limiting the right, power, or authority of the district, as heretofore granted, the district is specifically granted the right, power, and authority to purchase and construct, or to purchase or construct, or otherwise to acquire waterworks systems, sanitary sewer systems, storm sewer systems and drainage facilities, or parts of such systems or facilities, and to make any and all necessary purchases, constructions, improvements, extension, additions, and repairs thereto, and to purchase or acquire all necessary land, rights-of-way, easements, sites, equipment, buildings, plants, structures, and facilities therefor and to operate and maintain same, and to sell water and other services. The district may exercise any of the rights, powers, and authorities granted in this Act within or without the boundaries of the district and is specifically authorized to exercise any of said rights, powers, and authorities in order to provide water and sewerage services to areas within or without the boundaries of the district. The district may vote and issue any kind of bonds or refunding bonds for any or all of such purposes herein provided,

for contiguous or noncontiguous areas, and provide and make payment therefor and for necessary expenses in connection therewith.

Sec. 17. Bonds of the district, other than refunding bonds, may be sold at a price and upon the terms determined by the board of directors of the district, except that such bonds shall not be sold for a less amount than provided by law. Such bonds or refunding bonds may be sold in denominations of \$1,000 each or multiples thereof. Refunding bonds shall be sold at a price and under the terms of the general law applicable to water control and improvement districts. The district may exchange bonds or refunding bonds for property acquired by purchase, or in payment of the contract price of work done or materials furnished or services furnished for the use and benefit of the district; provided that no notice given pursuant to Article 7880—117, Revised Civil Statutes of Texas, 1925, as amended, shall be predicated upon or require the exchange of bonds or refunding bonds, and said article shall otherwise be applicable to this district in all respects.

Sec. 18. The provisions of Article 7880—77b, Revised Civil Statutes of Texas, 1925, as amended, or any other general law, pertaining to the calling of a hearing for the determination of the dissolution of a district where a bond election has failed shall be inapplicable to this district, and this district shall continue to exist and shall have full power to function and operate regardless of the outcome of any bond election. Upon the failure of any bond election, a subsequent bond election may be called after the expiration of six months from the date of the bond election which failed.

Sec. 19. Notice of all elections may be given under the hand of either the president or the secretary of the district.

Sec. 20. The returns of all elections may be canvassed by the board of directors of the district at any time within seven days after the holding of an election, or as soon thereafter as reasonably practicable. The election returns of the annual election of directors may be canvassed by the board of directors as it was composed at the time of such election, or by the directors elected at such election, or by a combination of both. At the board of directors meeting at which the returns are canvassed, composed as aforesaid, any director newly elected at such election may qualify by filing his official bond and taking the oath of office, either before or after the returns are canvassed, and upon the filing of such bond the board, composed as aforesaid, may approve same.

Sec. 21. The accomplishment of the purposes stated in this Act being for the benefit of the people of this state and for the improvement of their properties and industries, the district in carrying out the purposes of this Act will be performing an essential public function under the Constitution, and the district shall not be required to pay any tax or assessment on the project or any part thereof or on any purchases made by the district, and the bonds issued hereunder and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this state.

Sec. 22. All bonds and refunding bonds of the district shall be and are hereby declared to be legal, eligible, and authorized investments for banks, savings and loan associations, insurance companies, fiduciaries, trustees, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds and refunding bonds shall be eligible to secure the deposit of any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their face value, when accompanied by all unmatured coupons appurtenant thereto.

For Annotations and Historical Notes, see V.A.T.S.

Sec. 23. If any word, phrase, clause, paragraph, sentence, part, portion, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act shall nevertheless be valid, and the Legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion, or provision.

Acts 1967, 60th Leg., p. 1555, ch. 626, emerg. eff. June 16, 1967.

Title of Act:

An Act creating and establishing a conservation and reclamation district under Article 16, Section 59, Constitution of Texas, known as "Indian Hill No. 1 Municipal Utility District"; declaring district a governmental agency, body politic and corporate; defining the boundaries; finding the field notes and boundaries form a closure, and related matters; finding a benefit to all land and other property within the district; finding that district is created to serve a public use and benefit; conferring on district the rights, powers, privileges, authority and duties of the general laws of Texas applicable to water control and improvement districts created under Article 16, Section 59, Constitution of Texas, where not in conflict with this Act and adopting same by reference; providing for continuing supervision by the State through the Texas Water Rights Commission; providing for no election for confirmation; providing for no hearing for exclusions, except on written request or the board of directors' own motion; providing for no hearing on plan of taxation and adopting ad valorem plan of taxation for district; providing for governing body of district; providing for qualifications and bonds of directors; naming first board of directors; providing for directors to fill vacancies; providing for terms and election of directors and notice of directors' elections, and related matters; providing for organization of board of directors; providing for the letting of construction contracts and the drawing of warrants; providing for the execution of contracts by the president; providing for a vice president, a secretary, and a secretary pro tem and outlining their duties; providing for employment of engineers, attorneys, auditors, and other employees; providing for a seal for the district; providing for approval of district's plans and specifications by the Texas Water Rights Commission and inspection during construction by said Commission; providing for bonds and refunding bonds to be approved by

the Attorney General of Texas and registered by the Comptroller of Public Accounts of Texas, and providing for negotiability, legality, validity, obligation, and incontestability of the bonds and refunding bonds; providing the power of eminent domain shall be limited to the county or counties within which district is situated; providing district shall bear expenses of relocating, raising, or rerouting any highway, railroad, or utility lines or pipelines made necessary by its exercise of the power of eminent domain; defining "sole expense"; providing that the Municipal Annexation Act shall have no application to the creation of this district; determining and finding the requirements of Article 16, Section 59(d), Constitution of Texas, as to notice of intention to introduce this Act have been fulfilled and accomplished; providing for the selection of a depository or depositories for the district and related matters; providing additional powers of district within and without the boundaries of district; providing for the voting and issuing of bonds to serve areas within or without the boundaries of district; providing for the sale of bonds of the district in denominations of \$1,000 or multiples thereof, for the exchange of bonds for property and services, and for the minimum price of bonds at such sale or exchange; providing that Article 7880—77b (Vernon's Texas Civil Statutes), shall not be applicable to this district, and related matters; providing that notice of all elections shall be under the hand of the president or secretary; providing for canvassing of election returns; providing the bonds of this district and their transfer and income therefrom and profits thereon and purchases made by district shall be tax-free in this State; providing the bonds and refunding bonds of this district shall be eligible investments; enacting other provisions related to the aforementioned subjects; providing for a severability clause; and declaring an emergency. Acts 1967, 60th Leg., p. 1555, ch. 626.

Art. 8280—378. Old Snake River Municipal Utility District

Section 1. Under and pursuant to the provisions of Article 16, Section 59, Constitution of Texas, a conservation and reclamation district is hereby created and established in Liberty County, Texas, to be known as "Old Snake River Municipal Utility District," hereinafter called the "district," which shall be a governmental agency and a body politic and corporate. The creation and establishment of the district is hereby declared to be essential to the accomplishment of the purposes of Article 16, Section 59, Constitution of Texas.

Sec. 2. The district shall comprise all of the territory contained within the following described area:

Lying in Liberty County, Texas, and being 729.3219 acres, more or less, out of the Santos Coy Four-League Grant, A-16, more particularly described by metes and bounds as follows:

Commencing at a one-inch iron pipe in a fence corner at the southeast corner of Tract No. 4 and the northeast corner of Tract No. 5, both tracts being described in a partition decree entered February 9, 1901 by the District Court of Liberty County, Texas, recorded in Volume D, Page 290 of the Minutes of said District Court.

THENCE, N 89° 59' 32" W 1734.42 feet along the south line of said Tract No. 4 and the north line of said Tract No. 5 with the general line of a fence to an iron rod in a fence on the westerly right-of-way line of State Highway 146, said iron rod marking the point of beginning and the southeast corner of the tract described herein.

THENCE, continuing N 89° 59' 32" W 9618.00 feet with the general line of an old fence to a point on the easterly bank of the Trinity River for the southwest corner of the tract described herein.

THENCE, in a Northwesterly direction along the meanders of said easterly bank of the Trinity River, as follows:

- N 20° 54' 00" W 281.03 feet.
- N 25° 48' 00" W 516.64 feet.
- N 02° 57' 00" W 51.62 feet.
- N 24° 31' 00" W 334.92 feet.
- N 38° 52' 00" W 295.67 feet.
- N 53° 10' 00" W 158.95 feet.
- N 60° 03' 00" W 143.51 feet.
- N 68° 12' 25" W 178.10 feet.
- N 73° 24' 20" W 517.38 feet.
- N 74° 38' 15" W 391.00 feet.
- N 62° 56' 10" W 325.65 feet.
- N 48° 57' 05" W 193.25 feet.
- N 22° 57' 00" W 241.36 feet.
- N 27° 16' 00" W 83.40 feet.
- N 37° 08' 00" W 157.96 feet.
- N 33° 27' 00" W 177.46 feet.
- N 30° 24' 00" W 122.86 feet.
- N 25° 56' 00" W 92.13 feet.

N 18° 52' 00" W 216.17 feet to a concrete monument at an old fence.

THENCE, N 89° 58' 33" E 9288.00 feet along the general line of an old fence to a concrete monument.

THENCE, N 89° 57' 38" E 2666.92 feet along the general line of said fence to a point in the center line of the old Livingston-Liberty Highway right of way.

THENCE, S 24° 13' 00" W 1807.29 feet along the said center line to a 1-inch iron pipe at a fence corner.

THENCE, N 89° 55' 30" E 1173.23 feet along the general line of a fence to a point in a fence along the westerly right-of-way line of State Highway 146.

THENCE, S 03° 58' 52" E 969.03 feet along the general line of said fence at the westerly right-of-way line of State Highway 146.

THENCE, S 06° 51' 30" E 199.44 feet along the general line of said fence at the westerly right-of-way line of State Highway 146.

THENCE, S 03° 52' 30" E 233.59 feet along said general line of said fence at the westerly right-of-way line of State Highway 146, to the point of beginning.

Containing 729.3219 acres, more or less.

For Annotations and Historical Notes, see V.A.T.S.

Sec. 3. It is determined and found that the boundaries and field notes of the district form a closure; and if any mistake is made in copying the field notes in the legislative process, or otherwise a mistake is made in the field notes, it shall in no way or manner affect the organization, existence, and validity of the district, or the right of the district to issue any type of bonds or refunding bonds for the purposes for which the district is created, or to pay the principal and interest thereon, or the right to assess, levy, and collect taxes, or the legality or operation of the district or its governing body.

Sec. 4. It is determined and found that all of the land and other property included within the area and boundaries of the district will be benefited by the works and project which are to be accomplished by the district pursuant to the powers conferred by the provisions of Article 16, Section 59, Constitution of Texas, and that said district was and is created to serve a public use and benefit.

Sec. 5. The district shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, authority, and duties conferred and imposed by the general laws of this State now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Article 16, Section 59, Constitution of Texas; but to the extent that the provisions of any such general laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such general laws are hereby adopted and incorporated by reference with the same effect as if incorporated in full in this Act. The powers and duties herein granted to the district shall be subject to the continuing right of supervision of the State, to be exercised by and through the Texas Water Rights Commission.

Sec. 6. It shall not be necessary for the board of directors to call or hold a confirmation election for the confirmation of the district.

Sec. 7. It shall not be necessary for the board of directors to call or hold a hearing on the exclusions of land or other property from the district; provided, however, that the board shall hold such hearing upon the written request of any landowner or other property owner within the district filed with the secretary of the board prior to the calling of the first bond election for the district. The board on its own motion may call and hold an exclusions hearing or hearings in the manner provided by the general law.

Sec. 8. It shall not be necessary for the board of directors to call or hold a hearing on the adoption of a plan of taxation, but the ad valorem plan of taxation shall be used by the district.

Sec. 9. All powers of the district shall be exercised by a board of five directors. Each director shall serve for his term of office as herein provided, and thereafter until his successor shall be elected or appointed and qualified. No person shall be appointed a director unless he is 21 years of age or over and a resident of the State of Texas. Such director shall not be required to reside within the boundaries of the district. Each director shall qualify by subscribing to the oath of office and giving bond in the amount of \$5,000 for the faithful performance of his duties. The cost of such bond shall be paid by the district. Such bond shall be filed in the office of the county clerk and approved by the county judge or the commissioner's court of the county within which district is situated. Such oath shall be filed with the secretary of the district's board of directors after his selection. The bonds of directors elected or appointed after the directors named below shall be approved by the district's board of directors, filed for record in the office of the county clerk of the county in which the district is located and shall be recorded in a record kept for that purpose in the office of the district and be filed for safekeeping in the depository of the district. Immediately after this Act becomes effective, the following named persons, all of whom are 21 years of age

or over and residents of the State of Texas, shall be the directors of the district and shall constitute the board of directors of the district:

Don Riley
Barney Wiggins
Jimmy Clark
Bonnie Wiggins
Peyton Walters

Said persons shall qualify as directors within 30 days, or as soon thereafter as practicable, from the effective date of this Act. If any of the aforementioned persons shall fail or refuse to qualify or to serve, or shall die or become incapacitated, or otherwise not be qualified to assume the duties of a director of the district under this Act, a majority of the remaining directors shall appoint a successor or successors. The directors named above or their duly appointed successor or successors shall serve until the second Tuesday in January 1969. Succeeding directors shall be elected or appointed and shall serve for the term and in the manner provided for by Article 7880—37, Vernon's Texas Civil Statutes. The annual elections shall be ordered by the board of directors. Any vacancy occurring in the board of directors shall be filled for the unexpired term by a majority of the remaining directors. The board of directors shall elect from its number a president, a vice president, and a secretary of the board of directors and of the district, and such other officers as in the judgment of the board are necessary. Three directors shall constitute a quorum at any meeting, and a concurrence of three shall be sufficient in all matters pertaining to the business of the district including the letting of construction contracts and the drawing of warrants in payment for construction work, the purchase of existing facilities, and matters relating to construction work. Warrants to pay current expenses, salaries, and accounts may be drawn and signed by an officer or employee, designated by standing order entered on the minutes of the board of directors, when such accounts have been contracted and ordered paid by the directors. The president may execute all contracts, construction or otherwise, entered into by the board of directors on behalf of the district. The vice president shall perform all duties and exercise all power conferred by this Act or the general law upon the president when the president is absent or fails or declines to act. Any order adopted or other action taken at a meeting of the board of directors at which the president is absent may be signed by the vice president, or the board may authorize the president to sign such order or other action. The secretary shall keep and sign the minutes of the meetings of the board of directors; and in his absence at any board meeting, a secretary pro tem shall be named for that meeting who may exercise all the duties and powers of the secretary for such meeting, and shall sign the minutes thereof, and may attest all orders passed or other action taken at such meeting, or the board may authorize the secretary to attest such orders or other action. The secretary shall be the custodian of all minutes and records of the district. The board shall appoint all necessary engineers, attorneys, auditors, and other employees. The board shall adopt a seal for the district.

Sec. 10. Before issuing any construction bonds, the district shall submit plans and specifications therefor to the Texas Water Rights Commission for approval in the manner required by Article 7880—139, Revised Civil Statutes of Texas, 1925; and the district's project and improvements during the course of construction shall be subject to inspection in the manner provided by said Article 7880—139.

Sec. 11. When any kind of bonds or refunding bonds have been approved by the Attorney General of Texas, registered by the Comptroller of Public Accounts of the State of Texas, and issued by the district, such

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bonds or refunding bonds shall be negotiable, legal, valid, and binding obligations of the district and shall be incontestable for any cause.

Sec. 12. The power of eminent domain of the district shall be limited to the county or counties in which the district is situated. In the event that the district, in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, rerouting or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telegraph or telephone properties and facilities, or pipeline, all such necessary relocation, raising, rerouting, changing of grade, or alteration of construction shall be accomplished at the sole expense of the district. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, rerouting, or change in grade, or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

Sec. 13. This district is hereby created notwithstanding any of the provisions of the Municipal Annexation Act (Article 970a, Revised Civil Statutes of Texas, 1925), as amended, and to the extent of the creation of the district only, said Article 970a shall have no application. In all other respects, the district hereby created is expressly made subject to all provisions of said Article 970a.

Sec. 14. It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published at least 30 days and not more than 90 days prior to the introduction of this Act in the Legislature of Texas, in a newspaper having a general circulation in the county or counties in which this district or any part thereof is situated; that a copy of such notice and a copy of this Act have been delivered to the Governor of Texas, who has submitted such notice and Act to the Texas Water Rights Commission, and said Texas Water Rights Commission has filed its recommendation as to such Act with the Governor, Lieutenant Governor and Speaker of the House of Representatives of Texas within 30 days from the date such notice and Act were received by the Texas Water Rights Commission; and that all the requirements and provisions of Article 16, Section 59(d), Constitution of the State of Texas, have been fulfilled and accomplished as therein provided.

Sec. 15. The board of directors of the district shall select any bank or trust company in the State of Texas to act as depository of the proceeds of the bonds or revenues derived from the operation of the facilities of the district, and said depository shall furnish such indemnity bonds or pledge such securities or meet such other requirements as determined by the board of directors of the district. The district may select one or more depositories.

Sec. 16. In no manner limiting the right, power, or authority of the district, as heretofore granted, the district is specifically granted the right, power, and authority to purchase and construct, or to purchase or construct, or otherwise to acquire waterworks systems, sanitary sewer systems, storm sewer systems and drainage facilities, or parts of such systems or facilities, and to make any and all necessary purchases, constructions, improvements, extension, additions, and repairs thereto, and to purchase or acquire all necessary land, rights-of-way, easements, sites, equipment, buildings, plants, structures, and facilities therefor and to operate and maintain same, and to sell water and other services. The district is also granted the right, power and authority to construct and maintain all works and improvements necessary or proper for the prevention of floods within the area of district, to construct and maintain levees, bulkheading, and dams, to construct, maintain and operate canals, to reclaim and drain the overflowed lands within the district, and to alter

land elevations where correction is needed or proper. The district may exercise any of the rights, powers, and authorities granted in this Act within or without the boundaries of the district and is specifically authorized to exercise any of said rights, powers, and authorities in order to provide water and sewerage services to areas within or without the boundaries of the district. The district may vote and issue any kind of bonds or refunding bonds for any or all of such purposes herein provided, for contiguous or noncontiguous areas, and provide and make payment therefor and for necessary expenses in connection therewith.

Sec. 17. Bonds of the district, other than refunding bonds, may be sold at a price and upon the terms determined by the board of directors of the district, except that such bonds shall not be sold for a less amount than provided by law. Such bonds or refunding bonds may be sold in denominations of \$1,000 each or multiples thereof. Refunding bonds shall be sold at a price and under the terms of the general law applicable to water control and improvement districts. The district may exchange bonds or refunding bonds for property acquired by purchase, or in payment of the contract price of work done or materials furnished or services furnished for the use and benefit of the district; provided that no notice given pursuant to Article 7880—117, Revised Civil Statutes of Texas, 1925, as amended, shall be predicated upon or require the exchange of bonds or refunding bonds, and said article shall otherwise be applicable to this district in all respects.

Sec. 18. The provisions of Article 7880—77b, Revised Civil Statutes of Texas, 1925, as amended, or any other general law, pertaining to the calling of a hearing for the determination of the dissolution of a district where a bond election has failed shall be inapplicable to this district, and this district shall continue to exist and shall have full power to function and operate regardless of the outcome of any bond election. Upon the failure of any bond election, a subsequent bond election may be called after the expiration of six months from the date of the bond election which failed.

Sec. 19. Notice of all elections may be given under the hand of either the president or the secretary of the district.

Sec. 20. The returns of all elections may be canvassed by the board of directors of the district at any time within seven days after the holding of an election, or as soon thereafter as reasonably practicable. The election returns of the annual election of directors may be canvassed by the board of directors as it was composed at the time of such election, or by the directors elected at such election, or by a combination of both. At the board of directors meeting at which the returns are canvassed, composed as aforesaid, any director newly elected at such election may qualify by filing his official bond and taking the oath of office, either before or after the returns are canvassed, and upon the filing of such bond the board, composed as aforesaid, may approve same.

Sec. 21. The accomplishment of the purposes stated in this Act being for the benefit of the people of this state and for the improvement of their properties and industries, the district in carrying out the purposes of this Act will be performing an essential public function under the Constitution, and the district shall not be required to pay any tax or assessment on the project or any part thereof or on any purchases made by the district, and the bonds issued hereunder and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this state.

Sec. 22. All bonds and refunding bonds of the district shall be and are hereby declared to be legal, eligible, and authorized investments for banks, savings and loan associations, insurance companies, fiduciaries, trustees, and for the sinking funds of cities, towns, villages, counties,

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school districts, or other political corporations or subdivisions of the State of Texas. Such bonds and refunding bonds shall be eligible to secure the deposit of any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their face value, when accompanied by all unmatured coupons appurtenant thereto.

Sec. 23. If any word, phrase, clause, paragraph, sentence, part, portion, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act shall nevertheless be valid, and the Legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion, or provision.

Acts 1967, 60th Leg., p. 1566, ch. 629, emerg. eff. June 16, 1967.

Title of Act:

An Act creating and establishing a conservation and reclamation district under Article 16, Section 59, Constitution of Texas, known as "Old Snake River Municipal Utility District"; declaring district a governmental agency, body politic and corporate; defining the boundaries; finding the field notes and boundaries form a closure, and related matters; finding a benefit to all land and other property within the district; finding that district is created to serve a public use and benefit; conferring on district the rights, powers, privileges, authority and duties of the general laws of Texas applicable to water control and improvement districts created under Article 16, Section 59, Constitution of Texas, where not in conflict with this Act and adopting same by reference; providing for continuing supervision by the State through the Texas Water Rights Commission; providing for no election for confirmation; providing for no hearing for exclusions, except on written request or the board of directors' own motion; providing for no hearing on plan of taxation and adopting ad valorem plan of taxation for district; providing for governing body of district; providing for qualifications and bonds of directors; naming first board of directors; providing for directors to fill vacancies; providing for terms and election of directors and notice of directors' elections, and related matters; providing for organization of board of directors; providing for the letting of construction contracts and the drawing of warrants; providing for the execution of contracts by the president; providing for a vice president, a secretary, and a secretary pro tem and outlining their duties; providing for employment of engineers, attorneys, auditors, and other employees; providing for a seal for the district; providing for approval of district's plans and specifications by the Texas Water Rights Commission and inspection during construction by said Commission; providing for bonds and refunding bonds to be approved by the Attorney General of Texas and registered by the Comptrol-

ler of Public Accounts of Texas, and providing for negotiability, legality, validity, obligation, and incontestability of the bonds and refunding bonds; providing the power of eminent domain shall be limited to the county or counties within which district is situated; providing district shall bear expenses of relocating, raising, or rerouting any highway, railroad, or utility lines or pipelines made necessary by its exercise of the power of eminent domain; defining "sole expense"; providing that the Municipal Annexation Act shall have no application to the creation of this district; determining and finding the requirements of Article 16, Section 59 (d), Constitution of Texas, as to notice of intention to introduce this Act have been fulfilled and accomplished; providing for the selection of a depository or depositories for the district and related matters; providing additional powers of district within and without boundaries of district; providing for construction of works for the prevention of floods, for construction of levees, bulkheading, and dams, for reclamation of overflowed lands, and alteration of land elevations; providing for the voting and issuing of bonds to serve areas within or without the boundaries of District; providing for the sale of bonds of the district in denominations of \$1,000 or multiples thereof, for the exchange of bonds for property and services, and for the minimum price of bonds at such sale or exchange; providing that Article 7880—77b shall not be applicable to this district, and related matters; providing that notice of all elections shall be under hand of president or secretary; providing for canvassing of election returns; providing the bonds of this district and their transfer and income therefrom and profits thereon and purchases made by district shall be tax-free in this state; providing the bonds and refunding bonds of this district shall be eligible investments; enacting other provisions related to the aforementioned subjects; providing for a severability clause; and declaring an emergency. Acts 1967, 60th Leg., p. 1566, ch. 629.

Art. 8280—379. Blue Ridge West Municipal Utility District

Section 1. Under and pursuant to the provisions of Article 16, Section 59 of the Constitution of Texas, a conservation and reclamation district is hereby created and established in Fort Bend County, Texas, to be known as "Blue Ridge West Municipal Utility District," hereinafter called the "district," which shall be a governmental agency and a body politic and corporate. The creation and establishment of the district is hereby declared to be essential to the accomplishment of the purposes of Article 16, Section 59, Constitution of Texas.

Sec. 2. The district shall comprise all of the territory contained within the following described area:

Lying wholly within Fort Bend County, Texas, and being 990.94 acres, more or less, comprising parts of the I. & G. N. R. R. Co. Survey No. 3, Abstract 264, and the I. & G. N. R. R. Co. Survey No. 4, Abstract 263, and described as follows:

Beginning at a point for the Southeast corner of said I. & G. N. R. R. Co. Survey No. 4, the Southeast corner of a 681.58-acre tract, and Southeast corner of the tract herein described.

THENCE, West 7589.04 feet along the South line of said I. & G. N. R. R. Co. Survey No. 4, the South line of said 681.58-acre tract, the South line of a 297.13-acre tract, the South line of said I. & G. N. R. R. Co. Survey No. 3, and the centerline of Staffordshire-Blue Ridge Road, based on 60.00 feet of width, to a point for the Southwest corner of said 297.13-acre tract, the most Easterly corner of the William Neal Survey, Abstract 64, and the Southwest corner of the tract herein described.

THENCE, N 45° 02' 00" W 2219.50 feet along the centerline of said Staffordshire-Blue Ridge Road, the Northeasterly line of said William Neal Survey, a Southwesterly line of said I. & G. N. R. R. Co. Survey No. 3, and a Southwesterly line of said 297.13-acre tract, to a point for the most Westerly corner of said I. & G. N. R. R. Co. Survey No. 3, the Southerly corner of I. & G. N. R. R. Co. Survey, Abstract 360, the most Westerly corner of said 297.13-acre tract, and the most Westerly corner of the tract herein described.

THENCE, N 45° 00' 00" E 2003.30 feet along a Northwesterly line of said I. & G. N. R. R. Co. Survey No. 3, the Southeasterly line of said I. & G. N. R. R. Co. Survey, Abstract 360, and a Northwesterly line of said 297.13-acre tract to a point for the most Easterly corner of said I. & G. N. R. R. Co. Survey, Abstract 360, the reentrant corner of said I. & G. N. R. R. Co. Survey No. 3, the reentrant corner of 297.13-acre tract, and the reentrant corner of the tract herein described.

THENCE, N 44° 40' 30" W 1051.00 feet along the Northeasterly line of said I. & G. N. R. R. Co. Survey, Abstract 360, a Southwesterly line of I. & G. N. R. R. Co. Survey No. 3, and a Southwesterly line of said 297.13-acre tract to a point for the most Southerly corner of B. B. B. & C. R. R. Co. Survey No. 9, Abstract 118, the most Northerly West corner of said I. & G. N. R. R. Co. Survey No. 3, the most Northerly West corner of said 297.13-acre tract and the most Northerly West corner of the tract herein described.

THENCE, N 44° 53' 10" E 2336.00 feet along the Southeasterly line of said B. B. B. & C. R. R. Co. Survey No. 9, the Northwesterly line of said I. & G. N. R. R. Co. Survey No. 3, and a Northwesterly line of said 297.13-acre tract to a point for the Northwest corner of said 297.13-acre tract and the most Westerly Northwest corner of the tract herein described.

THENCE, S 89° 53' 30" E 1187.90 feet along the North line of said 297.13-acre tract to a point in the East right-of-way line of State Farm Market Road 2234, based on 100.00 feet of width, and in the West line of said 681.58-acre tract for a reentrant corner of the tract herein described.

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THENCE, N 00° 08' 00" W 494.00 feet along the East right-of-way line of said State Farm Market Road 2234 and the West line of said 681.58-acre tract, to a point in the North line of said I. & G. N. R. R. Co. Survey No. 3 and the South line of Geo. B. Lucas, Survey, Abstract 626, for the Northwest corner of said 681.58-acre tract and the Northwest corner of the tract herein described.

THENCE, S 89° 47' 30" E 2151.70 feet along the North line of said I. & G. N. R. R. Co. Survey No. 3, the South line of said Geo. B. Lucas Survey, and the North line of said 681.58-acre tract, to a point in the West line of said I. & G. N. R. R. Co. Survey No. 4 for the Northeast corner of said I. & G. N. R. R. Co. Survey No. 3, the Southeast corner of said Geo. B. Lucas Survey, the most Northerly Northeast corner of said 681.58-acre tract, and the most Northerly Northeast corner of the tract herein described.

THENCE, South 978.00 feet along the East line of said I. & G. N. R. R. Co. Survey No. 3, the West line of said I. & G. N. R. R. Co. Survey No. 4, and the most Westerly East line of said 681.58-acre tract to a point for a reentrant corner of said 681.58-acre tract, and a reentrant corner of the tract herein described.

THENCE, S 89° 46' 20" E 3505.50 feet along the most Southerly North line of said 681.58-acre tract to a point in the East line of said I. & G. N. R. R. Co. Survey No. 4 for the most Southerly Northeast corner of said 681.58-acre tract and the most Southerly Northeast corner of the tract herein described.

THENCE, S 00° 07' 30" W 4879.52 feet along the East line of said I. & G. N. R. R. Co. Survey No. 4 and the East line of said 681.58-acre tract to the place of beginning.

Containing 990.94 acres, more or less.

Sec. 3. It is determined and found that the boundaries and field notes of the district form a closure; and if any mistake is made in copying the field notes in the legislative process, or otherwise a mistake is made in the field notes, it shall in no way or manner affect the organization, existence, and validity of the district, or the right of the district to issue any type of bonds or refunding bonds for the purposes for which the district is created, or to pay the principal and interest thereon, or the right to assess, levy, and collect taxes, or the legality or operation of the district or its governing body.

Sec. 4. It is determined and found that all of the land and other property included within the area and boundaries of the district will be benefited by the works and project which are to be accomplished by the district pursuant to the powers conferred by the provisions of Article 16, Section 59, Constitution of Texas, and that said district was and is created to serve a public use and benefit.

Sec. 5. The district shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, authority, and duties conferred and imposed by the general laws of this State now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Article 16, Section 59, Constitution of Texas; but to the extent that the provisions of any such general laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such general laws are hereby adopted and incorporated by reference with the same effect as if incorporated in full in this Act. The powers and duties herein granted to the district shall be subject to the continuing right of supervision of the State, to be exercised by and through the Texas Water Rights Commission.

Sec. 6. It shall not be necessary for the board of directors to call or hold a confirmation election for the confirmation of the district.

Sec. 7. It shall not be necessary for the board of directors to call or hold a hearing on the exclusions of land or other property from the district; provided, however, that the board shall hold such hearing upon the written request of any landowner or other property owner within the district filed with the secretary of the board prior to the calling of the first bond election for the district. The board on its own motion may call and hold an exclusions hearing or hearings in the manner provided by the general law.

Sec. 8. It shall not be necessary for the board of directors to call or hold a hearing on the adoption of a plan of taxation, but the ad valorem plan of taxation shall be used by the district.

Sec. 9. All powers of the district shall be exercised by a board of five directors. Each director shall serve for his term of office as herein provided, and thereafter until his successor shall be elected or appointed and qualified. No person shall be appointed a director unless he is 21 years of age or over and a resident of the State of Texas. Such director shall not be required to reside within the boundaries of the district. Each director shall qualify by subscribing to the oath of office and giving bond in the amount of \$5,000 for the faithful performance of his duties. The cost of such bond shall be paid by the district. Such bond shall be filed in the office of the county clerk and approved by the county judge or the commissioner's court of the county within which district is situated. Such oath shall be filed with the secretary of the district's board of directors after his selection. The bonds of directors elected or appointed after the directors named below shall be approved by the district's board of directors, filed for record in the office of the county clerk of the county in which the district is located and shall be recorded in a record kept for that purpose in the office of the district and be filed for safekeeping in the depository of the district. Immediately after this Act becomes effective, the following named persons, all of whom are 21 years of age or over and residents of the State of Texas, shall be the directors of the district and shall constitute the board of directors of the district:

K. F. Adams, Jr.
John P. Collins
Carl Fuhman
L. W. Fisher
C. G. Sones

Said persons shall qualify as directors within 30 days, or as soon thereafter as practicable, from the effective date of this Act. If any of the aforementioned persons shall fail or refuse to qualify or to serve, or shall die or become incapacitated, or otherwise not be qualified to assume the duties of a director of the district under this Act, a majority of the remaining directors shall appoint a successor or successors. The directors named above or their duly appointed successor or successors shall serve until the second Tuesday in January 1969. Succeeding directors shall be elected or appointed and shall serve for the term and in the manner provided for by Article 7880—37, Vernon's Texas Civil Statutes. The annual elections shall be ordered by the board of directors. Any vacancy occurring in the board of directors shall be filled for the unexpired term by a majority of the remaining directors. The board of directors shall elect from its number a president, a vice president, and a secretary of the board of directors and of the district, and such other officers as in the judgment of the board are necessary. Three directors shall constitute a quorum at any meeting, and a concurrence of three shall be sufficient in all matters pertaining to the business of the district including the letting of construction contracts and the drawing of warrants in payment for construction work, the purchase of existing facilities, and matters relating to construction work. Warrants to pay current expenses,

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salaries, and accounts may be drawn and signed by an officer or employee, designated by standing order entered on the minutes of the board of directors, when such accounts have been contracted and ordered paid by the directors. The president may execute all contracts, construction or otherwise, entered into by the board of directors on behalf of the district. The vice president shall perform all duties and exercise all power conferred by this Act or the general law upon the president when the president is absent or fails or declines to act. Any order adopted or other action taken at a meeting of the board of directors at which the president is absent may be signed by the vice president, or the board may authorize the president to sign such order or other action. The secretary shall keep and sign the minutes of the meetings of the board of directors; and in his absence at any board meeting, a secretary pro tem shall be named for that meeting who may exercise all the duties and powers of the secretary for such meeting, and shall sign the minutes thereof, and may attest all orders passed or other action taken at such meeting, or the board may authorize the secretary to attest such orders or other action. The secretary shall be the custodian of all minutes and records of the district. The board shall appoint all necessary engineers, attorneys, auditors, and other employees. The board shall adopt a seal for the district.

Sec. 10. Before issuing any construction bonds, the district shall submit plans and specifications therefor to the Texas Water Rights Commission for approval in the manner required by Article 7880—139, Revised Civil Statutes of Texas, 1925; and the district's project and improvements during the course of construction shall be subject to inspection in the manner provided by said Article 7880—139.

Sec. 11. When any kind of bonds or refunding bonds have been approved by the Attorney General of Texas, registered by the Comptroller of Public Accounts of the State of Texas, and issued by the district, such bonds or refunding bonds shall be negotiable, legal, valid, and binding obligations of the district and shall be incontestable for any cause.

Sec. 12. The power of eminent domain of the district shall be limited to the county or counties in which the district is situated. In the event that the district, in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, rerouting or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telegraph or telephone properties and facilities, or pipeline, all such necessary relocation, raising, rerouting, changing of grade, or alteration of construction shall be accomplished at the sole expense of the district. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, rerouting, or change in grade, or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

Sec. 13. This district is hereby created notwithstanding any of the provisions of the Municipal Annexation Act (Article 970a, Revised Civil Statutes of Texas, 1925), as amended, and to the extent of the creation of the district only, said Article 970a shall have no application. In all other respects, the district hereby created is expressly made subject to all provisions of said Article 970a.

Sec. 14. It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published at least 30 days and not more than 90 days prior to the introduction of this Act in the Legislature of Texas, in a newspaper having a general circulation in the county or counties in which this district or any part thereof is situated; that a copy of such notice and a copy of this Act have been delivered to the Governor of Texas,

who has submitted such notice and Act to the Texas Water Rights Commission, and said Texas Water Rights Commission has filed its recommendation as to such Act with the Governor, Lieutenant Governor and Speaker of the House of Representatives of Texas within 30 days from the date such notice and Act were received by the Texas Water Rights Commission; and that all the requirements and provisions of Article 16, Section 59(d), Constitution of the State of Texas, have been fulfilled and accomplished as therein provided.

Sec. 15. The board of directors of the district shall select any bank or trust company in the State of Texas to act as depository of the proceeds of the bonds or revenues derived from the operation of the facilities of the district, and said depository shall furnish such indemnity bonds or pledge such securities or meet such other requirements as determined by the board of directors of the district. The district may select one or more depositories.

Sec. 16. In no manner limiting the right, power, or authority of the district, as heretofore granted, the district is specifically granted the right, power, and authority to purchase and construct, or to purchase or construct, or otherwise to acquire waterworks systems, sanitary sewer systems, storm sewer systems and drainage facilities, or parts of such systems or facilities, and to make any and all necessary purchases, constructions, improvements, extension, additions, and repairs thereto, and to purchase or acquire all necessary land, rights-of-way, easements, sites, equipment, buildings, plants, structures, and facilities therefor and to operate and maintain same, and to sell water and other services. The district may exercise any of the rights, powers, and authorities granted in this Act within or without the boundaries of the district and is specifically authorized to exercise any of said rights, powers, and authorities in order to provide water and sewerage services to areas within or without the boundaries of the district. The district may vote and issue any kind of bonds or refunding bonds for any or all of such purposes herein provided, for contiguous or noncontiguous areas, and provide and make payment therefor and for necessary expenses in connection therewith.

Sec. 17. Bonds of the district, other than refunding bonds, may be sold at a price and upon the terms determined by the board of directors of the district, except that such bonds shall not be sold for a less amount than provided by law. Such bonds or refunding bonds may be sold in denominations of \$1,000 each or multiples thereof. Refunding bonds shall be sold at a price and under the terms of the general law applicable to water control and improvement districts. The district may exchange bonds or refunding bonds for property acquired by purchase, or in payment of the contract price of work done or materials furnished or services furnished for the use and benefit of the district; provided that no notice given pursuant to Article 7880—117, Revised Civil Statutes of Texas, 1925, as amended, shall be predicated upon or require the exchange of bonds or refunding bonds, and said article shall otherwise be applicable to this district in all respects.

Sec. 18. The provisions of Article 7880—77b, Revised Civil Statutes of Texas, 1925, as amended, or any other general law, pertaining to the calling of a hearing for the determination of the dissolution of a district where a bond election has failed shall be inapplicable to this district, and this district shall continue to exist and shall have full power to function and operate regardless of the outcome of any bond election. Upon the failure of any bond election, a subsequent bond election may be called after the expiration of six months from the date of the bond election which failed.

Sec. 19. Notice of all elections may be given under the hand of either the president or the secretary of the district.

Sec. 20. The returns of all elections may be canvassed by the board of directors of the district at any time within seven days after the holding

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of an election, or as soon thereafter as reasonably practicable. The election returns of the annual election of directors may be canvassed by the board of directors as it was composed at the time of such election, or by the directors elected at such election, or by a combination of both. At the board of directors meeting at which the returns are canvassed, composed as aforesaid, any director newly elected at such election may qualify by filing his official bond and taking the oath of office, either before or after the returns are canvassed, and upon the filing of such bond the board, composed as aforesaid, may approve same.

Sec. 21. The accomplishment of the purposes stated in this Act being for the benefit of the people of this state and for the improvement of their properties and industries, the district in carrying out the purposes of this Act will be performing an essential public function under the Constitution, and the district shall not be required to pay any tax or assessment on the project or any part thereof or on any purchases made by the district, and the bonds issued hereunder and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this state.

Sec. 22. All bonds and refunding bonds of the district shall be and are hereby declared to be legal, eligible, and authorized investments for banks, savings and loan associations, insurance companies, fiduciaries, trustees, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds and refunding bonds shall be eligible to secure the deposit of any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their face value, when accompanied by all unmatured coupons appurtenant thereto.

Sec. 23. If any word, phrase, clause, paragraph, sentence, part, portion, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act shall nevertheless be valid, and the Legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion, or provision.

Acts 1967, 60th Leg., p. 1581, ch. 633, emerg. eff. June 16, 1967.

Title of Act:

An Act creating and establishing a conservation and reclamation district under Article 16, Section 59, Constitution of Texas, known as "Blue Ridge West Municipal Utility District"; declaring district a governmental agency, body politic and corporate; defining the boundaries; finding the field notes and boundaries form a closure, and related matters; finding a benefit to all land and other property within the district; finding that district is created to serve a public use and benefit; conferring on district the rights, powers, privileges, authority and duties of the general laws of Texas applicable to water control and improvement districts created under Article 16, Section 59, Constitution of Texas, where not in conflict with this Act and adopting same by reference; providing for continuing supervision by the State through the Texas Water Rights Commission; providing for no election for confirmation; providing for no hearing for exclusions, except on written request or the board of directors' own motion; providing for no hearing on plan of taxation and adopting ad valorem plan of tax-

tion for district; providing for governing body of district; providing for qualifications and bonds of directors; naming first board of directors; providing for directors to fill vacancies; providing for terms and election of directors and notice of directors' elections, and related matters; providing for organization of board of directors; providing for the letting of construction contracts and the drawing of warrants; providing for the execution of contracts by the president; providing for a vice president, a secretary, and a secretary pro tem and outlining their duties; providing for employment of engineers, attorneys, auditors, and other employees; providing for a seal for the district; providing for approval of district's plans and specifications by the Texas Water Rights Commission and inspection during construction by said Commission; providing for bonds and refunding bonds to be approved by the Attorney General of Texas and registered by the Comptroller of Public Accounts of Texas, and providing for negotiability, legality, validity, obligation, and incontestability of the bonds and refunding bonds; providing the power of

eminent domain shall be limited to the county or counties within which district is situated; providing district shall bear expenses of relocating, raising, or rerouting any highway, railroad, or utility lines or pipelines made necessary by its exercise of the power of eminent domain; defining "sole expense"; providing that the Municipal Annexation Act shall have no application to the creation of this district; determining and finding the requirements of Article 16, Section 59(d), Constitution of Texas, as to notice of intention to introduce this Act have been fulfilled and accomplished; providing for the selection of a depository or depositories for the district and related matters; providing additional powers of district within and without the boundaries of district; providing for the voting and issuing of bonds to serve areas within or without the boundaries of district; providing for the sale

of bonds of the district in denominations of \$1,000 or multiples thereof, for the exchange of bonds for property and services, and for the minimum price of bonds at such sale or exchange; providing that Article 7880—77b (Vernon's Texas Civil Statutes), shall not be applicable to this district, and related matters; providing that notice of all elections shall be under the hand of the president or secretary; providing for canvassing of election returns; providing the bonds of this district and their transfer and income therefrom and profits thereon and purchases made by district shall be tax-free in this State; providing the bonds and refunding bonds of this district shall be eligible investments; enacting other provisions related to the aforementioned subjects; providing for a severability clause; and declaring an emergency. Acts 1967, 60th Leg., p. 1581, ch. 633.

Art. 8280—380. City of Cities Municipal Utility District

Section 1. Under and pursuant to the provisions of Article 16, Section 59 of the Constitution of Texas, a conservation and reclamation district is hereby created and established in Fort Bend County, Texas, to be known as "City of Cities Municipal Utility District," hereinafter called the "district," which shall be a governmental agency and a body politic and corporate. The creation and establishment of the district is hereby declared to be essential to the accomplishment of the purposes of Article 16, Section 59, Constitution of Texas.

Sec. 2. (a) The district shall comprise all of the territory contained within the following described area:

Lying wholly in Fort Bend County, Texas, and being 2252.4072 acres, more or less, out of the S. M. Williams League, A-97; the George Brown and Charles Belknaps League, A-15; the William Stafford 1½ League, A-89; and the E. Alcorn League, A-1. Said 2252.4072 acres, more or less, are more particularly described by metes and bounds as follows:

Commencing at the intersection of the west line of said S. M. Williams League and the east line of the Alexander Hodge League, A-32, with the north right-of-way line of State Highway 6, based on a 100-foot right of way.

THENCE, S 51° 07' 00" E 1541.92 feet along said north right-of-way line of State Highway 6 to its intersection with the east right-of-way line of State Highway 58, based on a 110-foot-wide right of way, for the point of beginning, said point also being the southwest corner of the tract described herein.

THENCE, N 00° 53' 00" W 1200.00 feet along the said east right-of-way line of State Highway 58 to its intersection with the center line of Char Lake Canal.

THENCE, East 1500.00 feet along the said center line of Char Lake Canal to its intersection with the center line of Brooks Lake Canal.

THENCE, in a Northerly direction following the meanders of said center line of Brooks Lake Canal, as follows:

N 06° 30' 00" E 1050.00 feet.

N 13° 50' 00" E 240.00 feet.

N 36° 50' 00" E 150.00 feet.

N 59° 20' 00" E 160.00 feet.

N 72° 30' 00" E 930.00 feet to the intersection of said center line of Brooks Lake Canal with the center line of Oyster Creek.

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THENCE, in an Easterly direction following the meanders of said center line of Oyster Creek, as follows:

S 29° 10' 00" E 620.00 feet.

S 40° 45' 00" E 170.00 feet.

S 72° 30' 00" E 894.06 feet.

N 81° 10' 00" E 270.00 feet.

N 60° 10' 00" E 350.00 feet.

N 50° 50' 00" E 1067.88 feet.

N 86° 30' 00" E 295.00 feet.

S 80° 58' 00" E 285.00 feet.

S 52° 36' 00" E 320.00 feet.

S 18° 11' 00" E 220.00 feet.

S 02° 57' 00" W 350.00 feet to the intersection of the center line of Oyster Creek with the center line of Horseshoe Lake Creek.

THENCE, N 53° 01' 00" E 530.00 feet along said center line of Horseshoe Lake Creek to its intersection with the north right-of-way line of the Missouri Pacific Railroad, based on a 100-foot-wide right of way.

THENCE, S 42° 26' 50" E 720.00 feet along said north line of the Missouri Pacific Railroad Company 100-foot right of way to its intersection with the easterly right-of-way line of Alkire Lake Drive, based on a 80-foot-wide right of way.

THENCE, in a Northerly direction following the said easterly right-of-way line of Alkire Lake Drive, as follows:

N 55° 02' 00" E 604.67 feet to the point of curvature of a curve to the left.

1180.44 feet along the arc of said curve to the left having a radius of 2673.29 feet and subtending a central angle of 25° 18' 00" to its point of tangency.

N 29° 44' 00" E 200.00 feet to the point of curvature of a curve to the right.

796.56 feet along the arc of said curve to the right having a radius of 3510.75 feet and subtending a central angle of 13° 00' 00" to its point of tangency.

N 42° 44' 00" E 467.25 feet to the point of curvature of a curve to the left.

127.93 feet along the arc of said curve to the left having a radius of 366.50 feet and subtending a central angle of 20° 00' 00" to a point of compound curvature of a second curve to the left.

858.25 feet along the arc of said second curve to the left having a radius of 1928.40 feet and subtending a central angle of 25° 30' 00" to a second point of compound curvature of a third curve to the left.

1391.26 feet along the arc of said third curve to the left having a radius of 2993.00 feet and subtending a central angle of 26° 38' 00" to its point of tangency.

N 29° 24' 00" W 100.00 feet to the point of curvature of a curve to the left.

995.56 feet along the arc of said curve to the left having a radius of 2993.00 feet and subtending a central angle of 19° 03' 30" to a point of reverse curvature.

504.91 feet along the arc of a curve to the right having a radius of 602.80 feet and subtending a central angle of 47° 59' 30" to its point of tangency.

N 00° 28' 00" W 38.70 feet to the point of intersection of said easterly right-of-way line of Alkire Lake Drive with the south right-of-way line of U. S. Highway 59 and 90A, based on a 175-foot-wide right of way.

THENCE, in an Easterly direction following the said south right-of-way line of U. S. Highway 59 and 90A, as follows:

N 78° 02' 00" E 5999.74 feet to the point of curvature of a curve to the right.

500.45 feet along the arc of said curve to the right having a radius of 5502.38 feet and subtending a central angle of 5° 12' 40" to an angle point.

N 86° 05' 20" E 201.05 feet to a point for the northeast corner of the herein described tract, said point being in the east line of the Houston Lighting & Power Company 200-foot easement.

THENCE, S 00° 33' 40" W 5402.15 feet along the west city limit line of the City of Stafford and the east line of said Houston Lighting & Power Company 200-foot easement, to a point for corner in the northerly boundary line of Riverbend Country Club.

THENCE, along the boundary of Riverbend Country Club as follows:

N 72° 20' 00" W 209.80 feet.

N 00° 05' 20" E 855.30 feet.

S 66° 46' 30" W 1246.20 feet.

S 21° 08' 40" W 1123.30 feet.

S 17° 59' 50" E 1353.90 feet to a point in the center line of Oyster Creek.

THENCE, in a southerly direction following the meanders of said center line of Oyster Creek, as follows:

N 77° 42' 00" E 229.10 feet.

S 77° 15' 10" E 159.20 feet.

S 56° 08' 00" E 173.30 feet.

S 46° 53' 50" E 115.10 feet.

S 29° 38' 40" E 62.50 feet.

S 17° 35' 00" E 250.40 feet.

S 00° 40' 00" E 180.00 feet.

S 10° 28' 00" W 250.60 feet.

S 19° 15' 00" W 440.00 feet.

S 35° 10' 00" W 680.00 feet.

S 03° 00' 00" E 600.00 feet to the intersection of said center line of Oyster Creek with the north right-of-way line of Blair Road, based on a 50-foot-wide right of way.

THENCE, S 88° 59' 00" W 100.06 feet along the said north right-of-way line of Blair Road to its intersection with the westerly shoreline of Oyster Creek.

THENCE, S 88° 59' 00" W 255.00 feet along the said north right-of-way line of Blair Road to a point for corner.

THENCE, S 01° 15' 00" E, at 50.00 feet pass the intersection of the south right-of-way line of Blair Road with the west right-of-way line of Oil Field Road, based on a 50-foot-wide right of way, and continuing along the said west right-of-way line for a total distance of 4784.70 feet to its intersection with the north right-of-way line of State Highway 6.

THENCE, along the north right-of-way line of State Highway 6, in a Northwesterly direction 359.00 feet along the arc of a curve to the left having a radius of 2914.90 feet and subtending a central angle of 7° 03' 24" to its point of tangency.

THENCE, N 67° 37' 00" W 12,718.93 feet along the said northerly right-of-way line of State Highway 6 to a point of curvature of a curve to the right.

THENCE, in a Northwesterly direction 810.63 feet, following the said northerly right-of-way line of State Highway 6 along the arc of said curve to the right having a radius of 2814.90 feet and subtending a central angle of 16° 30' 00" to its point of tangency.

THENCE, N 51° 07' 00" W 130.00 feet, continuing along the said northerly right-of-way line of State Highway 6 to the point of beginning.

Containing 2252.4072 acres, more or less.

(b) Any of the land described in this Section which overlaps any area of Fort Bend County Water Supply District, in Fort Bend County, Texas,

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shall be and is as of the effective date of this Act deleted and eliminated from the area and boundaries of said Fort Bend County Water Supply District, said water supply district having been inactive for many years and no bonds having ever been issued or sold.

Sec. 3. It is determined and found that the boundaries and field notes of the district form a closure; and if any mistake is made in copying the field notes in the legislative process, or otherwise a mistake is made in the field notes, it shall in no way or manner affect the organization, existence, and validity of the district, or the right of the district to issue any type of bonds or refunding bonds for the purposes for which the district is created, or to pay the principal and interest thereon, or the right to assess, levy, and collect taxes, or the legality or operation of the district or its governing body.

Sec. 4. It is determined and found that all of the land and other property included within the area and boundaries of the district will be benefited by the works and project which are to be accomplished by the district pursuant to the powers conferred by the provisions of Article 16, Section 59, Constitution of Texas, and that said district was and is created to serve a public use and benefit.

Sec. 5. The district shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, authority, and duties conferred and imposed by the general laws of this State now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Article 16, Section 59, Constitution of Texas; but to the extent that the provisions of any such general laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such general laws are hereby adopted and incorporated by reference with the same effect as if incorporated in full in this Act. The powers and duties herein granted to the district shall be subject to the continuing right of supervision of the State, to be exercised by and through the Texas Water Rights Commission.

Sec. 6. It shall not be necessary for the board of directors to call or hold a confirmation election for the confirmation of the district.

Sec. 7. It shall not be necessary for the board of directors to call or hold a hearing on the exclusions of land or other property from the district; provided, however, that the board shall hold such hearing upon the written request of any landowner or other property owner within the district filed with the secretary of the board prior to the calling of the first bond election for the district. The board on its own motion may call and hold an exclusions hearing or hearings in the manner provided by the general law.

Sec. 8. It shall not be necessary for the board of directors to call or hold a hearing on the adoption of a plan of taxation, but the ad valorem plan of taxation shall be used by the district.

Sec. 9. All powers of the district shall be exercised by a board of five directors. Each director shall serve for his term of office as herein provided, and thereafter until his successor shall be elected or appointed and qualified. No person shall be appointed a director unless he is 21 years of age or over and a resident of the State of Texas. Such director shall not be required to reside within the boundaries of the district. Each director shall qualify by subscribing to the oath of office and giving bond in the amount of \$5,000 for the faithful performance of his duties. The cost of such bond shall be paid by the district. Such bond shall be filed in the office of the county clerk and approved by the county judge or the commissioner's court of the county within which district is situated. Such oath shall be filed with the secretary of the district's board of directors after his selection. The bonds of directors elected or appointed after the directors named below shall be approved by the district's board

of directors, filed for record in the office of the county clerk of the county in which the district is located and shall be recorded in a record kept for that purpose in the office of the district and be filed for safekeeping in the depository of the district. Immediately after this Act becomes effective, the following named persons, all of whom are 21 years of age or over and residents of the State of Texas, shall be the directors of the district and shall constitute the board of directors of the district:

W. A. Little
I. H. Kempner, III
Fred S. Ewing
J. D. Couvillion
Hugh L. Rouse

Said persons shall qualify as directors within 30 days, or as soon thereafter as practicable, from the effective date of this Act. If any of the aforementioned persons shall fail or refuse to qualify or to serve, or shall die or become incapacitated, or otherwise not be qualified to assume the duties of a director of the district under this Act, a majority of the remaining directors shall appoint a successor or successors. The directors named above or their duly appointed successor or successors shall serve until the second Tuesday in January 1969. Succeeding directors shall be elected or appointed and shall serve for the term and in the manner provided for by Article 7880—37, Vernon's Texas Civil Statutes. The annual elections shall be ordered by the board of directors. Any vacancy occurring in the board of directors shall be filled for the unexpired term by a majority of the remaining directors. The board of directors shall elect from its number a president, a vice president, and a secretary of the board of directors and of the district, and such other officers as in the judgment of the board are necessary. Three directors shall constitute a quorum at any meeting, and a concurrence of three shall be sufficient in all matters pertaining to the business of the district including the letting of construction contracts and the drawing of warrants in payment for construction work, the purchase of existing facilities, and matters relating to construction work. Warrants to pay current expenses, salaries, and accounts may be drawn and signed by an officer or employee, designated by standing order entered on the minutes of the board of directors, when such accounts have been contracted and ordered paid by the directors. The president may execute all contracts, construction or otherwise, entered into by the board of directors on behalf of the district. The vice president shall perform all duties and exercise all power conferred by this Act or the general law upon the president when the president is absent or fails or declines to act. Any order adopted or other action taken at a meeting of the board of directors at which the president is absent may be signed by the vice president, or the board may authorize the president to sign such order or other action. The secretary shall keep and sign the minutes of the meetings of the board of directors; and in his absence at any board meeting, a secretary pro tem shall be named for that meeting who may exercise all the duties and powers of the secretary for such meeting, and shall sign the minutes thereof, and may attest all orders passed or other action taken at such meeting, or the board may authorize the secretary to attest such orders or other action. The secretary shall be the custodian of all minutes and records of the district. The board shall appoint all necessary engineers, attorneys, auditors, and other employees. The board shall adopt a seal for the district.

Sec. 10. Before issuing any construction bonds, the district shall submit plans and specifications therefor to the Texas Water Rights Commission for approval in the manner required by Article 7880—139, Revised Civil Statutes of Texas, 1925; and the district's project and improvements during the course of construction shall be subject to inspection in the manner provided by said Article 7880—139.

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Sec. 11. When any kind of bonds or refunding bonds have been approved by the Attorney General of Texas, registered by the Comptroller of Public Accounts of the State of Texas, and issued by the district, such bonds or refunding bonds shall be negotiable, legal, valid, and binding obligations of the district and shall be incontestable for any cause.

Sec. 12. The power of eminent domain of the district shall be limited to the county or counties in which the district is situated. In the event that the district, in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, rerouting or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telegraph or telephone properties and facilities, or pipeline, all such necessary relocation, raising, rerouting, changing of grade, or alteration of construction shall be accomplished at the sole expense of the district. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, rerouting, or change in grade, or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

Sec. 13. This district is hereby created notwithstanding any of the provisions of the Municipal Annexation Act (Article 970a, Revised Civil Statutes of Texas, 1925), as amended, and to the extent of the creation of the district only, said Article 970a shall have no application. In all other respects, the district hereby created is expressly made subject to all provisions of said Article 970a.

Sec. 14. It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published at least 30 days and not more than 90 days prior to the introduction of this Act in the Legislature of Texas, in a newspaper having a general circulation in the county or counties in which this district or any part thereof is situated; that a copy of such notice and a copy of this Act have been delivered to the Governor of Texas, who has submitted such notice and Act to the Texas Water Rights Commission, and said Texas Water Rights Commission has filed its recommendation as to such Act with the Governor, Lieutenant Governor and Speaker of the House of Representatives of Texas within 30 days from the date such notice and Act were received by the Texas Water Rights Commission; and that all the requirements and provisions of Article 16, Section 59(d), Constitution of the State of Texas, have been fulfilled and accomplished as therein provided.

Sec. 15. The board of directors of the district shall select any bank or trust company in the State of Texas to act as depository of the proceeds of the bonds or revenues derived from the operation of the facilities of the district, and said depository shall furnish such indemnity bonds or pledge such securities or meet such other requirements as determined by the board of directors of the district. The district may select one or more depositories.

Sec. 16. In no manner limiting the right, power, or authority of the district, as heretofore granted, the district is specifically granted the right, power, and authority to purchase and construct, or to purchase or construct, or otherwise to acquire waterworks systems, sanitary sewer systems, storm sewer systems and drainage facilities, or parts of such systems or facilities, and to make any and all necessary purchases, constructions, improvements, extension, additions, and repairs thereto, and to purchase or acquire all necessary land, rights-of-way, easements, sites, equipment, buildings, plants, structures, and facilities therefor and to operate and maintain same, and to sell water and other services. The district may exercise any of the rights, powers, and authorities granted in this Act within or without the boundaries of the district and is speci-

fically authorized to exercise any of said rights, powers, and authorities in order to provide water and sewerage services to areas within or without the boundaries of the district. The district may vote and issue any kind of bonds or refunding bonds for any or all of such purposes herein provided, for contiguous or noncontiguous areas, and provide and make payment therefor and for necessary expenses in connection therewith.

Sec. 17. Bonds of the district, other than refunding bonds, may be sold at a price and upon the terms determined by the board of directors of the district, except that such bonds shall not be sold for a less amount than provided by law. Such bonds or refunding bonds may be sold in denominations of \$1,000 each or multiples thereof. Refunding bonds shall be sold at a price and under the terms of the general law applicable to water control and improvement districts. The district may exchange bonds or refunding bonds for property acquired by purchase, or in payment of the contract price of work done or materials furnished or services furnished for the use and benefit of the district; provided that no notice given pursuant to Article 7880—117, Revised Civil Statutes of Texas, 1925, as amended, shall be predicated upon or require the exchange of bonds or refunding bonds, and said article shall otherwise be applicable to this district in all respects.

Sec. 18. The provisions of Article 7880—77b, Revised Civil Statutes of Texas, 1925, as amended, or any other general law, pertaining to the calling of a hearing for the determination of the dissolution of a district where a bond election has failed shall be inapplicable to this district, and this district shall continue to exist and shall have full power to function and operate regardless of the outcome of any bond election. Upon the failure of any bond election, a subsequent bond election may be called after the expiration of six months from the date of the bond election which failed.

Sec. 19. Notice of all elections may be given under the hand of either the president or the secretary of the district.

Sec. 20. The returns of all elections may be canvassed by the board of directors of the district at any time within seven days after the holding of an election, or as soon thereafter as reasonably practicable. The election returns of the annual election of directors may be canvassed by the board of directors as it was composed at the time of such election, or by the directors elected at such election, or by a combination of both. At the board of directors meeting at which the returns are canvassed, composed as aforesaid, any director newly elected at such election may qualify by filing his official bond and taking the oath of office, either before or after the returns are canvassed, and upon the filing of such bond the board, composed as aforesaid, may approve same.

Sec. 21. The accomplishment of the purposes stated in this Act being for the benefit of the people of this state and for the improvement of their properties and industries, the district in carrying out the purposes of this Act will be performing an essential public function under the Constitution, and the district shall not be required to pay any tax or assessment on the project or any part thereof or on any purchases made by the district, and the bonds issued hereunder and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this state.

Sec. 22. All bonds and refunding bonds of the district shall be and are hereby declared to be legal, eligible, and authorized investments for banks, savings and loan associations, insurance companies, fiduciaries, trustees, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds and refunding bonds shall be eligible to secure the deposit of any and all public funds of cities, towns, villages,

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counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their face value, when accompanied by all unmatured coupons appurtenant thereto.

Sec. 23. If any word, phrase, clause, paragraph, sentence, part, portion, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act shall nevertheless be valid, and the Legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion, or provision.

Acts 1967, 60th Leg., p. 1588, ch. 634, emerg. eff. June 16, 1967.

Title of Act:

An Act creating and establishing a conservation and reclamation district under Article 16, Section 59, Constitution of Texas, known as "City of Cities Municipal Utility District"; declaring district a governmental agency, body politic and corporate; defining the boundaries, deleting from Fort Bend County Water Supply District all area which overlaps the district created by this Act; finding the field notes and boundaries form a closure, and related matters; finding a benefit to all land and other property within the district; finding that district is created to serve a public use and benefit; conferring on district the rights, powers, privileges, authority and duties of the general laws of Texas applicable to water control and improvement districts created under Article 16, Section 59, Constitution of Texas, where not in conflict with this Act and adopting same by reference; providing for continuing supervision by the State through the Texas Water Rights Commission; providing for no election for confirmation; providing for no hearing for exclusions, except on written request or the board of directors' own motion; providing for no hearing on plan of taxation and adopting ad valorem plan of taxation for district; providing for governing body of district; providing for qualifications and bonds of directors; naming first board of directors; providing for directors to fill vacancies; providing for terms and election of directors and notice of directors' elections, and related matters; providing for organization of board of directors; providing for the letting of construction contracts and the drawing of warrants; providing for the execution of contracts by the president; providing for a vice president, a secretary, and a secretary pro tem and outlining their duties; providing for employment of engineers, attorneys, auditors, and other employees; providing for a seal for the district; providing for approval of district's plans and specifications by the Texas Water Rights Commission and inspection during construction by said Commission; providing for bonds and re-

funding bonds to be approved by the Attorney General of Texas and registered by the Comptroller of Public Accounts of Texas, and providing for negotiability, legality, validity, obligation, and incontestability of the bonds and refunding bonds; providing the power of eminent domain shall be limited to the county or counties within which district is situated; providing district shall bear expenses of relocating, raising, or rerouting any highway, railroad, or utility lines or pipelines made necessary by its exercise of the power of eminent domain; defining "sole expense"; providing that the Municipal Annexation Act shall have no application to the creation of this district; determining and finding the requirements of Article 16, Section 59(d), Constitution of Texas, as to notice of intention to introduce this Act have been fulfilled and accomplished; providing for the selection of a depository or depositories for the district and related matters; providing additional powers of district within and without the boundaries of district; providing for the voting and issuing of bonds to serve areas within or without the boundaries of district; providing for the sale of bonds of the district in denominations of \$1,000 or multiples thereof, for the exchange of bonds for property and services, and for the minimum price of bonds at such sale or exchange; providing that Article 7880—77b (Vernon's Texas Civil Statutes), shall not be applicable to this district, and related matters; providing that notice of all elections shall be under the hand of the president or secretary; providing for canvassing of election returns; providing the bonds of this district and their transfer and income therefrom and profits thereon and purchases made by district shall be tax-free in this State; providing the bonds and refunding bonds of this district shall be eligible investments; enacting other provisions related to the aforementioned subjects; providing for a severability clause; and declaring an emergency. Acts 1967, 60th Leg., p. 1588, ch. 634.

Art. 8280—381. College View Municipal Utility District

Section 1. Under and pursuant to the provisions of Article 16, Section 59 of the Constitution of Texas, a conservation and reclamation district is hereby created and established in Harris County, Texas, to be known as "College View Municipal Utility District," hereinafter called the "dis-

tract," which shall be a governmental agency and a body politic and corporate. The creation and establishment of the district is hereby declared to be essential to the accomplishment of the purposes of Article 16, Section 59, Constitution of Texas.

Sec. 2. The district shall comprise all of the territory contained within the following described area:

Lying wholly in Harris County, Texas, and being 332.9854 acres of land, more or less, out of the W. M. Jones Survey, A-482, and described by metes and bounds as follows:

Commencing for reference at a one-half-inch iron rod at the intersection of the west line of said W. M. Jones Survey (same also being the east line of the Fabricius Reynolds Survey, A-643) and the south line of the 100-foot-wide Spencer Highway right of way.

THENCE, N 86° 55' 38" E 1320.00 feet along the south line of said 100-foot-wide Spencer Highway right of way to the point of beginning of the herein described tract.

THENCE, continuing N 86° 55' 38" E 3291.50 feet along the south line of said 100-foot-wide Spencer Highway right of way to a one-half-inch iron rod at the northeast corner of the herein described tract, said point lying in the west line of a 150-foot-wide Houston Lighting & Power Company right of way.

THENCE, S 3° 07' 50" E 3689.13 feet along said west line of the 150-foot-wide Houston Lighting & Power Company right of way to a one-half-inch iron rod at the most easterly southeast corner of the herein described tract.

THENCE, S 86° 54' 40" W 851.30 feet to a concrete monument at an interior corner of the herein described tract.

THENCE, S 3° 05' 22" E 963.30 feet to a concrete monument at the most westerly southeast corner of the herein described tract, said point lying in the north line of the Fairmont Parkway right of way.

THENCE, S 86° 54' 38" W 2443.90 feet along the north line of said Fairmont Parkway right of way to the southwest corner of the herein described tract.

THENCE, N 3° 04' 36" W 4653.38 feet to the point of beginning of the herein described tract.

Containing 332.9854 acres of land, more or less.

Sec. 3. It is determined and found that the boundaries and field notes of the district form a closure; and if any mistake is made in copying the field notes in the legislative process, or otherwise a mistake is made in the field notes, it shall in no way or manner affect the organization, existence, and validity of the district, or the right of the district to issue any type of bonds or refunding bonds for the purposes for which the district is created, or to pay the principal and interest thereon, or the right to assess, levy, and collect taxes, or the legality or operation of the district or its governing body.

Sec. 4. It is determined and found that all of the land and other property included within the area and boundaries of the district will be benefited by the works and project which are to be accomplished by the district pursuant to the powers conferred by the provisions of Article 16, Section 59, Constitution of Texas, and that said district was and is created to serve a public use and benefit.

Sec. 5. The district shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, authority, and duties conferred and imposed by the general laws of this State now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Article 16, Section 59, Constitution of Texas; but to the extent that the provisions of any such general laws may be in conflict or

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inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such general laws are hereby adopted and incorporated by reference with the same effect as if incorporated in full in this Act. The powers and duties herein granted to the district shall be subject to the continuing right of supervision of the State, to be exercised by and through the Texas Water Rights Commission.

Sec. 6. It shall not be necessary for the board of directors to call or hold a confirmation election for the confirmation of the district.

Sec. 7. It shall not be necessary for the board of directors to call or hold a hearing on the exclusions of land or other property from the district; provided, however, that the board shall hold such hearing upon the written request of any landowner or other property owner within the district filed with the secretary of the board prior to the calling of the first bond election for the district. The board on its own motion may call and hold an exclusions hearing or hearings in the manner provided by the general law.

Sec. 8. It shall not be necessary for the board of directors to call or hold a hearing on the adoption of a plan of taxation, but the ad valorem plan of taxation shall be used by the district.

Sec. 9. All powers of the district shall be exercised by a board of five directors. Each director shall serve for his term of office as herein provided, and thereafter until his successor shall be elected or appointed and qualified. No person shall be appointed a director unless he is 21 years of age or over and a resident of the State of Texas. Such director shall not be required to reside within the boundaries of the district. Each director shall qualify by subscribing to the oath of office and giving bond in the amount of \$5,000 for the faithful performance of his duties. The cost of such bond shall be paid by the district. Such bond shall be filed in the office of the county clerk and approved by the county judge or the commissioner's court of the county within which district is situated. Such oath shall be filed with the secretary of the district's board of directors after his selection. The bonds of directors elected or appointed after the directors named below shall be approved by the district's board of directors, filed for record in the office of the county clerk of the county in which the district is located and shall be recorded in a record kept for that purpose in the office of the district and be filed for safekeeping in the depository of the district. Immediately after this Act becomes effective, the following named persons, all of whom are 21 years of age or over and residents of the State of Texas, shall be the directors of the district and shall constitute the board of directors of the district:

C. A. Rousser
Joe B. Ridings
Charles Gwaltney
Marshall Cochran
Robert A. White

Said persons shall qualify as directors within 30 days, or as soon thereafter as practicable, from the effective date of this Act. If any of the aforementioned persons shall fail or refuse to qualify or to serve, or shall die or become incapacitated, or otherwise not be qualified to assume the duties of a director of the district under this Act, a majority of the remaining directors shall appoint a successor or successors. The directors named above or their duly appointed successor or successors shall serve until the second Tuesday in January 1969. Succeeding directors shall be elected or appointed and shall serve for the term and in the manner provided for by Article 7880—37, Vernon's Texas Civil Statutes. The annual elections shall be ordered by the board of directors. Any vacancy occurring in the board of directors shall be filled for the unexpired term by a majority of the remaining directors. The board of directors shall elect

from its number a president, a vice president, and a secretary of the board of directors and of the district, and such other officers as in the judgment of the board are necessary. Three directors shall constitute a quorum at any meeting, and a concurrence of three shall be sufficient in all matters pertaining to the business of the district including the letting of construction contracts and the drawing of warrants in payment for construction work, the purchase of existing facilities, and matters relating to construction work. Warrants to pay current expenses, salaries, and accounts may be drawn and signed by an officer or employee, designated by standing order entered on the minutes of the board of directors, when such accounts have been contracted and ordered paid by the directors. The president may execute all contracts, construction or otherwise, entered into by the board of directors on behalf of the district. The vice president shall perform all duties and exercise all power conferred by this Act or the general law upon the president when the president is absent or fails or declines to act. Any order adopted or other action taken at a meeting of the board of directors at which the president is absent may be signed by the vice president, or the board may authorize the president to sign such order or other action. The secretary shall keep and sign the minutes of the meetings of the board of directors; and in his absence at any board meeting, a secretary pro tem shall be named for that meeting who may exercise all the duties and powers of the secretary for such meeting, and shall sign the minutes thereof, and may attest all orders passed or other action taken at such meeting, or the board may authorize the secretary to attest such orders or other action. The secretary shall be the custodian of all minutes and records of the district. The board shall appoint all necessary engineers, attorneys, auditors, and other employees. The board shall adopt a seal for the district.

Sec. 10. Before issuing any construction bonds, the district shall submit plans and specifications therefor to the Texas Water Rights Commission for approval in the manner required by Article 7880—139, Revised Civil Statutes of Texas, 1925; and the district's project and improvements during the course of construction shall be subject to inspection in the manner provided by said Article 7880—139.

Sec. 11. When any kind of bonds or refunding bonds have been approved by the Attorney General of Texas, registered by the Comptroller of Public Accounts of the State of Texas, and issued by the district, such bonds or refunding bonds shall be negotiable, legal, valid, and binding obligations of the district and shall be incontestable for any cause.

Sec. 12. The power of eminent domain of the district shall be limited to the county or counties in which the district is situated. In the event that the district, in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, rerouting or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telegraph or telephone properties and facilities, or pipeline, all such necessary relocation, raising, rerouting, changing of grade, or alteration of construction shall be accomplished at the sole expense of the district. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, rerouting, or change in grade, or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

Sec. 13. This district is hereby created notwithstanding any of the provisions of the Municipal Annexation Act (Article 970a, Revised Civil Statutes of Texas, 1925), as amended, and to the extent of the creation of the district only, said Article 970a shall have no application. In all other respects, the district hereby created is expressly made subject to all provisions of said Article 970a. Further, the district shall conform to and

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comply with all the requirements of Ordinance No. 768 of the city of La-Porte, which ordinance was passed, approved and effective on May 1, 1967.

Sec. 14. It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published at least 30 days and not more than 90 days prior to the introduction of this Act in the Legislature of Texas, in a newspaper having a general circulation in the county or counties in which this district or any part thereof is situated; that a copy of such notice and a copy of this Act have been delivered to the Governor of Texas, who has submitted such notice and Act to the Texas Water Rights Commission, and said Texas Water Rights Commission has filed its recommendation as to such Act with the Governor, Lieutenant Governor and Speaker of the House of Representatives of Texas within 30 days from the date such notice and Act were received by the Texas Water Rights Commission; and that all the requirements and provisions of Article 16, Section 59(d), Constitution of the State of Texas, have been fulfilled and accomplished as therein provided.

Sec. 15. The board of directors of the district shall select any bank or trust company in the State of Texas to act as depository of the proceeds of the bonds or revenues derived from the operation of the facilities of the district, and said depository shall furnish such indemnity bonds or pledge such securities or meet such other requirements as determined by the board of directors of the district. The district may select one or more depositories.

Sec. 16. In no manner limiting the right, power, or authority of the district, as heretofore granted, the district is specifically granted the right, power, and authority to purchase and construct, or to purchase or construct, or otherwise to acquire waterworks systems, sanitary sewer systems, storm sewer systems and drainage facilities, or parts of such systems or facilities, and to make any and all necessary purchases, constructions, improvements, extension, additions, and repairs thereto, and to purchase or acquire all necessary land, rights-of-way, easements, sites, equipment, buildings, plants, structures, and facilities therefor and to operate and maintain same, and to sell water and other services. The district may exercise any of the rights, powers, and authorities granted in this Act within or without the boundaries of the district and is specifically authorized to exercise any of said rights, powers, and authorities in order to provide water and sewerage services to areas within or without the boundaries of the district. The district may vote and issue any kind of bonds or refunding bonds for any or all of such purposes herein provided, for contiguous or noncontiguous areas, and provide and make payment therefor and for necessary expenses in connection therewith.

Sec. 17. Bonds of the district, other than refunding bonds, may be sold at a price and upon the terms determined by the board of directors of the district, except that such bonds shall not be sold for a less amount than provided by law. Such bonds or refunding bonds may be sold in denominations of \$1,000 each or multiples thereof. Refunding bonds shall be sold at a price and under the terms of the general law applicable to water control and improvement districts.

Sec. 18. The provisions of Article 7880—77b, Revised Civil Statutes of Texas, 1925, as amended, or any other general law, pertaining to the calling of a hearing for the determination of the dissolution of a district where a bond election has failed shall be inapplicable to this district, and this district shall continue to exist and shall have full power to function and operate regardless of the outcome of any bond election. Upon the failure of any bond election, a subsequent bond election may be called after the expiration of six months from the date of the bond election which failed.

Sec. 19. Notice of all elections may be given under the hand of either the president or the secretary of the district.

Sec. 20. The returns of all elections may be canvassed by the board of directors of the district at any time within seven days after the holding of an election, or as soon thereafter as reasonably practicable. The election returns of the annual election of directors may be canvassed by the board of directors as it was composed at the time of such election, or by the directors elected at such election, or by a combination of both. At the board of directors meeting at which the returns are canvassed, composed as aforesaid, any director newly elected at such election may qualify by filing his official bond and taking the oath of office, either before or after the returns are canvassed, and upon the filing of such bond the board, composed as aforesaid, may approve same.

Sec. 21. The accomplishment of the purposes stated in this Act being for the benefit of the people of this state and for the improvement of their properties and industries, the district in carrying out the purposes of this Act will be performing an essential public function under the Constitution, and the district shall not be required to pay any tax or assessment on the project or any part thereof or on any purchases made by the district, and the bonds issued hereunder and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this state.

Sec. 22. All bonds and refunding bonds of the district shall be and are hereby declared to be legal, eligible, and authorized investments for banks, savings and loan associations, insurance companies, fiduciaries, trustees, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds and refunding bonds shall be eligible to secure the deposit of any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their face value, when accompanied by all unma-tured coupons appurtenant thereto.

Sec. 23. If any word, phrase, clause, paragraph, sentence, part, portion, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act shall nevertheless be valid, and the Legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion, or provision.

Acts 1967, 60th Leg., p. 1597, ch. 635, emerg. eff. June 16, 1967.

Title of Act:

An Act creating and establishing a conservation and reclamation district under Article 16, Section 59, Constitution of Texas, known as "College View Municipal Utility District"; declaring district a governmental agency, body politic and corporate; defining the boundaries; finding the field notes and boundaries form a closure, and related matters; finding a benefit to all land and other property within the district; finding that district is created to serve a public use and benefit; conferring on district the rights, powers, privileges, authority and duties of the general laws of Texas applicable to water control and improvement districts created under Article 16, Section 59, Constitution of Texas, where not in conflict with this Act and adopting same by reference; providing for continuing supervision by the State through the Texas Water Rights Commission; providing for no election for

confirmation; providing for no hearing for exclusions, except on written request or the board of directors' own motion; providing for no hearing on plan of taxation and adopting ad valorem plan of taxation for district; providing for governing body of district; providing for qualifications and bonds of directors; naming first board of directors; providing for directors to fill vacancies; providing for terms and election of directors and notice of directors' elections, and related matters; providing for organization of board of directors; providing for the letting of construction contracts and the drawing of warrants; providing for the execution of contracts by the president; providing for a vice president, a secretary, and a secretary pro tem and outlining their duties; providing for employment of engineers, attorneys, auditors, and other employees; providing for a seal for the district; providing for approval of district's plans and

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specifications by the Texas Water Rights Commission and inspection during construction by said Commission; providing for bonds and refunding bonds to be approved by the Attorney General of Texas and registered by the Comptroller of Public Accounts of Texas, and providing for negotiability, legality, validity, obligation, and incontestability of the bonds and refunding bonds; providing the power of eminent domain shall be limited to the county or counties within which district is situated; providing district shall bear expenses of relocating, raising, or rerouting any highway, railroad, or utility lines or pipelines made necessary by its exercise of the power of eminent domain; defining "sole expense"; providing that the Municipal Annexation Act shall have no application to the creation of this district; providing for compliance with Ordinance No. 768 of the city of LaPorte; determining and finding the requirements of Article 16, Section 59(d), Constitution of Texas, as to notice of intention to introduce this Act have been fulfilled and accomplished; providing for the selection of a depository

or depositories for the district and related matters; providing additional powers of district within and without the boundaries of district; providing for the voting and issuing of bonds to serve areas within or without the boundaries of district; providing for the sale of bonds of the district in denominations of \$1,000 or multiples thereof, and for the minimum price of bonds at such sale or exchange; providing that Article 7880—77b (Vernon's Texas Civil Statutes), shall not be applicable to this district, and related matters; providing that notice of all elections shall be under the hand of the president or secretary; providing for canvassing of election returns; providing the bonds of this district and their transfer and income therefrom and profits thereon and purchases made by district shall be tax-free in this State; providing the bonds and refunding bonds of this district shall be eligible investments; enacting other provisions related to the aforementioned subjects; providing for a severability clause; and declaring an emergency. Acts 1967, 60th Leg., p. 1597, ch. 635.

Art. 8280—382. Little York Municipal Utility District

Section 1. Under and pursuant to the provisions of Article 16, Section 59 of the Constitution of Texas, a conservation and reclamation district is hereby created and established in Harris County, Texas, to be known as "Little York Municipal Utility District," hereinafter called the "district," which shall be a governmental agency and a body politic and corporate. The creation and establishment of the district is hereby declared to be essential to the accomplishment of the purposes of Article 16, Section 59, Constitution of Texas.

Sec. 2. The district shall comprise all of the territory contained within the following described area:

Lying wholly within Harris County, Texas, and being 351.34 acres, more or less, out of the K. Morgan Survey, Abstract Number 573, the B.B.B. and C. Railroad Company Survey, Abstract Number 181, and the James Love Survey, Abstract Number 528, said 351.34 acres, more or less, being composed of two non-contiguous tracts described as Tract A of 160.73 acres, more or less, and Tract B of 190.61 acres, more or less, as follows:

TRACT A

Beginning at an iron rod in an old fence corner for the northwest corner of said K. Morgan Survey, the northeast corner of the Sam Lewis Survey, Abstract Number 510, a point in the south line of the James Doswell Survey, Abstract Number 230, and the northwest corner of the tract described herein.

THENCE, S 89° 46' 00" E following the general line of an old fence along the south line of said James Doswell Survey and the north line of said K. Morgan Survey, at 4019.00 feet pass the center line of an 80-foot right of way of Harris County Flood Control District, and continuing for a total distance of 5281.00 feet to an iron rod in an old fence corner for the northeast corner of said K. Morgan Survey, the northwest corner of the P. Thompson Survey, Abstract Number 768, and the northeast corner of the tract described herein.

THENCE, South 1315.00 feet following the general line of an old fence along the east line of said K. Morgan Survey and the west line of said P. Thompson Survey to an iron rod for corner (being the commencing point of Tract B described below) and for the southeast corner of the tract described herein.

THENCE, West 5281.00 feet across said K. Morgan Survey following the general line of an old fence to an iron rod in the west line of said K. Morgan Survey and the east line of said Sam Lewis Survey for the southwest corner of the tract described herein.

THENCE, North 1336.50 feet following the general line of an old fence along the west line of said K. Morgan Survey and the east line of said Sam Lewis Survey to the point of beginning, containing 160.73 acres, more or less.

TRACT B

Commencing for reference at an iron rod in an old fence corner at the southeast corner of Tract A described above, in the east line of the K. Morgan Survey, Abstract Number 573, and the west line of the P. Thompson Survey, Abstract Number 768, and lying South 1315.00 feet from an iron rod in the south line of the James Doswell Survey, A-230 at the northeast corner of said K. Morgan Survey and the northwest corner of said P. Thompson Survey.

THENCE, South 1152.78 feet and N 89° 54' 30" E 203.00 feet to an iron rod in an old fence corner on the south line of said P. Thompson Survey at the most easterly northeast corner of said K. Morgan Survey, the northwest corner of the James Love Survey, Abstract Number 528, and the point of beginning at the most northerly northwest corner of the tract described herein.

THENCE, N 89° 54' 30" E 2615.00 feet following the general line of an old fence along the south line of said P. Thompson Survey and the north line of said James Love Survey to an iron rod at an old fence corner for the northeast corner of the tract described herein.

THENCE, South 2669.00 feet following the general line of an old fence across said James Love Survey to an iron rod at an old fence corner for the southeast corner of the tract described herein.

THENCE, West 2625.00 feet following the general line of an old fence to an iron rod at an old fence corner in the west line of the James Love Survey and the east line of the B.B.B. and C. Railroad Company Survey, Abstract Number 181, for the most southerly southwest corner of the tract described herein.

THENCE, North 367.60 feet following the general line of an old fence along the west line of said James Love Survey, and the east line of said B.B.B. and C. Railroad Company Survey to an iron rod at an old fence corner for the most southern interior corner of the tract described herein.

THENCE, West 1284.70 feet following the general line of an old fence across said B.B.B. and C. Railroad Company Survey to an iron rod for the most westerly southwest corner of the tract described herein.

THENCE, N 00° 20' 30" W 1011.50 feet following the general line of an old fence to an iron rod for the most westerly northwest corner of the tract described herein.

THENCE, N 89° 34' 00" E 1290.70 feet following the general line of an old fence to an iron rod at an old fence corner on the east line of said B.B.B. and C. Railroad Company Survey and the west line of said James Love Survey for the most northerly interior corner of the tract described herein.

THENCE, N 00° 27' 00" E 1276.10 feet following the general line of an old fence along the east line of said B.B.B. and C. Railroad Company Survey and the west line of said James Love Survey to the point of beginning, containing 190.61 acres, more or less.

The above described two tracts of land contain a total of 351.34 acres, more or less.

Sec. 3. It is determined and found that the boundaries and field notes of the district form a closure; and if any mistake is made in copying the

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field notes in the legislative process, or otherwise a mistake is made in the field notes, it shall in no way or manner affect the organization, existence, and validity of the district, or the right of the district to issue any type of bonds or refunding bonds for the purposes for which the district is created, or to pay the principal and interest thereon, or the right to assess, levy, and collect taxes, or the legality or operation of the district or its governing body.

Sec. 4. It is determined and found that all of the land and other property included within the area and boundaries of the district will be benefited by the works and project which are to be accomplished by the district pursuant to the powers conferred by the provisions of Article 16, Section 59, Constitution of Texas, and that said district was and is created to serve a public use and benefit.

Sec. 5. The district shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, authority, and duties conferred and imposed by the general laws of this State now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Article 16, Section 59, Constitution of Texas; but to the extent that the provisions of any such general laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such general laws are hereby adopted and incorporated by reference with the same effect as if incorporated in full in this Act. The powers and duties herein granted to the district shall be subject to the continuing right of supervision of the State, to be exercised by and through the Texas Water Rights Commission.

Sec. 6. It shall not be necessary for the board of directors to call or hold a confirmation election for the confirmation of the district.

Sec. 7. It shall not be necessary for the board of directors to call or hold a hearing on the exclusions of land or other property from the district; provided, however, that the board shall hold such hearing upon the written request of any landowner or other property owner within the district filed with the secretary of the board prior to the calling of the first bond election for the district. The board on its own motion may call and hold an exclusions hearing or hearings in the manner provided by the general law.

Sec. 8. It shall not be necessary for the board of directors to call or hold a hearing on the adoption of a plan of taxation, but the ad valorem plan of taxation shall be used by the district.

Sec. 9. All powers of the district shall be exercised by a board of five directors. Each director shall serve for his term of office as herein provided, and thereafter until his successor shall be elected or appointed and qualified. No person shall be appointed a director unless he is 21 years of age or over and a resident of the State of Texas. Such director shall not be required to reside within the boundaries of the district. Each director shall qualify by subscribing to the oath of office and giving bond in the amount of \$5,000 for the faithful performance of his duties. The cost of such bond shall be paid by the district. Such bond shall be filed in the office of the county clerk and approved by the county judge or the commissioner's court of the county within which district is situated. Such oath shall be filed with the secretary of the district's board of directors after his selection. The bonds of directors elected or appointed after the directors named below shall be approved by the district's board of directors, filed for record in the office of the county clerk of the county in which the district is located and shall be recorded in a record kept for that purpose in the office of the district and be filed for safekeeping in the depository of the district. Immediately after this Act becomes effective, the following named persons, all of whom are 21 years of age or over and

residents of the State of Texas, shall be the directors of the district and shall constitute the board of directors of the district:

Jacqueline Brainard
Jewel Tilley
Jane Bouldin
Julia Gonzales
Cleo Lee

Said persons shall qualify as directors within 30 days, or as soon thereafter as practicable, from the effective date of this Act. If any of the aforementioned persons shall fail or refuse to qualify or to serve, or shall die or become incapacitated, or otherwise not be qualified to assume the duties of a director of the district under this Act, a majority of the remaining directors shall appoint a successor or successors. The directors named above or their duly appointed successor or successors shall serve until the second Tuesday in January 1969. Succeeding directors shall be elected or appointed and shall serve for the term and in the manner provided for by Article 7880—37, Vernon's Texas Civil Statutes. The annual elections shall be ordered by the board of directors. Any vacancy occurring in the board of directors shall be filled for the unexpired term by a majority of the remaining directors. The board of directors shall elect from its number a president, a vice president, and a secretary of the board of directors and of the district, and such other officers as in the judgment of the board are necessary. Three directors shall constitute a quorum at any meeting, and a concurrence of three shall be sufficient in all matters pertaining to the business of the district including the letting of construction contracts and the drawing of warrants in payment for construction work, the purchase of existing facilities, and matters relating to construction work. Warrants to pay current expenses, salaries, and accounts may be drawn and signed by an officer or employee, designated by standing order entered on the minutes of the board of directors, when such accounts have been contracted and ordered paid by the directors. The president may execute all contracts, construction or otherwise, entered into by the board of directors on behalf of the district. The vice president shall perform all duties and exercise all power conferred by this Act or the general law upon the president when the president is absent or fails or declines to act. Any order adopted or other action taken at a meeting of the board of directors at which the president is absent may be signed by the vice president, or the board may authorize the president to sign such order or other action. The secretary shall keep and sign the minutes of the meetings of the board of directors; and in his absence at any board meeting, a secretary pro tem shall be named for that meeting who may exercise all the duties and powers of the secretary for such meeting, and shall sign the minutes thereof, and may attest all orders passed or other action taken at such meeting, or the board may authorize the secretary to attest such orders or other action. The secretary shall be the custodian of all minutes and records of the district. The board shall appoint all necessary engineers, attorneys, auditors, and other employees. The board shall adopt a seal for the district.

Sec. 10. Before issuing any construction bonds, the district shall submit plans and specifications therefor to the Texas Water Rights Commission for approval in the manner required by Article 7880—139, Revised Civil Statutes of Texas, 1925; and the district's project and improvements during the course of construction shall be subject to inspection in the manner provided by said Article 7880—139.

Sec. 11. When any kind of bonds or refunding bonds have been approved by the Attorney General of Texas, registered by the Comptroller of Public Accounts of the State of Texas, and issued by the district, such

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bonds or refunding bonds shall be negotiable, legal, valid, and binding obligations of the district and shall be incontestable for any cause.

Sec. 12. The power of eminent domain of the district shall be limited to the county or counties in which the district is situated. In the event that the district, in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, rerouting or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telegraph or telephone properties and facilities, or pipeline, all such necessary relocation, raising, rerouting, changing of grade, or alteration of construction shall be accomplished at the sole expense of the district. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, rerouting, or change in grade, or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

Sec. 13. This district is hereby created notwithstanding any of the provisions of the Municipal Annexation Act (Article 970a, Revised Civil Statutes of Texas, 1925), as amended, and to the extent of the creation of the district only, said Article 970a shall have no application. In all other respects, the district hereby created is expressly made subject to all provisions of said Article 970a.

Sec. 14. It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published at least 30 days and not more than 90 days prior to the introduction of this Act in the Legislature of Texas, in a newspaper having a general circulation in the county or counties in which this district or any part thereof is situated; that a copy of such notice and a copy of this Act have been delivered to the Governor of Texas, who has submitted such notice and Act to the Texas Water Rights Commission, and said Texas Water Rights Commission has filed its recommendation as to such Act with the Governor, Lieutenant Governor and Speaker of the House of Representatives of Texas within 30 days from the date such notice and Act were received by the Texas Water Rights Commission; and that all the requirements and provisions of Article 16, Section 59(d), Constitution of the State of Texas, have been fulfilled and accomplished as therein provided.

Sec. 15. The board of directors of the district shall select any bank or trust company in the State of Texas to act as depository of the proceeds of the bonds or revenues derived from the operation of the facilities of the district, and said depository shall furnish such indemnity bonds or pledge such securities or meet such other requirements as determined by the board of directors of the district. The district may select one or more depositories.

Sec. 16. In no manner limiting the right, power, or authority of the district, as heretofore granted, the district is specifically granted the right, power, and authority to purchase and construct, or to purchase or construct, or otherwise to acquire waterworks systems, sanitary sewer systems, storm sewer systems and drainage facilities, or parts of such systems or facilities, and to make any and all necessary purchases, constructions, improvements, extension, additions, and repairs thereto, and to purchase or acquire all necessary land, rights-of-way, easements, sites, equipment, buildings, plants, structures, and facilities therefor and to operate and maintain same, and to sell water and other services. The district may exercise any of the rights, powers, and authorities granted in this Act within or without the boundaries of the district and is specifically authorized to exercise any of said rights, powers, and authorities in order to provide water and sewerage services to areas within or without the boundaries of the district. The district may vote and issue any kind of bonds or

refunding bonds for any or all of such purposes herein provided, for contiguous or noncontiguous areas, and provide and make payment therefor and for necessary expenses in connection therewith.

Sec. 17. Bonds of the district, other than refunding bonds, may be sold at a price and upon the terms determined by the board of directors of the district, except that such bonds shall not be sold for a less amount than provided by law. Such bonds or refunding bonds may be sold in denominations of \$1,000 each or multiples thereof. Refunding bonds shall be sold at a price and under the terms of the general law applicable to water control and improvement districts. The district may exchange bonds or refunding bonds for property acquired by purchase, or in payment of the contract price of work done or materials furnished or services furnished for the use and benefit of the district; provided that no notice given pursuant to Article 7880—117, Revised Civil Statutes of Texas, 1925, as amended, shall be predicated upon or require the exchange of bonds or refunding bonds, and said article shall otherwise be applicable to this district in all respects.

Sec. 18. The provisions of Article 7880—77b, Revised Civil Statutes of Texas, 1925, as amended, or any other general law, pertaining to the calling of a hearing for the determination of the dissolution of a district where a bond election has failed shall be inapplicable to this district, and this district shall continue to exist and shall have full power to function and operate regardless of the outcome of any bond election. Upon the failure of any bond election, a subsequent bond election may be called after the expiration of six months from the date of the bond election which failed.

Sec. 19. Notice of all elections may be given under the hand of either the president or the secretary of the district.

Sec. 20. The returns of all elections may be canvassed by the board of directors of the district at any time within seven days after the holding of an election, or as soon thereafter as reasonably practicable. The election returns of the annual election of directors may be canvassed by the board of directors as it was composed at the time of such election, or by the directors elected at such election, or by a combination of both. At the board of directors meeting at which the returns are canvassed, composed as aforesaid, any director newly elected at such election may qualify by filing his official bond and taking the oath of office, either before or after the returns are canvassed, and upon the filing of such bond the board, composed as aforesaid, may approve same.

Sec. 21. The accomplishment of the purposes stated in this Act being for the benefit of the people of this state and for the improvement of their properties and industries, the district in carrying out the purposes of this Act will be performing an essential public function under the Constitution, and the district shall not be required to pay any tax or assessment on the project or any part thereof or on any purchases made by the district, and the bonds issued hereunder and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this state.

Sec. 22. All bonds and refunding bonds of the district shall be and are hereby declared to be legal, eligible, and authorized investments for banks, savings and loan associations, insurance companies, fiduciaries, trustees, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds and refunding bonds shall be eligible to secure the deposit of any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their face value, when accompanied by all unmatured coupons appurtenant thereto.

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Sec. 23. If any word, phrase, clause, paragraph, sentence, part, portion, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act shall nevertheless be valid, and the Legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion, or provision.

Acts 1967, 60th Leg., p. 1603, ch. 636, emerg. eff. June 16, 1967.

Title of Act:

An Act creating and establishing a conservation and reclamation district under Article 16, Section 59, Constitution of Texas, known as "Little York Municipal Utility District"; declaring district a governmental agency, body politic and corporate; defining the boundaries; finding the field notes and boundaries form a closure, and related matters; finding a benefit to all land and other property within the district; finding that district is created to serve a public use and benefit; conferring on district the rights, powers, privileges, authority and duties of the general laws of Texas applicable to water control and improvement districts created under Article 16, Section 59, Constitution of Texas, where not in conflict with this Act and adopting same by reference; providing for continuing supervision by the State through the Texas Water Rights Commission; providing for no election for confirmation; providing for no hearing for exclusions, except on written request or the board of directors' own motion; providing for no hearing on plan of taxation and adopting ad valorem plan of taxation for district; providing for governing body of district; providing for qualifications and bonds of directors; naming first board of directors; providing for directors to fill vacancies; providing for terms and election of directors and notice of directors' elections, and related matters; providing for organization of board of directors; providing for the letting of construction contracts and the drawing of warrants; providing for the execution of contracts by the president; providing for a vice president, a secretary, and a secretary pro tem and outlining their duties; providing for employment of engineers, attorneys, auditors, and other employees; providing for a seal for the district; providing for approval of district's plans and specifications by the Texas Water Rights Commission and inspection during construction by said Commission; providing for bonds and refunding bonds to be ap-

proved by the Attorney General of Texas and registered by the Comptroller of Public Accounts of Texas, and providing for negotiability, legality, validity, obligation, and incontestability of the bonds and refunding bonds; providing the power of eminent domain shall be limited to the county or counties within which district is situated; providing district shall bear expenses of relocating, raising, or rerouting any highway, railroad, or utility lines or pipelines made necessary by its exercise of the power of eminent domain; defining "sole expense"; providing that the Municipal Annexation Act shall have no application to the creation of this district; determining and finding the requirements of Article 16, Section 59(d), Constitution of Texas, as to notice of intention to introduce this Act have been fulfilled and accomplished; providing for the selection of a depository or depositories for the district and related matters; providing additional powers of district within and without the boundaries of district; providing for the voting and issuing of bonds to serve areas within or without the boundaries of district; providing for the sale of bonds of the district in denominations of \$1,000 or multiples thereof, for the exchange of bonds for property and services, and for the minimum price of bonds at such sale or exchange; providing that Article 7880—77b (Vernon's Texas Civil Statutes), shall not be applicable to this district, and related matters; providing that notice of all elections shall be under the hand of the president or secretary; providing for canvassing of election returns; providing the bonds of this district and their transfer and income therefrom and profits thereon and purchases made by district shall be tax-free in this State; providing the bonds and refunding bonds of this district shall be eligible investments; enacting other provisions related to the aforementioned subjects; providing for a severability clause; and declaring an emergency. Acts 1967, 60th Leg., p. 1603, ch. 636.

Art. 8280—383. Briar Ridge Municipal Utility District

Section 1. Under and pursuant to the provisions of Article 16, Section 59 of the Constitution of Texas, a conservation and reclamation district is hereby created and established in Harris County, Texas, to be known as "Briar Ridge Municipal Utility District," hereinafter called the "district," which shall be a governmental agency and a body politic and corporate. The creation and establishment of the district is hereby declared to be essential to the accomplishment of the purposes of Article 16, Section 59, Constitution of Texas.

Sec. 2. The district shall comprise all of the territory contained within the following described area:

All that certain tract or parcel of land situated wholly within Harris County, Texas, and being 496.804 acres, more or less, out of those tracts of land conveyed to M. M. Feld by deeds recorded in Volume 978, page 3, and Volume 4038, page 426, and that tract conveyed to M. M. Feld and Samuel Kaplan by deed recorded in Volume 3840, page 580, of the Deed Records of Harris County, Texas, in the H. Sanders Survey, A-753, the N. B. Waters Survey, A-872, and the R. T. Blackburn Survey, A-160. Said 496.804 acres, more or less, are described by metes and bounds as follows:

Beginning at a point in the Harris County-Fort Bend County, Texas line, said line being the southwesterly line of Harris County and the northeasterly line of Fort Bend County, said point being N 0° 00' 58" E 374.99 feet from a fence corner marking the northwest corner of Blue Bonnet Acres, the plat of which is recorded in Volume 13, page 26 of the Map Records of Harris County, Texas.

THENCE, N 0° 00' 58" E 2878.42 feet to a fence corner marking the most westerly northwest corner of the herein described tract.

THENCE, N 89° 52' 38" E 1998.22 feet along a fence line marking a north line of the herein described tract, said line being also the south line of Garden Place Addition, the plat of which is recorded in Volume 78, page 628 of the Deed Records of Harris County, Texas, to a 1-inch iron pipe.

THENCE, N 89° 45' 26" E 2104.55 feet continuing along a fence line marking a north line of the herein described tract and in part along the south line of said Garden Place Addition, to a ½-inch iron pipe.

THENCE, N 0° 07' 43" W 1609.83 feet along a fence line to a ⅝-inch iron rod found marking a northwest corner of the herein described tract.

THENCE, N 89° 51' 21" E 218.09 feet to a ⅝-inch iron rod found marking an interior corner of the herein described tract.

THENCE, N 0° 08' 09" W 1001.42 feet along a fence line to a 1-inch galvanized iron pipe found marking the most northerly northwest corner of the herein described tract, on the south right-of-way line of Anderson Road, 60 feet wide.

THENCE, N 89° 48' 36" E 956.80 feet along said south right-of-way line of Anderson Road to a ⅝-inch iron rod set for a northeast corner of the herein described tract.

THENCE, S 0° 02' 04" W 2608.07 feet to a 2-inch iron pipe found marking an interior corner of the herein described tract, said iron pipe also being the southeast corner of said N. B. Waters Survey, A-872.

THENCE, S 83° 24' 10" E 27.83 feet to a ¾-inch iron pipe found marking the northwest corner of the R. T. Blackburn Survey, A-160.

THENCE, N 89° 18' 49" E 435.26 feet along the north line of said R. T. Blackburn Survey to a ⅝-inch iron rod in the north line of said R. T. Blackburn Survey.

THENCE, N 89° 41' 40" E 894.36 feet continuing with the north line of said R. T. Blackburn Survey to a ⅝-inch iron rod set in the west right-of-way line of Almeda Road and marking the most easterly northeast corner of the herein described tract.

THENCE, S 19° 44' 27" W 2077.30 feet with the west right-of-way line of said Almeda Road to a ⅝-inch iron rod set for the most easterly southeast corner of the herein described tract.

THENCE, S 89° 34' 10" W 643.71 feet to a ⅝-inch iron rod set for an interior corner of the herein described tract.

THENCE, in a southerly direction along a fence line, said line being that same line as located by judgment entered on November 3, 1966 in cause No. 582,383 on the docket of the 157th District Court of Harris

For Annotations and Historical Notes, see V.A.T.S.

County, Texas, styled Fannie Feld, individually and as independent executrix for the estate of Mose Feld, deceased, et al, v. Blanche Tyler, et al, as follows:

S 0° 03' 30" E 56.90 feet.

S 0° 25' 30" E 657.48 feet to a point for corner, from which a ¾-inch iron pipe bears East 4.99 feet.

THENCE, S 89° 56' 09" W 394.83 feet to a ¾-inch iron pipe.

THENCE, S 0° 35' 19" W 605.46 feet to a ⅝-inch iron rod for a point in the north line of said Blue Bonnet Acres Addition.

THENCE, West 4197.58 feet along said north line of Blue Bonnet Addition to a point in said county line.

THENCE, N 61° 26' 43" W 784.51 feet with said county line to the place of beginning.

Containing 496.804 acres, more or less.

Sec. 3. It is determined and found that the boundaries and field notes of the district form a closure; and if any mistake is made in copying the field notes in the legislative process, or otherwise a mistake is made in the field notes, it shall in no way or manner affect the organization, existence, and validity of the district, or the right of the district to issue any type of bonds or refunding bonds for the purposes for which the district is created, or to pay the principal and interest thereon, or the right to assess, levy, and collect taxes, or the legality or operation of the district or its governing body.

Sec. 4. It is determined and found that all of the land and other property included within the area and boundaries of the district will be benefited by the works and project which are to be accomplished by the district pursuant to the powers conferred by the provisions of Article 16, Section 59, Constitution of Texas, and that said district was and is created to serve a public use and benefit.

Sec. 5. The district shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, authority, and duties conferred and imposed by the general laws of this State now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Article 16, Section 59, Constitution of Texas; but to the extent that the provisions of any such general laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such general laws are hereby adopted and incorporated by reference with the same effect as if incorporated in full in this Act. The powers and duties herein granted to the district shall be subject to the continuing right of supervision of the State, to be exercised by and through the Texas Water Rights Commission.

Sec. 6. It shall not be necessary for the board of directors to call or hold a confirmation election for the confirmation of the district.

Sec. 7. It shall not be necessary for the board of directors to call or hold a hearing on the exclusions of land or other property from the district; provided, however, that the board shall hold such hearing upon the written request of any landowner or other property owner within the district filed with the secretary of the board prior to the calling of the first bond election for the district. The board on its own motion may call and hold an exclusions hearing or hearings in the manner provided by the general law.

Sec. 8. It shall not be necessary for the board of directors to call or hold a hearing on the adoption of a plan of taxation, but the ad valorem plan of taxation shall be used by the district.

Sec. 9. All powers of the district shall be exercised by a board of five directors. Each director shall serve for his term of office as herein provided, and thereafter until his successor shall be elected or appointed and

qualified. No person shall be appointed a director unless he is 21 years of age or over and a resident of the State of Texas. Such director shall not be required to reside within the boundaries of the district. Each director shall qualify by subscribing to the oath of office and giving bond in the amount of \$5,000 for the faithful performance of his duties. The cost of such bond shall be paid by the district. Such bond shall be filed in the office of the county clerk and approved by the county judge or the commissioner's court of the county within which district is situated. Such oath shall be filed with the secretary of the district's board of directors after his selection. The bonds of directors elected or appointed after the directors named below shall be approved by the district's board of directors, filed for record in the office of the county clerk of the county in which the district is located and shall be recorded in a record kept for that purpose in the office of the district and be filed for safekeeping in the depository of the district. Immediately after this Act becomes effective, the following named persons, all of whom are 21 years of age or over and residents of the State of Texas, shall be the directors of the district and shall constitute the board of directors of the district:

M. M. Feld, Jr.
Robert D. Atkinson
Holt P. Daniels
David C. DuBose
Richard H. McClendon

Said persons shall qualify as directors within 30 days, or as soon thereafter as practicable, from the effective date of this Act. If any of the aforementioned persons shall fail or refuse to qualify or to serve, or shall die or become incapacitated, or otherwise not be qualified to assume the duties of a director of the district under this Act, a majority of the remaining directors shall appoint a successor or successors. The directors named above or their duly appointed successor or successors shall serve until the second Tuesday in January 1969. Succeeding directors shall be elected or appointed and shall serve for the term and in the manner provided for by Article 7880—37, Vernon's Texas Civil Statutes. The annual elections shall be ordered by the board of directors. Any vacancy occurring in the board of directors shall be filled for the unexpired term by a majority of the remaining directors. The board of directors shall elect from its number a president, a vice president, and a secretary of the board of directors and of the district, and such other officers as in the judgment of the board are necessary. Three directors shall constitute a quorum at any meeting, and a concurrence of three shall be sufficient in all matters pertaining to the business of the district including the letting of construction contracts and the drawing of warrants in payment for construction work, the purchase of existing facilities, and matters relating to construction work. Warrants to pay current expenses, salaries, and accounts may be drawn and signed by an officer or employee, designated by standing order entered on the minutes of the board of directors, when such accounts have been contracted and ordered paid by the directors. The president may execute all contracts, construction or otherwise, entered into by the board of directors on behalf of the district. The vice president shall perform all duties and exercise all power conferred by this Act or the general law upon the president when the president is absent or fails or declines to act. Any order adopted or other action taken at a meeting of the board of directors at which the president is absent may be signed by the vice president, or the board may authorize the president to sign such order or other action. The secretary shall keep and sign the minutes of the meetings of the board of directors; and in his absence at any board meeting, a secretary pro tem shall be named for that meeting who may exercise all the duties and powers of the secretary for such meeting, and shall sign

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the minutes thereof, and may attest all orders passed or other action taken at such meeting, or the board may authorize the secretary to attest such orders or other action. The secretary shall be the custodian of all minutes and records of the district. The board shall appoint all necessary engineers, attorneys, auditors, and other employees. The board shall adopt a seal for the district.

Sec. 10. Before issuing any construction bonds, the district shall submit plans and specifications therefor to the Texas Water Rights Commission for approval in the manner required by Article 7880—139, Revised Civil Statutes of Texas, 1925; and the district's project and improvements during the course of construction shall be subject to inspection in the manner provided by said Article 7880—139.

Sec. 11. When any kind of bonds or refunding bonds have been approved by the Attorney General of Texas, registered by the Comptroller of Public Accounts of the State of Texas, and issued by the district, such bonds or refunding bonds shall be negotiable, legal, valid, and binding obligations of the district and shall be incontestable for any cause.

Sec. 12. The power of eminent domain of the district shall be limited to the county or counties in which the district is situated. In the event that the district, in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, re-routing or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telegraph or telephone properties and facilities, or pipeline, all such necessary relocation, raising, re-routing, changing of grade, or alteration of construction shall be accomplished at the sole expense of the district. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, re-routing, or change in grade, or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

Sec. 13. This district is hereby created notwithstanding any of the provisions of the Municipal Annexation Act (Article 970a, Revised Civil Statutes of Texas, 1925), as amended, and to the extent of the creation of the district only, said Article 970a shall have no application. In all other respects, the district hereby created is expressly made subject to all provisions of said Article 970a.

Sec. 14. It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published at least 30 days and not more than 90 days prior to the introduction of this Act in the Legislature of Texas, in a newspaper having a general circulation in the county or counties in which this district or any part thereof is situated; that a copy of such notice and a copy of this Act have been delivered to the Governor of Texas, who has submitted such notice and Act to the Texas Water Rights Commission, and said Texas Water Rights Commission has filed its recommendation as to such Act with the Governor, Lieutenant Governor and Speaker of the House of Representatives of Texas within 30 days from the date such notice and Act were received by the Texas Water Rights Commission; and that all the requirements and provisions of Article 16, Section 59(d), Constitution of the State of Texas, have been fulfilled and accomplished as therein provided.

Sec. 15. The board of directors of the district shall select any bank or trust company in the State of Texas to act as depository of the proceeds of the bonds or revenues derived from the operation of the facilities of the district, and said depository shall furnish such indemnity bonds or pledge such securities or meet such other requirements as determined by the board of directors of the district. The district may select one or more depositories.

Sec. 16. In no manner limiting the right, power, or authority of the district, as heretofore granted, the district is specifically granted the right, power, and authority to purchase and construct, or to purchase or construct, or otherwise to acquire waterworks systems, sanitary sewer systems, storm sewer systems and drainage facilities, or parts of such systems or facilities, and to make any and all necessary purchases, constructions, improvements, extension, additions, and repairs thereto, and to purchase or acquire all necessary land, rights-of-way, easements, sites, equipment, buildings, plants, structures, and facilities therefor and to operate and maintain same, and to sell water and other services. The district may exercise any of the rights, powers, and authorities granted in this Act within or without the boundaries of the district and is specifically authorized to exercise any of said rights, powers, and authorities in order to provide water and sewerage services to areas within or without the boundaries of the district. The district may vote and issue any kind of bonds or refunding bonds for any or all of such purposes herein provided, for contiguous or noncontiguous areas, and provide and make payment therefor and for necessary expenses in connection therewith.

Sec. 17. Bonds of the district, other than refunding bonds, may be sold at a price and upon the terms determined by the board of directors of the district, except that such bonds shall not be sold for a less amount than provided by law. Such bonds or refunding bonds may be sold in denominations of \$1,000 each or multiples thereof. Refunding bonds shall be sold at a price and under the terms of the general law applicable to water control and improvement districts. The district may exchange bonds or refunding bonds for property acquired by purchase, or in payment of the contract price of work done or materials furnished or services furnished for the use and benefit of the district; provided that no notice given pursuant to Article 7880—117, Revised Civil Statutes of Texas, 1925, as amended, shall be predicated upon or require the exchange of bonds or refunding bonds, and said article shall otherwise be applicable to this district in all respects.

Sec. 18. The provisions of Article 7880—77b, Revised Civil Statutes of Texas, 1925, as amended, or any other general law, pertaining to the calling of a hearing for the determination of the dissolution of a district where a bond election has failed shall be inapplicable to this district, and this district shall continue to exist and shall have full power to function and operate regardless of the outcome of any bond election. Upon the failure of any bond election, a subsequent bond election may be called after the expiration of six months from the date of the bond election which failed.

Sec. 19. Notice of all elections may be given under the hand of either the president or the secretary of the district.

Sec. 20. The returns of all elections may be canvassed by the board of directors of the district at any time within seven days after the holding of an election, or as soon thereafter as reasonably practicable. The election returns of the annual election of directors may be canvassed by the board of directors as it was composed at the time of such election, or by the directors elected at such election, or by a combination of both. At the board of directors meeting at which the returns are canvassed, composed as aforesaid, any director newly elected at such election may qualify by filing his official bond and taking the oath of office, either before or after the returns are canvassed, and upon the filing of such bond the board, composed as aforesaid, may approve same.

Sec. 21. The accomplishment of the purposes stated in this Act being for the benefit of the people of this state and for the improvement of their properties and industries, the district in carrying out the purposes of this Act will be performing an essential public function under the Constitution, and the district shall not be required to pay any tax or assessment on the project or any part thereof or on any purchases made by the dis-

For Annotations and Historical Notes, see V.A.T.S.

tract, and the bonds issued hereunder and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this state.

Sec. 22. All bonds and refunding bonds of the district shall be and are hereby declared to be legal, eligible, and authorized investments for banks, savings and loan associations, insurance companies, fiduciaries, trustees, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds and refunding bonds shall be eligible to secure the deposit of any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their face value, when accompanied by all unmatured coupons appurtenant thereto.

Sec. 23. If any word, phrase, clause, paragraph, sentence, part, portion, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act shall nevertheless be valid, and the Legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion, or provision.

Acts 1967, 60th Leg., p. 1610, ch. 637, emerg. eff. June 16, 1967.

Title of Act:

An Act creating and establishing a conservation and reclamation district under Article 16, Section 59, Constitution of Texas, known as "Briar Ridge Municipal Utility District," declaring district a governmental agency, body politic and corporate; defining the boundaries; finding the field notes and boundaries form a closure, and related matters; finding a benefit to all land and other property within the district; finding that district is created to serve a public use and benefit; conferring on district the rights, powers, privileges, authority and duties of the general laws of Texas applicable to water control and improvement districts created under Article 16, Section 59, Constitution of Texas, where not in conflict with this Act and adopting same by reference; providing for continuing supervision by the State through the Texas Water Rights Commission; providing for no election for confirmation; providing for no hearing for exclusions, except on written request or the board of directors' own motion; providing for no hearing on plan of taxation and adopting ad valorem plan of taxation for district; providing for governing body of district; providing for qualifications and bonds of directors; naming first board of directors; providing for directors to fill vacancies; providing for terms and election of directors and notice of directors' elections, and related matters; providing for organization of board of directors; providing for the letting of construction contracts and the drawing of warrants; providing for the execution of contracts by the president; providing for a vice president, a secretary, and a secretary pro tem and outlining their duties; providing for employment of engineers, attorneys, auditors, and other employees; providing for a seal for the district; providing for approval of district's plans and specifications by the Texas Wa-

ter Rights Commission and inspection during construction by said Commission; providing for bonds and refunding bonds to be approved by the Attorney General of Texas and registered by the Comptroller of Public Accounts of Texas, and providing for negotiability, legality, validity, obligation, and incontestability of the bonds and refunding bonds; providing the power of eminent domain shall be limited to the county or counties within which district is situated; providing district shall bear expenses of relocating, raising, or rerouting any highway, railroad, or utility lines or pipelines made necessary by its exercise of the power of eminent domain; defining "sole expense"; providing that the Municipal Annexation Act shall have no application to the creation of this district; determining and finding the requirements of Article 16, Section 59(d), Constitution of Texas, as to notice of intention to introduce this Act have been fulfilled and accomplished; providing for the selection of a depository or depositories for the district and related matters; providing additional powers of district within and without the boundaries of district; providing for the voting and issuing of bonds to serve areas within or without the boundaries of district; providing for the sale of bonds of the district in denominations of \$1,000 or multiples thereof, for the exchange of bonds for property and services, and for the minimum price of bonds at such sale or exchange; providing that Article 7880—77b (Vernon's Texas Civil Statutes), shall not be applicable to this district, and related matters; providing that notice of all elections shall be under the hand of the president or secretary; providing for canvassing of election returns; providing the bonds of this district and their transfer and income therefrom and profits thereon and purchases made by district shall be tax-free in this State; providing the bonds and refunding

bonds of this district shall be eligible investments; enacting other provisions related to the aforementioned subjects; providing for a severability clause; and declaring an emergency. Acts 1967, 60th Leg., p. 1610, ch. 637.

Art. 8280—384. Willow Creek Water Control District

Section 1. There is hereby created within the State of Texas a conservation and reclamation district to be known as the Willow Creek Water Control District which shall include and consist of portions of the counties of Runnels and Tom Green described and contained within the metes and bounds set forth in Section 2 of this Act. The district is hereby declared to be a governmental agency and body politic with the power to exercise the rights, privileges, and functions hereinafter specified, and the creation of this district is hereby declared to be essential to the accomplishment of the purposes set forth in Section 59, Article XVI of the Constitution of Texas.

Sec. 2. (a) It is expressly determined and found that all of the territory included within the area of the district will be benefited by the works and projects which are to be accomplished by the district pursuant to the powers conferred by the provisions of Section 59, Article XVI of the Constitution of Texas.

(b) The area of the district shall be all of that territory enclosed within the following metes and bounds description, to wit:

44 square miles, more or less, of land in Tom Green and Runnels Counties, Texas, described by metes and bounds as follows:

BEGINNING on the North bank of the Concho River at the Southeast corner of the German Emigration Company Survey No. 365 in Tom Green County;

THENCE up the Concho River, following the meanders of its North bank, to the Southwest corner of the German Emigration Company Survey No. 359;

THENCE North to the Northeast corner of the German Emigration Company Survey No. 358;

THENCE West to the Northwest corner of the German Emigration Company Survey No. 358;

THENCE North to the Northeast corner of the German Emigration Company Survey No. 357;

THENCE West to the Southwest corner of the E. J. Vaughn Survey No. 1;

THENCE North to the Northeast corner of the German Emigration Company Survey No. 356;

THENCE West to the Northwest corner of the German Emigration Company Survey No. 356;

THENCE North to the Northeast corner of the German Emigration Company Survey No. 355;

THENCE West to the Northwest corner of the German Emigration Company Survey No. 355;

THENCE South to the Northeast corner of the German Emigration Company Survey No. 354;

THENCE West to the Northwest corner of the German Emigration Company Survey No. 354;

THENCE South to the most Southern Southeast corner of the T. & N. O. Ry. Co. Survey No. 64, at the Northeast corner of W. Nicholls Survey No. 352½;

THENCE West to the Southwest corner of the T. & N. O. Ry. Co. Survey No. 64 and the Northwest corner of the W. Nicholls Survey No. 352½;

THENCE North to the Northeast corner of the W. Nolde Survey No. 938;

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THENCE West to the Southwest corner of the M. B. Boykin Survey and a Southeast corner of Survey No. 3;

THENCE North to the Northwest corner of the M. B. Boykin Survey;

THENCE West to the East line of the W. A. Phillips Survey No. 2;

THENCE North to the Northeast corner of the W. A. Phillips Survey No. 2 in the South line of W. C. Ry. Co. Survey No. 47;

THENCE West to the Southwest corner of W. C. Ry. Co. Survey No. 47;

THENCE North to the Northeast corner of W. C. Ry. Co. Survey No. 34 and the Northwest corner of W. C. Ry. Co. Survey No. 47;

THENCE West to the Northwest corner of the W. C. Ry. Co. Survey No. 34 and the Southeast corner of W. C. Ry. Co. Survey No. 32;

THENCE North to the Northeast corner of W. C. Ry. Co. Survey No. 32;

THENCE West to the Southwest corner of W. C. Ry. Co. Survey No. 31;

THENCE North to the Northeast corner of the South one-half of W. C. Ry. Co. Survey No. 28;

THENCE West to the Northwest corner of the South one-half of W. C. Ry. Co. Survey No. 28;

THENCE North to the Northwest corner of W. C. Ry. Co. Survey No. 110;

THENCE East to the Northeast corner of W. C. Ry. Co. Survey No. 111;

THENCE North to the North line of Tom Green County and the South line of Coke County;

THENCE East with the boundary line between Tom Green and Coke Counties to the intersection of such boundary line with the East line of the W. C. Ry. Co. Survey No. 41;

THENCE South to the Southeast corner of W. C. Ry. Co. Survey No. 41 and the Northwest corner of T. & N. O. Ry. Co. Survey No. 53;

THENCE East to the Northeast corner of T. & N. O. Ry. Co. Survey No. 53;

THENCE South to the Southeast corner of T. & N. O. Ry. Co. Survey No. 53 and the Northwest corner of T. & N. O. Ry. Co. Survey No. 57;

THENCE East to the Northeast corner of T. & N. O. Ry. Co. Survey No. 57;

THENCE South to the Southeast corner of T. & N. O. Ry. Co. Survey No. 57 and the Northwest corner of T. & N. O. Ry. Co. Survey No. 71;

THENCE East to the Northeast corner of T. & N. O. Ry. Co. Survey No. 71;

THENCE South to the Northeast corner of T. & N. O. Ry. Co. Survey No. 69;

THENCE East to the Northeast corner of T. & N. O. Ry. Co. Survey No. 87;

THENCE South to the Northwest corner of T. & N. O. Ry. Co. Survey No. 85;

THENCE East to the Northeast corner of T. & N. O. Ry. Co. Survey No. 85;

THENCE South to the Southeast corner of W. C. Ry. Co. Survey No. 138 and the Northeast corner of E. J. Vaughn Survey No. 1;

THENCE West to the most Northerly Northwest corner of E. J. Vaughn Survey No. 1 and the Northeast corner of T. & N. O. Ry. Co. Survey No. 1;

THENCE South to the Southeast corner of T. & N. O. Ry. Co. Survey No. 1;

THENCE East to the West boundary line of German Emigration Company Survey No. 366;

THENCE South to the place of beginning.

(c) It is determined and found that the boundaries and field notes of the district form a closure, and if any mistake is made in copying the field notes in the legislative process, or otherwise a mistake is made in the field notes, it shall in no way or manner affect the organization, existence and validity of the district, or the right of the district to issue any type or kind of bonds or refunding bonds, or to pay the principal and interest thereon, or the right to assess, levy and collect taxes, or the legality or operation of the district or its governing body, which shall be a board of directors as hereinafter provided.

Sec. 3. The district shall conduct preliminary surveys and develop a plan for the control and use of the waters of Willow Creek to the end that improvements upon any one part of the watershed will be mechanically and economically related to the improvements of the entire watershed. Upon the completion of such surveys and plans, and their adoption by the directors of the district, a certified copy thereof shall be filed with the Texas Water Rights Commission for informational purposes.

Sec. 4. (a) The accomplishment of the purposes stated in this Act being for the benefit of the people of this state and for the improvement of their properties and industries, the district in carrying out the purposes of this Act will be performing an essential public function under the Constitution, and the district shall not be required to pay any tax or assessment on the project or any part thereof, and the bonds issued hereunder and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this state.

(b) No election shall be necessary for the purpose of confirming the organization of the district and no hearing shall be held to determine whether any lands or property included within the boundaries of the district shall be excluded; provided, however, that the board shall hold such hearing upon the written request of any landowner or other property owner within the district filed with the secretary of the board prior to the calling of the first bond election for the district. The board on its own motion may call and hold an exclusions hearing or hearings in the manner provided by the general law.

(c) The ad valorem plan of taxation is hereby adopted for the district and all taxes hereafter levied by the district shall be on an ad valorem basis and no hearing shall be required on a plan of taxation.

Sec. 5. The district shall have and exercise and is hereby vested with all the rights, powers, privileges and duties conferred and imposed by the general laws of this state now in force or hereafter enacted applicable to water control and improvement districts created under the authority of Section 59, Article XVI, Constitution of Texas, but to the extent that the provisions of any such general laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. Any such general laws are hereby incorporated by reference with the same effect as if incorporated in this Act.

Sec. 6. In addition to the powers contained in said general laws, the district shall have and possess all powers necessary or requisite to fully cooperate with the federal government, its agencies, departments and representatives thereof in taking advantage of, and in securing and getting assistance, aid, benefits, grants, loans, credit and money as provided in Public Law 566, 83rd Congress, Chapter 656, 2d Session, H.R. 6788, as amended, and as same may be hereafter amended. It is the intention of the Legislature to create the district with all the powers and authority necessary to fully qualify and gain the full benefits of said public laws including, but not limited to, all powers and authority necessary or requisite to carry out the projects and works and improvements contemplated by said public laws and the power and authority to secure a loan

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or loans from the proper agencies or departments of the federal government, and if necessary to issue bonds of the district as collateral or security therefor, for the purpose of defraying the costs and expenses of the district in connection with the carrying out of its projects and works and improvements. The provisions of said public laws that are applicable to the district are hereby enacted into this Act by reference and are made applicable to the district.

Sec. 7. (a) In exercising the power for which the district is created, it shall have all of the authority conferred by general law upon water control and improvement districts, including, but not limited to, the power to construct, acquire, improve, maintain and repair dams or other structures and the acquisition, by eminent domain or otherwise, of land, easements, properties, or equipment which may be needed to utilize, control, and distribute any waters that may be impounded, diverted, or controlled by the district.

(b) In the event that the district, in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, rerouting or changing the grade of, or altering the construction of any highway, railroad, electric transmission line, telephone or telegraph properties and facilities, or pipeline, all such necessary relocation, raising, rerouting, changing of grade or alteration of construction shall be accomplished at the sole expense of the district. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, rerouting or change in grade or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

Sec. 8. For the purpose of providing dams, structures, projects and works of improvement for flood prevention, the conservation and development of water, and for other necessary plants, facilities and equipment in connection therewith and for the improvement, repair and operation of same and for carrying out any other powers or authority conferred by this Act or by Chapter 25 of the General Laws of the 39th Legislature, Regular Session, and the several amendments thereof, and for the purpose of paying all costs, charges and expenses of the district, the district is empowered to issue negotiable bonds in the manner provided by general law for water control and improvement districts.

Sec. 9. No loan shall be consummated by the district from the federal government and no bonds shall hereafter be issued unless authorized at an election at which only qualified voters who reside in the district, and who own taxable property therein and who have duly rendered same for taxation, shall be qualified to vote unless a majority of the votes cast favor the proposition. Upon approval of the bonds by the attorney general and registration by the comptroller they shall be incontestable.

Sec. 10. If the plans for works and improvements or amendments thereto contemplated by the district are prepared by the Soil Conservation Service, United States Department of Agriculture, and approved by the district's directors it shall not be necessary for an engineer's report covering the plans and improvements to be constructed, together with the maps, plats, profiles and data fully showing and explaining same be filed in the office of the district before an election is held to authorize the issuance of bonds in connection with such works and improvements and it shall not be necessary for such plans and specifications, engineering reports, profiles, maps and other data, or subsequent amendments thereto to be approved by the Texas Water Rights Commission prior to the issuance of such bonds; provided, however, that before the expenditure of any funds for the construction of any works and improvements, the approval of the Texas Water Rights Commission shall be secured for that portion of the works and improvements to be constructed and

it shall not be necessary for advance approval to be given for the entire project contemplated by the district, but approval may be secured or given on a separate or individual basis for that portion of the entire project or works and improvements to be constructed at any particular time and on which plans and specifications of the Soil Conservation Service, United States Department of Agriculture, have been prepared and submitted by the directors to the Texas Water Rights Commission.

Sec. 11. All bonds of the district shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, trustees, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas, and any and all public funds of cities, towns, villages, counties, school districts or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their par value, when accompanied by all unmatured interest coupons appurtenant thereto.

Sec. 12. (a) The board of directors is authorized to call an election to submit to the resident qualified property taxpaying voters who have duly rendered their property for taxation the question of whether a maintenance tax may be levied by the district for the purpose of maintaining the projects, works, structures or improvements which the district is authorized to construct, purchase, acquire, or improve.

(b) In calling such an election, the board of directors shall specify the maximum rate of tax that may be levied and collected in any one year and shall specify that such tax shall be levied on an ad valorem basis. The election shall be called, held and conducted, and notices thereof shall be given in the mode and manner as required by the general law for the holding of elections for the authorization of the issuance of bonds and nothing herein shall prevent such election from being held at the same time as an election for the issuance of bonds, and the holding of such elections at the same time or at separate times is hereby authorized. The levy and collection of the maintenance tax, including the cost of assessing and collecting of the maintenance tax, is hereby authorized upon the affirmative vote of a majority of the qualified voters voting at said election.

(c) The district is authorized to expend funds collected as maintenance taxes for easements and rights-of-way and for any of the purposes for which a district could expend bond proceeds as well as for maintenance purposes and the district is authorized to place surplus maintenance funds not needed for maintenance purposes into the sinking funds for any outstanding bonds of the district. The determination by the board of directors of the expenditure of maintenance funds of the district shall be final and cannot be judicially reviewed save on the grounds of fraud, palpable error, or gross abuse of discretion.

Sec. 13. The district is hereby empowered and authorized to cooperate with state, federal, and other agencies and groups in wildlife programs, not inconsistent with the purposes of the district set forth herein, designed to improve the general habitat of wildlife and to promote the propagation thereof.

Sec. 14. Except as modified or supplemented by the provisions of this Act, all laws or parts of laws now in effect or hereafter adopted, as well as those amendatory or supplemental to the general laws pertaining to water control and improvement districts, are adopted by reference as though set out at length herein, and such laws shall govern the district.

Sec. 15. (a) The board of directors of the district shall be comprised of seven persons. Immediately after this Act becomes effective

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the following named persons shall be the directors of the district and shall constitute the board of directors of said district: Dawson Coleman, L. P. Schwertner, Richard Book, A. C. Wendland, James Wright, A. T. Granzin, J. W. Klattenhoff.

(b) The board of directors herein appointed shall serve until their successors have been duly elected and qualified. The first four directors named above shall serve until the second Tuesday in January 1968, and the following three directors shall serve until the second Tuesday in January 1969. An election for directors shall be held on the second Tuesday of each year as provided herein. Four directors shall be elected in each even-numbered year and three in each odd-numbered year.

(c) The directors of the district shall be landowners within the district and reside within Runnels or Tom Green counties and shall retain such status during their tenure in office or vacate such office.

(d) Directors of the district shall subscribe to the constitutional oath of office and each shall give bond in the amount of \$5,000 for the faithful performance of his duties, the cost of which shall be paid by the district. A majority of the directors shall constitute a quorum.

(e) Each director shall serve until his successor has been duly elected or appointed and has duly qualified.

(f) Any vacancy occurring in the board of directors shall be filled for the unexpired term by a majority vote of the remaining directors.

(g) Failure to call an election for directors will in no way affect the legal status of the district or the board of directors or the individual directors or the right of said board of directors to act or function and the directors shall serve until an election is held under the provisions of law and the succeeding directors have been duly elected or appointed and have duly qualified.

Sec. 16. The Legislature finds that the requirements of Section 59(d), Article XVI, Constitution of the State of Texas, concerning the introduction of this Act have been met.

Acts 1967, 60th Leg., p. 1617, ch. 638, emerg. eff. June 16, 1967.

Title of Act:

An Act relating to the creation of the Willow Creek Water Control District as a conservation and reclamation district in portions of Runnels and Tom Green counties under the provisions of Section 59,

Article XVI of the Constitution of the State of Texas; prescribing the powers, duties, functions, and procedures of the district; and declaring an emergency. Acts 1967, 60th Leg., p. 1617, ch. 638.

Art. 8280—385. Holiday Lakes Estates Municipal Utility District

Section 1. Under and pursuant to the provisions of Article 16, Section 59 of the Constitution of Texas, a conservation and reclamation district is hereby created and established in Polk County, Texas, to be known as "Holiday Lakes Estates Municipal Utility District," hereinafter called the "district," which shall be a governmental agency and a body politic and corporate. The creation and establishment of the district is hereby declared to be essential to the accomplishment of the purposes of Article 16, Section 59, Constitution of Texas.

Sec. 2. The district shall comprise all of the territory contained within the following described area:

Lying wholly within Polk County, Texas, and being a 760.886-acre tract in the A. Viesca 7 League Grant, A-77, the William Coleman Survey, A-161, and the S. C. Hiram Survey, A-37, and described as follows:

Beginning at a point being the southwest corner of Section 1 of Holiday Lake Estates, a subdivision in Polk County, Texas, a plat of which is recorded in Volume 1, page 112 of the Polk County Plat Records,

THENCE, N 34° 33' E 670.00 feet.

THENCE, N 55° 27' W 36.18 feet.

THENCE, N 11° 54' W 220.50 feet.

THENCE, N 47° 44' E 355.40 feet.

THENCE, N 20° 18' 30" E 2324.21 feet to a point for the northwest corner of Holiday Lakes Estates.

THENCE, S 43° 26' E 1101.39 feet.

THENCE, N 44° 26' E 610.45 feet.

THENCE, S 45° 44' E 761.00 feet.

THENCE, N 58° 42' E 1101.71 feet.

THENCE, S 31° 04' E 953.58 feet.

THENCE, N 48° 32' E 685.63 feet.

THENCE, S 24° 41' E 2478.82 feet to a point in the south line of the A. Viesca 7 League Grant, A-77, and the north line of the William Coleman Survey, A-161.

THENCE, with said survey line S 57° 37' W 585.38 feet.

THENCE, S 23° 38' E 1227.43 feet to a point in the south line of the William Coleman Survey, A-161, and the north line of the S. C. Hiram Survey, A-37.

THENCE, with said survey line S 89° 58' E 3136.82 feet.

THENCE, S 00° 16' W 2760.00 feet to the southeast corner of Holiday Lakes Estates, being a point on the north bank of the Trinity River.

THENCE, with the meanders of the Trinity River as follows:

S 79° 00' W 179.90 feet,
N 88° 52' W 329.00 feet,
S 65° 37' W 116.75 feet,
N 83° 36' W 211.20 feet,
S 84° 25' W 198.80 feet,
N 82° 10' W 233.10 feet,
S 84° 15' W 270.60 feet,
N 85° 00' W 248.80 feet,
N 87° 54' W 670.00 feet,
S 75° 02' W 148.20 feet,
N 80° 48' W 215.55 feet,
S 85° 50' W 298.75 feet,
N 74° 35' 57" W 127.54 feet,
S 86° 45' W 415.75 feet,
S 57° 48' W 113.45 feet,
N 48° 29' W 237.90 feet,
N 35° 29' W 322.60 feet,
N 47° 08' W 348.50 feet,
N 26° 00' W 307.40 feet,
N 45° 17' W 236.40 feet,
N 30° 43' W 289.80 feet,
N 80° 33' W 116.00 feet,
N 37° 00' W 345.15 feet,
N 49° 23' W 346.75 feet,
N 59° 53' W 543.90 feet,
N 69° 33' W 615.90 feet,
N 53° 09' W 306.70 feet,
N 63° 30' W 244.90 feet,
N 73° 01' W 561.50 feet,
N 66° 26' W 225.20 feet,
N 54° 30' W 226.50 feet,
N 37° 53' W 576.00 feet,
N 50° 35' W 381.15 feet,
N 73° 22' W 292.30 feet,
N 65° 18' W 503.80 feet to the point of beginning.

Containing 760.886 acres, more or less.

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Sec. 3. It is determined and found that the boundaries and field notes of the district form a closure; and if any mistake is made in copying the field notes in the legislative process, or otherwise a mistake is made in the field notes, it shall in no way or manner affect the organization, existence, and validity of the district, or the right of the district to issue any type of bonds or refunding bonds for the purposes for which the district is created, or to pay the principal and interest thereon, or the right to assess, levy, and collect taxes, or the legality or operation of the district or its governing body.

Sec. 4. It is determined and found that all of the land and other property included within the area and boundaries of the district will be benefited by the works and project which are to be accomplished by the district pursuant to the powers conferred by the provisions of Article 16, Section 59, Constitution of Texas, and that said district was and is created to serve a public use and benefit.

Sec. 5. The district shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, authority, and duties conferred and imposed by the general laws of this State now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Article 16, Section 59, Constitution of Texas; but to the extent that the provisions of any such general laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such general laws are hereby adopted and incorporated by reference with the same effect as if incorporated in full in this Act. The powers and duties herein granted to the district shall be subject to the continuing right of supervision of the State, to be exercised by and through the Texas Water Rights Commission.

Sec. 6. It shall not be necessary for the board of directors to call or hold a confirmation election for the confirmation of the district.

Sec. 7. It shall not be necessary for the board of directors to call or hold a hearing on the exclusions of land or other property from the district; provided, however, that the board shall hold such hearing upon the written request of any landowner or other property owner within the district filed with the secretary of the board prior to the calling of the first bond election for the district. The board on its own motion may call and hold an exclusions hearing or hearings in the manner provided by the general law.

Sec. 8. It shall not be necessary for the board of directors to call or hold a hearing on the adoption of a plan of taxation, but the ad valorem plan of taxation shall be used by the district.

Sec. 9. All powers of the district shall be exercised by a board of five directors. Each director shall serve for his term of office as herein provided, and thereafter until his successor shall be elected or appointed and qualified. No person shall be appointed a director unless he is 21 years of age or over and a resident of the State of Texas. Such director shall not be required to reside within the boundaries of the district. Each director shall qualify by subscribing to the oath of office and giving bond in the amount of \$5,000 for the faithful performance of his duties. The cost of such bond shall be paid by the district. Such bond shall be filed in the office of the county clerk and approved by the county judge or the commissioner's court of the county within which district is situated. Such oath shall be filed with the secretary of the district's board of directors after his selection. The bonds of directors elected or appointed after the directors named below shall be approved by the district's board of directors, filed for record in the office of the county clerk of the county in which the district is located and shall be recorded in a record kept for that purpose in the office of the district and be filed for safekeeping in the depository of the district. Immediately after this Act becomes effective, the following named persons, all of whom are 21 years of age or over and resi-

dents of the State of Texas, shall be the directors of the district and shall constitute the board of directors of the district:

Charles J. Gerlach
Cecil Liles
E. R. Pixley
Louis F. Gerlach
Carnie White

Said persons shall qualify as directors within 30 days, or as soon thereafter as practicable, from the effective date of this Act. If any of the aforementioned persons shall fail or refuse to qualify or to serve, or shall die or become incapacitated, or otherwise not be qualified to assume the duties of a director of the district under this Act, a majority of the remaining directors shall appoint a successor or successors. The directors named above or their duly appointed successor or successors shall serve until the second Tuesday in January 1969. Succeeding directors shall be elected or appointed and shall serve for the term and in the manner provided for by Article 7880—37, Vernon's Texas Civil Statutes. The annual elections shall be ordered by the board of directors. Any vacancy occurring in the board of directors shall be filled for the unexpired term by a majority of the remaining directors. The board of directors shall elect from its number a president, a vice president, and a secretary of the board of directors and of the district, and such other officers as in the judgment of the board are necessary. Three directors shall constitute a quorum at any meeting, and a concurrence of three shall be sufficient in all matters pertaining to the business of the district including the letting of construction contracts and the drawing of warrants in payment for construction work, the purchase of existing facilities, and matters relating to construction work. Warrants to pay current expenses, salaries, and accounts may be drawn and signed by an officer or employee, designated by standing order entered on the minutes of the board of directors, when such accounts have been contracted and ordered paid by the directors. The president may execute all contracts, construction or otherwise, entered into by the board of directors on behalf of the district. The vice president shall perform all duties and exercise all power conferred by this Act or the general law upon the president when the president is absent or fails or declines to act. Any order adopted or other action taken at a meeting of the board of directors at which the president is absent may be signed by the vice president, or the board may authorize the president to sign such order or other action. The secretary shall keep and sign the minutes of the meetings of the board of directors; and in his absence at any board meeting, a secretary pro tem shall be named for that meeting who may exercise all the duties and powers of the secretary for such meeting, and shall sign the minutes thereof, and may attest all orders passed or other action taken at such meeting, or the board may authorize the secretary to attest such orders or other action. The secretary shall be the custodian of all minutes and records of the district. The board shall appoint all necessary engineers, attorneys, auditors, and other employees. The board shall adopt a seal for the district.

Sec. 10. Before issuing any construction bonds, the district shall submit plans and specifications therefor to the Texas Water Rights Commission for approval in the manner required by Article 7880—139, Revised Civil Statutes of Texas, 1925; and the district's project and improvements during the course of construction shall be subject to inspection in the manner provided by said Article 7880—139.

Sec. 11. When any kind of bonds or refunding bonds have been approved by the Attorney General of Texas, registered by the Comptroller of Public Accounts of the State of Texas, and issued by the district, such

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bonds or refunding bonds shall be negotiable, legal, valid, and binding obligations of the district and shall be incontestable for any cause.

Sec. 12. The power of eminent domain of the district shall be limited to the county or counties in which the district is situated. In the event that the district, in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, rerouting or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telegraph or telephone properties and facilities, or pipeline, all such necessary relocation, raising, rerouting, changing of grade, or alteration of construction shall be accomplished at the sole expense of the district. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, rerouting, or change in grade, or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

Sec. 13. This district is hereby created notwithstanding any of the provisions of the Municipal Annexation Act (Article 970a, Revised Civil Statutes of Texas, 1925), as amended, and to the extent of the creation of the district only, said Article 970a shall have no application. In all other respects, the district hereby created is expressly made subject to all provisions of said Article 970a.

Sec. 14. It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published at least 30 days and not more than 90 days prior to the introduction of this Act in the Legislature of Texas, in a newspaper having a general circulation in the county or counties in which this district or any part thereof is situated; that a copy of such notice and a copy of this Act have been delivered to the Governor of Texas, who has submitted such notice and Act to the Texas Water Rights Commission, and said Texas Water Rights Commission has filed its recommendation as to such Act with the Governor, Lieutenant Governor and Speaker of the House of Representatives of Texas within 30 days from the date such notice and Act were received by the Texas Water Rights Commission; and that all the requirements and provisions of Article 16, Section 59(d), Constitution of the State of Texas, have been fulfilled and accomplished as therein provided.

Sec. 15. The board of directors of the district shall select any bank or trust company in the State of Texas to act as depository of the proceeds of the bonds or revenues derived from the operation of the facilities of the district, and said depository shall furnish such indemnity bonds or pledge such securities or meet such other requirements as determined by the board of directors of the district. The district may select one or more depositories.

Sec. 16. In no manner limiting the right, power, or authority of the district, as heretofore granted, the district is specifically granted the right, power, and authority to purchase and construct, or to purchase or construct, or otherwise to acquire waterworks systems, sanitary sewer systems, storm sewer systems and drainage facilities, or parts of such systems or facilities, and to make any and all necessary purchases, constructions, improvements, extension, additions, and repairs thereto, and to purchase or acquire all necessary land, rights-of-way, easements, sites, equipment, buildings, plants, structures, and facilities therefor and to operate and maintain same, and to sell water and other services. The district is also granted the right, power and authority to construct and maintain all works and improvements necessary or proper for the prevention of floods within the area of district, to construct and maintain levees, bulkheading, and dams, to construct, maintain and operate canals, to reclaim and drain the overflowed lands within the district, and to alter land elevations where

correction is needed or proper. The district may exercise any of the rights, powers, and authorities granted in this Act within or without the boundaries of the district and is specifically authorized to exercise any of said rights, powers, and authorities in order to provide water and sewerage services to areas within or without the boundaries of the district. The district may vote and issue any kind of bonds or refunding bonds for any or all of such purposes herein provided, for contiguous or noncontiguous areas, and provide and make payment therefor and for necessary expenses in connection therewith.

Sec. 17. Bonds of the district, other than refunding bonds, may be sold at a price and upon the terms determined by the board of directors of the district, except that such bonds shall not be sold for a less amount than provided by law. Such bonds or refunding bonds may be sold in denominations of \$1,000 each or multiples thereof. Refunding bonds shall be sold at a price and under the terms of the general law applicable to water control and improvement districts. The district may exchange bonds or refunding bonds for property acquired by purchase, or in payment of the contract price of work done or materials furnished or services furnished for the use and benefit of the district; provided that no notice given pursuant to Article 7880—117, Revised Civil Statutes of Texas, 1925, as amended, shall be predicated upon or require the exchange of bonds or refunding bonds, and said article shall otherwise be applicable to this district in all respects.

Sec. 18. The provisions of Article 7880—77b, Revised Civil Statutes of Texas, 1925, as amended, or any other general law, pertaining to the calling of a hearing for the determination of the dissolution of a district where a bond election has failed shall be inapplicable to this district, and this district shall continue to exist and shall have full power to function and operate regardless of the outcome of any bond election. Upon the failure of any bond election, a subsequent bond election may be called after the expiration of six months from the date of the bond election which failed.

Sec. 19. Notice of all elections may be given under the hand of either the president or the secretary of the district.

Sec. 20. The returns of all elections may be canvassed by the board of directors of the district at any time within seven days after the holding of an election, or as soon thereafter as reasonably practicable. The election returns of the annual election of directors may be canvassed by the board of directors as it was composed at the time of such election, or by the directors elected at such election, or by a combination of both. At the board of directors meeting at which the returns are canvassed, composed as aforesaid, any director newly elected at such election may qualify by filing his official bond and taking the oath of office, either before or after the returns are canvassed, and upon the filing of such bond the board, composed as aforesaid, may approve same.

Sec. 21. The accomplishment of the purposes stated in this Act being for the benefit of the people of this state and for the improvement of their properties and industries, the district in carrying out the purposes of this Act will be performing an essential public function under the Constitution, and the district shall not be required to pay any tax or assessment on the project or any part thereof or on any purchases made by the district, and the bonds issued hereunder and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this state.

Sec. 22. All bonds and refunding bonds of the district shall be and are hereby declared to be legal, eligible, and authorized investments for banks, savings and loan associations, insurance companies, fiduciaries, trustees, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State

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of Texas. Such bonds and refunding bonds shall be eligible to secure the deposit of any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their face value, when accompanied by all un-matured coupons appurtenant thereto.

Sec. 23. If any word, phrase, clause, paragraph, sentence, part, portion, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act shall nevertheless be valid, and the Legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion, or provision.

Acts 1967, 60th Leg., p. 1628, ch. 640, emerg. eff. June 16, 1967.

Title of Act:

An Act creating and establishing a conservation and reclamation district under Article 16, Section 59, Constitution of Texas, known as "Holiday Lakes Estates Municipal Utility District"; declaring district a governmental agency, body politic and corporate; defining the boundaries; finding the field notes and boundaries form a closure, and related matters; finding a benefit to all land and other property within the district; finding that district is created to serve a public use and benefit; conferring on district the rights, powers, privileges, authority and duties of the general laws of Texas applicable to water control and improvement districts created under Article 16, Section 59, Constitution of Texas, where not in conflict with this Act and adopting same by reference; providing for continuing supervision by the State through the Texas Water Rights Commission; providing for no election for confirmation; providing for no hearing for exclusions, except on written request or the board of directors' own motion; providing for no hearing on plan of taxation and adopting ad valorem plan of taxation for district; providing for governing body of district; providing for qualifications and bonds of directors; naming first board of directors; providing for directors to fill vacancies; providing for terms and election of directors and notice of directors' elections, and related matters; providing for organization of board of directors; providing for the letting of construction contracts and the drawing of warrants; providing for the execution of contracts by the president; providing for a vice president, a secretary, and a secretary pro tem and outlining their duties; providing for employment of engineers, attorneys, auditors, and other employees; providing for a seal for the district; providing for approval of district's plans and specifications by the Texas Water Rights Commission and inspection during construction by said Commission; providing for bonds and refunding bonds to be approved by the Attorney General of Texas and registered by the Comptroller of

Public Accounts of Texas, and providing for negotiability, legality, validity, obligation, and incontestability of the bonds and refunding bonds; providing the power of eminent domain shall be limited to the county or counties within which district is situated; providing district shall bear expenses of relocating, raising, or rerouting any highway, railroad, or utility lines or pipelines made necessary by its exercise of the power of eminent domain; defining "sole expense"; providing that the Municipal Annexation Act shall have no application to the creation of this district; determining and finding the requirements of Article 16, Section 59(d), Constitution of Texas, as to notice of intention to introduce this Act have been fulfilled and accomplished; providing for the selection of a depository or depositories for the district and related matters; providing additional powers of district within and without the boundaries of district; providing for construction of works for the prevention of floods, for construction of levees, bulkheading, and dams, for reclamation of overflowed lands, and alteration of land elevations; providing for the voting and issuing of bonds to serve areas within or without the boundaries of district; providing for the sale of bonds of the district in denominations of \$1,000 or multiples thereof, for the exchange of bonds for property and services, and for the minimum price of bonds at such sale or exchange; providing that Article 7880—77b (Vernon's Texas Civil Statutes), shall not be applicable to this district, and related matters; providing that notice of all elections shall be under the hand of the president or secretary; providing for canvassing of election returns; providing the bonds of this district and their transfer and income therefrom and profits thereon and purchases made by district shall be tax-free in this State; providing the bonds and refunding bonds of this district shall be eligible investments; enacting other provisions related to the aforementioned subjects; providing for a severability clause; and declaring an emergency. Acts 1967, 60th Leg., p. 1628, ch. 640.

Art. 8280—386. Colonia-Chaparral Municipal Utility District

Section 1. Under and pursuant to the provisions of Article XVI, Section 59 of the Texas Constitution, a conservation and reclamation district

is hereby created and established in Guadalupe County, Texas, to be known as "Colonia-Chaparral Municipal Utility District of Guadalupe County" (hereinafter called the "district"), which shall be a governmental agency and a body politic and corporate. The creation and establishment of the district is hereby declared to be essential to the accomplishment of the purposes of Article XVI, Section 59, of the Texas Constitution.

Sec. 2. The district shall comprise all of the territory contained within the following described area and being entirely within Guadalupe County, Texas:

A 433.352 acre tract being composed of the J. E. Kenney parcel out of the E. Gortari League Survey as recorded in Volume 272, Page 320, in Deed Records of Guadalupe County, Texas; and the Joseph Patrick Dibrell parcel out of the Anastacio Mansola League Survey, Abstract 29, Guadalupe County, Texas; and Lots 99 through 123 Carter's Addition to Parkview Estates as recorded in Volume 2, Page 10, in the Guadalupe County Plat Records.

BEGINNING: At an iron pin set in the Northerly right-of-way line of the Seguin-New Berlin Road at the point of intersection with the East boundary line of the aforementioned Mansola League Survey;

THENCE: Along the said right-of-way line of the Seguin-New Berlin road on a bearing of S 78° 32' W for a distance of 1859.50 feet to an iron pin at the southwest corner of this tract;

THENCE: N 15° 00' W 4854.73 feet along a fence, being the common boundary between the tract herein described and a tract now or formerly owned by C. L. Haberle, to an iron pin in the fence corner;

THENCE: S 75° 02' W 298.50 feet to an iron pin in an old fence corner on the bank of a slough;

THENCE: N 29° 48' W 71.76 feet along the bank of said slough to an iron pin in a fence corner;

THENCE: N 51° 49' E 133.75 feet to an iron pin in a fence corner;

THENCE: N 5° 20' W 83.15 feet to an iron pin in a fence corner;

THENCE: N 43° 06' W 187.47 feet to an iron pin in a fence corner, on the South bank of the Guadalupe River, designated as the Western-most point of this tract;

THENCE: N 76° 34' E 284.26 feet along the South bank of the Guadalupe River to an angle point;

THENCE: Along the bank of the Guadalupe River the following bearings and distances:

N 40° 44' E 109.86 feet

N 51° 04' E 398.24 feet

N 38° 31' E 561.00 feet

N 18° 44' E 455.25 feet

N 1° 43' E 482.00 feet

N 6° 05' W 93.57 feet

N 12° 38' E 302.04 feet

N 33° 52' E 375.00 feet to the northernmost corner of this tract located on the South bank of the Guadalupe River;

THENCE: S 16° 13' E 238.22 feet, departing from the South Bank of the Guadalupe River, to an angle point;

THENCE: S 15° 51' E 395.36 feet to an angle point;

THENCE: S 15° 59' E 212.45 feet to an angle point;

THENCE: N 59° 02' E 155.28 feet to an angle point;

THENCE: S 15° 59' E 2554.88 feet to an angle point;

THENCE: N 65° 12' E 1177.81 feet to an angle point;

THENCE: S 48° 17' E 372.10 feet to an angle point;

THENCE: S 61° 14' E 353.00 feet to an angle point;

THENCE: S 67° 49' E 140.20 feet to an angle point;

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THENCE: S 71° 31' E 181.70 feet to an angle point;
 THENCE: S 72° 00' E 108.70 feet to an angle point;
 THENCE: S 89° 51' E 35.00 feet to an angle point;
 THENCE: S 85° 13' E 247.80 feet to an angle point;
 THENCE: N 84° 13' E 21.70 feet to an angle point;
 THENCE: N 71° 40' E 190.00 feet to an angle point;
 THENCE: N 77° 33' E 122.10 feet to an angle point;
 THENCE: S 53° 25' E 346.30 feet to an angle point;
 THENCE: S 24° 37' W 402.90 feet to an angle point;
 THENCE: S 52° 47' E 193.40 feet to an angle point;
 THENCE: S 61° 29' E 100.10 feet to an angle point;
 THENCE: S 82° 51' E 247.30 feet to the easternmost corner of
 this tract;
 THENCE: S 23° 28' W 149.20 feet to an angle point;
 THENCE: S 13° 24' W 70.80 feet to an angle point;
 THENCE: S 0° 45' W 45.90 feet to an angle point;
 THENCE: S 0° 12' W 322.40 feet to an angle point;
 THENCE: S 89° 40' W 99.10 feet to an angle point;
 THENCE: S 0° 50' E 101.60 feet to an angle point;
 THENCE: N 89° 30' E 99.00 feet to an angle point;
 THENCE: S 0° 39' E 384.30 feet to an angle point;
 THENCE: S 78° 49' W 188.20 feet to an angle point;
 THENCE: S 77° 15' W 462.10 feet to an angle point;
 THENCE: S 0° 15' W 206.90 feet to an angle point;
 THENCE: S 8° 34' E 81.20 feet to an angle point;
 THENCE: S 77° 11' W 358.60 feet to an angle point;
 THENCE: S 12° 31' E 217.30 feet to an angle point;
 THENCE: S 77° 41' W 1393.90 feet to an angle point;
 THENCE: N 15° 21' W 523.40 feet to an angle point;
 THENCE: S 78° 27' W 248.88 feet to an angle point;
 THENCE: S 15° 23' E 1092.02 feet to an angle point;
 THENCE: S 15° 50' E 444.53 feet to the POINT OF BEGIN-
 NING, enclosing approximately 433.352 acres.

Sec. 3. It is determined and found that the boundaries and field notes of the district form a closure, and if any mistake is made in copying the field notes in the legislative process, or otherwise a mistake is made in the field notes, it shall in no way or manner affect the organization, existence and validity of the district, or the right of the district to issue any type or kind of bonds or refunding bonds, or to pay the principal and interest thereon, or the right to assess, levy and collect taxes, or the legality or operation of the district or its governing body, which shall be a board of directors as hereinafter provided.

Sec. 4. It is determined and found that all of the land and other property included within the area and boundaries of the district will be benefited by the works and projects which are to be accomplished by the district pursuant to the powers conferred by the provisions of Article XVI, Section 59, of the Texas Constitution, and that said district hereby created will serve a public use and be of public benefit.

Sec. 5. The district shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, authority and duties conferred and imposed by the general laws of this state, now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Article XVI, Section 59 of the Texas Constitution (but to the extent that the provisions of any such general laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail). All such general laws are hereby adopted and incorporated by reference with the same effect as if incorporated in full in this Act. Without in any way limiting the generality of the foregoing, the district is hereby specifically granted the right, power and authority to pur-

chase, construct, or purchase and construct, or otherwise acquire and accomplish by any and all practical means, waterworks systems, sanitary sewer systems, storm sewer systems and drainage facilities or parts of such systems or facilities and to make any and all necessary purchases, constructions, improvements, extensions, additions and repairs thereto, and to purchase or otherwise acquire all necessary land, easements, buildings, structures, equipment and other necessary facilities therefor within or without the boundaries of the district, except as limited by this Act, and to issue and sell its negotiable bonds for any one or more of such purposes and provide and make payment therefor and for all necessary expenses in connection therewith. The powers and duties herein granted to the district shall be subject to the continuing right of supervision of the state, to be exercised by and through the Texas Water Rights Commission.

Sec. 6. It shall not be necessary for the board of directors to call or hold a confirmation election for the confirmation of the district. It shall also not be necessary for the board of directors to call or hold a hearing on the adoption of a plan of taxation, but the ad valorem plan of taxation shall be used by the district. It shall further not be necessary for the board of directors to call or hold a hearing on the exclusions of land or other property from the district; provided, however, that the board shall hold such hearing upon the written request of any landowner or other property owner within the district filed with the secretary of the board prior to the calling of the first bond election for the district. The board on its own motion may call and hold an exclusions hearing or hearings in the manner provided by the general law.

Sec. 7. All powers of the district shall be exercised by a board of five (5) directors. Each director shall serve for his term of office as herein provided, and thereafter until his successor shall be elected or appointed and qualified. No person shall be elected or appointed a director unless such person is twenty-one (21) years of age or over, is a resident of the State of Texas and owns real property subject to taxation by the district; provided, however, that a director shall not be required to reside within the boundaries of the district. Immediately after this Act becomes effective, the following named persons who satisfy the foregoing requirements shall be the directors of said district, each of whom shall serve for the term of office herein specified and thereafter until his successor shall be elected or appointed and shall have qualified, to-wit: T. J. Collins, Mrs. Roy C. Schneider, T. K. Dibrell, Roy C. Schneider and Mrs. T. K. Dibrell. If any of such persons shall fail or refuse to serve, die, become incapacitated or otherwise not be qualified to assume the duties of a director of the district under this Act, the remaining directors shall appoint a successor or successors. The first two of the above-named directors shall serve until the second Tuesday in January, 1968 or as herein provided; and the remaining three of the above-named directors shall serve until the second Tuesday in January, 1969, or as herein provided. An election for directors shall be held on the second Tuesday in January of each year beginning in 1968 and two directors shall be elected in that year and in each even-numbered year thereafter, and three in each odd-numbered year thereafter. The annual election shall be ordered by the board of directors. Any vacancy occurring in the board of directors shall be filled for the unexpired term by a majority of the remaining directors. The board of directors shall elect from its number a president and a vice president of the district, and such other officers as in the judgment of the board are necessary. The president shall be the chief executive officer of the district and the presiding officer of the board, and have the same right to vote as any other director. The vice president shall perform all the duties and exercise all powers conferred by this Act upon the president when the president is absent or fails or declines to act. The board may appoint a secre-

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tary and a treasurer who may or may not be members of the board, and it may combine those offices. The secretary shall be the custodian of all minutes and records of the district, and shall keep and sign the minutes of the board meetings, and attest all orders passed or other action taken at such meeting. The board may require that the treasurer give bond, in an amount deemed sufficient by the board, conditioned that he will faithfully account for all money coming into his custody as treasurer of the district. The board shall appoint all necessary engineers, attorneys, fiscal agents and other employees. The board shall adopt a seal for the district.

Sec. 8. When bonds or refunding bonds have been issued by the district and said bonds or refunding bonds have been approved by the attorney general of Texas and registered by the comptroller of public accounts, said bonds or refunding bonds shall be negotiable, valid, legal and binding obligations and shall be incontestable for any cause.

Sec. 9. Before issuing bonds for any purpose, the district shall submit engineering plans and specifications and/or other pertinent information to the Texas Water Rights Commission for approval in the manner required by Acts of the 57th Legislature, Regular Session, Chapter 336, 1961, codified in Vernon's Annotated Civil Statutes of Texas as Article 7880—139, and said district's project and improvements shall be subject to inspection in the manner provided in said Article 7880—139.

Sec. 10. The power of eminent domain of the district shall be limited to Guadalupe County, Texas. In the event that the district, in the exercise of the power of eminent domain or power of relocation or any other power granted hereunder, makes necessary the relocation, raising, rerouting or changing the grade of, or altering the construction of any highway, railroad, electric transmission line, telegraph or telephone properties and facilities, or pipeline, all such necessary relocation, raising, rerouting, changing of grade or alteration of construction shall be accomplished at the sole expense of the district. The term "sole expense" shall mean the actual cost of such relocation, raising, rerouting, changing of grade or alteration of construction and providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facilities.

Sec. 11. The provisions of Article 7880—77b, as amended, as codified in Vernon's Annotated Civil Statutes of Texas, or any other general law, pertaining to the calling of a hearing for the determination of the dissolution of a district where a bond election has failed shall be inapplicable to this district, and this district shall continue to exist and shall have full power to function and operate regardless of the outcome of any bond election. Upon the failure of any bond election, a subsequent bond election may be called after the expiration of six months from the date of the bond election which failed.

Sec. 12. The accomplishment of the purposes stated in this Act being for the benefit of the people of this state and for the improvement of their properties and industries, the district in carrying out the purposes of this Act will be performing an essential public function under the Texas Constitution, and the district shall not be required to pay any tax or assessment on the project or any part thereof or on any purchases made by the district, and the bonds issued hereunder and their transfer and income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this state.

Sec. 13. It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published at least thirty (30) days and not more than ninety (90) days prior to the introduction of this Act in the Legislature of Texas, in a newspaper having general circulation in Guadalupe County, Texas; that a copy of such notice and a copy of this Act have been de-

livered to the Governor of Texas who has submitted such notice and Act to the Texas Water Rights Commission, and said Texas Water Rights Commission has filed its recommendation as to such Act with the Governor, Lieutenant Governor and Speaker of the House of Representatives of Texas within thirty (30) days from the date such notice and Act were received by the Texas Water Rights Commission; and that all requirements and provisions of Article XVI, Section 59(d) of the Texas Constitution have been fulfilled and accomplished as therein provided.

Sec. 14. This district is hereby created notwithstanding any of the provisions of the Municipal Annexation Act, being Article 970a, Revised Civil Statutes of Texas, 1925, as amended, and to the extent of the creation of the district only, said Article 970a shall have no application. In all other respects, the district hereby created is expressly made subject to all provisions of said Article 970a.

Sec. 15. The board of directors of the district shall select any bank or trust company in the State of Texas to act as depository of the proceeds of the bonds or revenues derived from the operation of the facilities of the district, and said depository shall furnish such indemnity bonds or pledge such securities or meet such other requirements as determined by the board of directors of the district. The district may select one or more depositories.

Sec. 16. All bonds and refunding bonds of the district shall be and are hereby declared to be legal, eligible and authorized investments for banks, savings and loan associations, insurance companies, fiduciaries, trustees, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds and refunding bonds shall be eligible to secure the deposit of any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their value, when accompanied by all unmatured coupons appurtenant thereto.

Sec. 17. If any word, phrase, clause, paragraph, sentence, part, portion, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act shall nevertheless be valid, and the Legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion, or provision.

Acts 1967, 60th Leg., p. 1642, ch. 642, emerg. eff. June 16, 1967.

Title of Act:

An Act relating to the creation of the Colonia-Chaparral Municipal Utility District in Guadalupe County as a conservation and reclamation district under the provisions of Section 59, Article XVI, of the

Constitution of the State of Texas; prescribing the powers, duties, functions and procedures of the district; and declaring an emergency. Acts 1967, 60th Leg., p. 1642, ch. 642.

Art. 8280—387. Elm Creek Water Control District

Section 1. There is hereby created within the State of Texas a conservation and reclamation district to be known as the Elm Creek Water Control District which shall include and consist of portions of the counties of Runnels and Taylor described and contained within the metes and bounds set forth in Section 2 of this Act. The district is hereby declared to be a governmental agency and body politic with the power to exercise the rights, privileges, and functions hereinafter specified, and the creation of this district is hereby declared to be essential to the accomplishment of the purposes set forth in Section 59, Article XVI of the Constitution of Texas.

Sec. 2. (a) It is expressly determined and found that all of the territory included within the area of the district will be benefited by the works

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and projects which are to be accomplished by the district pursuant to the powers conferred by the provisions of Section 59, Article XVI of the Constitution of Texas.

(b) The area of the district shall be all of that territory enclosed within the following metes and bounds description, to wit:

All that portion of Runnels and Taylor counties described as follows:

BEGINNING at a point on the north line of Runnels County where the west line of Survey No. 117, Block No. 64, H & T C RR. Co. crosses said line;

THENCE south along the west line of Survey No. 117, Block 64, of H & T C RR. Co. Survey to the southwest corner of said Survey No. 117;

THENCE south along the west line of Survey No. 81, Block No. 64, H & T C RR. Co. Survey to a point where said Survey No. 81 intersects with the east line of Lilly or Lyla Forsythe Survey No. 450;

THENCE south 60 degrees west 2012 varas more or less;

THENCE south 30 degrees east 2079 varas more or less;

THENCE south 60 degrees west 350 varas, more or less, to a point in the east line of public road;

THENCE south 30 degrees east $787\frac{7}{10}$ varas, more or less;

THENCE south 60 degrees west $716\frac{8}{10}$ varas, more or less;

THENCE south 30 degrees east $1260\frac{1}{10}$ varas, more or less;

THENCE north 60 degrees east $716\frac{1}{10}$ varas, more or less, to the northeast corner of the George Berry Survey;

THENCE south on the east boundary line of George Berry Survey, 1337 varas, more or less, to the northwest corner of Survey No. 93, H & T C RR. Co. Survey, Block 64, same being the southwest corner of B. B. B. & C. Railway Company Survey;

THENCE south along west line of Survey No. 93, H & T C RR. Co., Block 64, to the southwest corner of said Survey, same being the northwest corner of Survey No. 81, Columbus Tap RR. Co. Survey, Block 63;

THENCE south along west line of Survey No. 81, Columbus Tap RR. Co., Block 63, to the southwest corner of said Survey;

THENCE westerly to the northwest corner of the B. M. Walker Survey;

THENCE southerly along the west lines of B. M. Walker Survey No. 401, to the southwest corner of said Survey to a point that intersects with Survey No. 71 C.T.R.R. Survey, Block 63;

THENCE east along the south line of B. M. Walker Survey No. 401, to the southeast corner of said Survey, same being the northeast corner of Survey No. 71, C.T.R.R. Survey;

THENCE south along the east line of Survey No. 71, C.T.R.R. Co. Survey, to the southeast corner of said Survey No. 71, same being the easternmost northeast corner of Survey No. 70, C.T.R.R. Survey;

THENCE south along the easternmost east line of Survey No. 70, C.T.R.R. Survey, to the southeast corner of said Survey No. 70, same being the northeast corner of Survey No. 57, C.T.R.R. Survey;

THENCE south along the east line of Survey No. 57, C.T.R.R. Survey, to the southeast corner of said Survey No. 57;

THENCE south along the west line of Survey No. 55, Block 63, H. T. & B. Railway Company Survey, to the southwest corner of said Survey No. 55;

THENCE east along the south line of Survey No. 55, Block No. 63, H. T. & B. Railway Co. Survey, to the northwest corner of Survey No. 48, Block 63, H. T. & B. Railway Company Survey;

THENCE south 360 varas, more or less, to a stone mound in the north line of Thomas Fowler Survey No. 440;

THENCE east 449 varas, more or less, to a stone mound, same being the northeast corner of said Thomas Fowler Survey No. 440;

THENCE south 1608 varas, more or less, to a stone mound on the east line of Thomas Fowler Survey No. 440, same being the northwest corner of J. C. Hill Survey No. 48;

THENCE south along the west line of J. C. Hill Survey No. 48, to the southwest corner of said Survey;

THENCE east along south line of J. C. Hill Survey No. 48, to a point where said Survey intersects with the west line of Survey No. 47, Block 63, H. T. & B. Railway Company Survey, same being the southeast corner of said J. C. Hill Survey No. 48;

THENCE south along the west line of Survey No. 47, Block 63, H. T. & B. Railway Company Survey, to the southwest corner of said Survey No. 47, same being the northwest corner of B. W. Taylor Survey No. 42;

THENCE south along the west line of B. W. Taylor Survey No. 42, 1080 varas;

THENCE east 1905 varas, more or less, to a point on the east line of B. W. Taylor Survey No. 42, said point being 1080 varas more or less, south of the northeast corner of said Survey;

THENCE south along east line of B. W. Taylor Survey No. 42, to the southeast corner of said Survey;

THENCE west 578 varas, more or less, along the north line of Survey No. 41, H. T. & B. Railway Company Survey, to the east line of a road which runs north and south through this Survey;

THENCE south along the east line of said new road, 1954 varas, more or less, to the south line of said Survey No. 41, H. T. & B. Railway Company Survey;

THENCE west along south line of said Survey No. 41, H. T. & B. Railway Company Survey, to the northeast corner of Burgis G. Hall Survey No. 437;

THENCE southerly along the east line of Burgis G. Hall Survey No. 437, 924 varas, more or less, to the southwest corner of Geo. Long Survey No. 44;

THENCE east 917 varas, more or less, along the south line of Geo. Long Survey No. 44, to the northeast corner of Reden Gaines Survey;

THENCE south along the west lines of Surveys Nos. 170, 169, and 166 of E. T. Railway Company Survey to the southwest corner of E. T. Railway Company Survey No. 166;

THENCE east along the south line of Survey No. 166, E. T. Railway Company to the northwest corner of Survey No. 417, H. T. & B. Railway Company Survey;

THENCE South along the east line of Jos. Wamer Survey No. 418 to the southeast corner of said Survey;

THENCE west along the north line of William Howell Survey No. 821 to a stake 2329 varas east of the northwest corner of said Survey;

THENCE south 625 varas to a point, same being 2006 varas, more or less, west and 625 varas, more or less, south of the northeast corner of William Howell Survey No. 821;

THENCE east 695 varas to a point 1311 varas, more or less, west and 625 varas, more or less, south of the northeast corner of William Howell Survey No. 821;

THENCE south 1118 varas to a point 1311 varas, more or less, west and 1743 varas, more or less, south of the northeast corner of William Howell Survey No. 821;

THENCE east 432 varas to a point, 879 varas, more or less, west and 796 varas, more or less, north of the southeast corner of William Howell Survey No. 821;

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THENCE south 796 varas, more or less, to a point in the south line of William Howell Survey No. 821, 879 varas west of the southeast corner of said Survey;

THENCE east 879 varas, more or less, along south line of William Howell Survey No. 821 to the southeast corner of William Howell Survey No. 821;

THENCE southwest along the west line of the Rama Christa Survey No. 432 to the northeast corner of the J. H. Bostick Survey;

THENCE south 30 degrees east 13 varas, more or less, to a sheep proof fence;

THENCE south 63 degrees east along said fence 930 varas to a rock in the ground;

THENCE south 30 degrees west 1496 varas, more or less, to a stake and mound in the north line of John Fanchild Survey No. 356;

THENCE southeast along the north line of John Fanchild Survey No. 356 to the northeast corner of said Survey;

THENCE northeast to the northwest corner of the John Fanchild Survey No. 357;

THENCE southeast along north line of John Fanchild Survey No. 357 to the northeast corner of said Survey;

THENCE southwest along east boundary line of John Fanchild Survey No. 357 to the northwest corner of John R. Robins Survey No. 358;

THENCE southeast along the north line of John R. Robins Survey No. 358 to the northeast corner of John R. Robins Survey No. 358;

THENCE southwest along east line of John R. Robins Survey to the Colorado River;

THENCE down the Colorado River following the meanderings of said Colorado River to the point where the said River intersects the Southeast corner of the Francis W. White Survey No. 370;

THENCE in a Northeasterly direction with the East boundary line of said Francis W. White Survey No. 370 to its Northeast corner;

THENCE in a Northwesterly direction with the Northeast boundary line of Francis W. White Survey No. 370 to the point of intersection with the Southwest corner of Survey No. 151 of the E. T. R. R. Co. Lands;

THENCE North with the West boundary line of said E. T. R. R. Co. Survey No. 151 to the point of its intersection of the Ballinger-Crews Farm to Market Road No. 382;

THENCE in a Northeasterly direction with said Farm to Market Road No. 382, more or less diagonally, through Survey No. 152 of the E. T. R. R. Co. lands and crossing the North boundary line of said Survey No. 152, said North boundary line is also the South boundary line of Survey No. 147 of the E. T. R. R. Co. lands;

THENCE with the said Farm to Market Road No. 382 across the Southeast corner of said E. T. R. R. Co. Survey 147 and continuing with said Farm to Market Road diagonally, more or less, through Survey No. 146, E. T. R. R. Co. Land and as it crosses the East boundary line of said E. T. R. R. Co. Survey No. 146 and across the Northwest corner of E. T. R. R. Co. Survey No. 145;

THENCE with said Farm to Market Road through the Day Land & Cattle Co. Survey and the M. J. Parramore Survey No. 26 and in a Northeasterly direction through Block 36 of the Domingo Diaz Survey No. 532 to a point on the North boundary line of said Block 36 about 200 varas, more or less, from the Northeast corner of said Block 36;

THENCE East along the North boundary lines of Blocks Nos. 36 and 35 of the Domingo Diaz Survey No. 532 to the Northeast corner of said Block No. 35 and the N. W. corner of Block 35;

THENCE North with the East line of Block 32 of the Domingo Diaz Survey No. 532 to the Northeast corner of said Block 32 and Northwest corner of Block 33 of the Domingo Diaz Survey No. 532;

THENCE East with the North boundary line of said Block 33 to a point on the West line of the Wm. J. Smith Survey No. 60½;

THENCE in a Southeasterly direction with the West boundary line of said Wm. J. Smith Survey No. 60½ and being also the West line of the Clara Ashton 92.6 acre tract of land out of the said Wm. J. Smith Survey 60½ and the Austin & Williams Survey No. 263 to the Southwest corner of the said Ashton tract;

THENCE East with the South boundary line of the said Ashton tract of land out of the Wm. J. Smith Survey No. 60½ and Austin & Williams Survey No. 262 to the Southeast corner of said Ashton tract;

THENCE North with the East boundary line of the said Ashton 92.6 acre tract and the West boundary line of the adjoining Ashton 85 acre tract out of the Austin & Williams Survey No. 262 to the Northwest corner of the said Ashton 85 acre tract;

THENCE East with the North boundary line of the said Ashton 85 acre tract to the Northeast corner thereof;

THENCE continuing in a Northeasterly direction parallel with the North boundary line of Austin & Williams Survey No. 262 to a point in the East boundary line of said Survey said point being about 1200 varas, more or less, Southeast of the Northeast corner of said Austin & Williams Survey No. 262;

THENCE in a Southeasterly direction to the Southwest cor. of the 98 acre R. A. Bagwell tract out of the A. P. Thompson Survey No. 3;

THENCE East with South boundary line of said 98 acre tract to the East line of A. P. Thompson Survey No. 3;

THENCE North with the East boundary lines of the A. P. Thompson Survey No. 3 and the J. H. Gibbs Preemption Survey No. 59 to a point on the South boundary line of the J. H. Parramore Survey No. 136;

THENCE West with the South boundary line of said J. H. Parramore Survey No. 136 to the Southwest corner of same;

THENCE North with the West boundary line of the J. H. Parramore Survey No. 136 to its Northwest corner; same being on the South boundary line of Block 30 of Antonio Losoya Survey No. 515;

THENCE Northeast with the South boundary lines of the Blocks Nos. 30, 29, 28, 27, 26 and 25 to the Southeast corner of said Block 25 of the Antonio Losoya Survey No. 515;

THENCE Northwest with the East boundary line of Blocks 25 and 24 to the Northeast corner of said Block 24 of the Antonio Losoya Survey No. 515 and on the West line of E. T. R. R. Co. Survey No. 127;

THENCE East, parallel with the North boundary line of said Survey 127 E. T. R. R. Co. Lands, about 1800 varas to a point on the East boundary line of said E. T. R. R. Co. Survey No. 127;

THENCE North with the East boundary lines of E. T. R. R. Co. Surveys Nos. 127 and 126 to a point in the East line of said Survey No. 126 which is the Southwest corner of the Isaac P. Wallace Survey No. 139;

THENCE East with the South boundary line of the said Isaac P. Wallace Survey No. 139 to the Southeast corner thereof;

THENCE North with the East boundary line of the Isaac P. Wallace Survey No. 139 to its Northeast corner;

THENCE North along the East boundary lines of the J. W. Holloway Survey No. 129, and the Geo. Hall Survey No. 324 and the B. F. Adams Survey No. 325, Abstract No. 10, to the Northeast corner of the said B. F. Adams Survey No. 325;

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THENCE East about 200 varas, more or less, to a point in the West boundary line of the West half of S. P. R. R. Co. Survey 16 also known as C. A. Parker Survey 16, said point also being the most Easterly Southeast corner of S. P. R. R. Co. Survey No. 17;

THENCE North with the East boundary line of said S. P. R. R. Co. Survey No. 17 to the Northeast corner thereof;

THENCE West about 250 varas, more or less, to the Southeast corner of Survey No. 12 of the H. T. & B. R. R. Co. lands;

THENCE North with the East boundary lines of Surveys No. 12 and 11 to the Northeast corner of Survey No. 11 of the H. T. & B. R. R. Co. lands;

THENCE West with the North boundary lines of said Survey No. 11 and also North boundary line of Survey No. 10 to a point on North line of said Survey No. 10 which is the Southeast corner of the S. P. Brown Survey No. 1, Abst. No. 874;

THENCE North with the East line of said S. P. Brown Survey to its Northeast corner;

THENCE West with the North boundary line of said S. P. Brown Survey to its Northwest corner which is on the East line of the H. Lewis Survey No. 4;

THENCE North with the East boundary line of said H. Lewis Survey No. 4 to its Northeast corner;

THENCE West with the North boundary line of said H. Lewis Survey No. 4 to the point on said North line intersecting with the Southeast corner of the J. W. Meek Survey No. 15;

THENCE North with the East line of the said J. W. Meek Survey No. 15 to its Northeast corner;

THENCE West with the North boundary line of said J. W. Meek Survey No. 15 to a point on said North line about 200 varas, more or less, East from its Northwest corner;

THENCE North with the West boundary line of G. C. & S. F. R. R. Co. Survey No. 1 to the Northwest corner thereof;

THENCE East with the North boundary line of G. C. & S. F. R. R. Co. Survey No. 1 for about 200 varas, more or less, to the point on said North line where the Southwest corner of the R. W. Coulson Survey No. 2 intersects said North line of the G. C. & S. F. R. R. Co. Survey No. 1;

THENCE North with the West line of R. W. Coulson Survey No. 2 to the Southwest corner of the L. D. Counts Survey No. 2;

THENCE East with the North boundary line of the R. W. Coulson Survey No. 2 to the Northeast corner of the R. W. Coulson Survey No. 2;

THENCE North with the West boundary line of the W. C. Hartin Survey No. 41, passing the Northeast corner of the same to the Northwest corner of the Samuel Wiley Survey No. 2;

THENCE East with the North boundary line of the said Samuel Wiley Survey No. 2 and continuing East to the Southeast corner of the D. W. Hale Survey No. 18;

THENCE North with the East boundary line of said D. W. Hale Survey No. 18 to a point on the South boundary line of David Moses Survey No. 521 for the Northeast corner of said D. W. Hale Survey No. 18;

THENCE East with the South boundary line of the David Moses Survey to a point in said South boundary line about 1200 varas, more or less, for the Southeast corner of the Emmett D. Freeman tract of land;

THENCE North parallel with the East boundary line of the said David Moses Survey, a distance of about 800 varas, more or less;

THENCE East, parallel with the South boundary line of the said David Moses Survey, a distance of about 100 varas, more or less;

THENCE North, parallel with the East boundary line of said David Moses Survey for about 700 varas, more or less, to a point in the North boundary line of the David Moses Survey;

THENCE West with the North boundary line of said David Moses Survey to the East line of the Wm. A. Tremper Survey No. 439 for the most Northerly Northwest corner of said David Moses Survey;

THENCE North with the East line of the Wm. A. Tremper Survey No. 439 a distance of approximately 1150 varas, more or less, for the Northeast corner of the South half of said Wm. A. Tremper Survey No. 439;

THENCE West, parallel with the North boundary line of the Wm. A. Tremper Survey No. 439 to the Southeast corner of the Geo. E. Harrison Survey No. 438;

THENCE North with the East line of the said Geo. E. Harrison Survey No. 438 to its Northeast corner of said Survey in Runnels County, Texas and the Southeast corner of the M. P. King Survey No. 436 in Runnels County, Texas;

THENCE in a Northerly direction with the East line of M. P. King Survey No. 436 to the point of its intersection with the North Boundary line of Runnels County, Texas and the South Boundary line of Taylor County, Texas, and continuing with the said East line of Survey No. 436 to its Northeast corner;

THENCE West with the North line of said M. P. King Survey No. 436, about 2000 varas, more or less;

THENCE North, parallel with the East boundary line of the J. C. Thompson Survey No. 433 in Taylor County, Texas, about 2100 varas, more or less, to a point in the North boundary line of the J. C. Thompson Survey No. 433;

THENCE West with the North boundary line of said J. C. Thompson Survey No. 433 to its Northwest corner and the Northeast corner of the G. W. Denton Survey No. 446 and the Southeast corner of the A. Woolsey Survey No. 445;

THENCE North with the East line of the said A. Woolsey Surveys No. 444 and 445 to the Northeast corner of said Survey 444;

THENCE West with the North line of the A. Woolsey Survey No. 444 to its Northwest corner and the Northeast corner of the J. W. Steward Survey No. 455;

THENCE North with the East boundary line of the J. C. Eccles Survey No. 472 to its Northeast corner and the Southeast corner of the A. B. Laurence Survey;

THENCE North about 400 varas, more or less, to the common corner of the Northeast corner of the said A. B. Laurence Survey and the Southeast corner of Survey 32 of S.P.R.R. Co. Block No. 1, in Taylor County, Texas;

THENCE North with the East line of said Survey No. 32, S.P.R.R. Co., Blk 1, to the Northeast corner of said Survey No. 32;

THENCE West with the North boundary line of said Survey No. 32 to the point where the West boundary line of Survey No. 31, S.P.R.R. Co. Blk 1, contacts said North line of the said Survey No. 32;

THENCE North with the West lines of Surveys No. 31 and 30 of S.P.R.R. Co. Blk 1 to the Northwest corner of Survey No. 30 and the Northeast corner of Survey No. 34 S.P.R.R. Co. Blk 1;

THENCE West with the North line of said Survey No. 34 to the common corners of Survey 35, S.P.R.R. Co. Blk 1 and the S. E. Corner of Survey No. 5 of S.P.R.R. Blk 3;

THENCE West with the South boundary lines of Surveys No. 5 and No. 6 S.P.R.R. Co. Blk 3 to the Southwest corner of said Survey No. 6;

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THENCE West about 100 varas, more or less, to the Northwest corner of the F. C. Alsup Survey;

THENCE South, about 400 varas, with the West line of the F. C. Alsup Survey to the most Southerly Southeast corner of Survey No. 2, T.T.R.R. Co. Lands; and being the Southwest corner of the F. C. Alsup Survey;

THENCE West with the most Southerly boundary line of Survey No. 2, T.T.R.R. Co. Lands and the North boundary line of Survey No. 508; to a point on the East boundary line of the J. W. N. A. Smith Survey No. 271;

THENCE in a Northerly direction with the East boundary line of the J. W. N. A. Smith Survey No. 271 to its Northeast corner;

THENCE West with the North Boundary line of said J. W. N. A. Smith Survey No. 271 to its Northwest corner;

THENCE in a Southeasterly direction with the West boundary line of J. W. N. A. Smith Survey No. 271 for about 225 varas, more or less, to a point on the West boundary line of said J. W. N. A. Smith Survey No. 271 which point is also the Northeast corner of Survey No. 5 of the G. C. & S. F. RR. Co. lands;

THENCE West with the North boundary line of said survey No. 5, G. C. & S. F. RR. Co. land about 300 varas to a point in the East boundary line of Survey No. 155, Block 64, H. & T. C. RR. Co. which point is also the Northwest corner of said survey No. 5, G. C. & S. F. RR. Co. lands;

THENCE North about 200 varas, more or less, to the Northeast corner of Survey No. 155;

THENCE in a Westerly direction with the North boundary lines of Surveys Nos. 155, 156, 157, 158, 159 and 160, Block 64, H. & T. C. RR. Co. lands in Taylor County, Texas, to the Northwest corner of Survey No. 160;

THENCE South with the West boundary lines of Surveys Nos. 160, 149, 143, 136 and 132 to the Southwest corner of Survey No. 132 which is also the Northwest cor. of Survey No. 123 of the H. & T. C. RR. Co. lands, all in Block 64;

THENCE West with the North boundary line of Survey No. 120, Block 64, about 950 varas, more or less;

THENCE South, parallel with the East boundary line of said Survey No. 120 about 1900 varas, more or less, to a point in South boundary line of said Survey 120 and the North boundary line of Survey No. 119 of the H. & T. C. RR. Co. lands, Block 64;

THENCE South parallel with the East boundary line of said Survey No. 119 about 1900 varas, more or less, to a point in the South boundary line of said Survey No. 119 which point is also on the North boundary line of survey No. 117, all in Block 64, H. & T. C. RR. Co. lands in Taylor County, Texas;

THENCE West about 950 varas, more or less, with the common boundary lines of Surveys Nos. 119 and 117 to the Southwest corner of Survey No. 119 which is also the Northeast corner of Survey 117;

THENCE South with the West line of Survey 117 of the H & T C lands, Blk 64, in Taylor County, Texas to a point on said West line where it intersects with the North Boundary line of Runnels County, Texas, the place of Beginning, in Runnels County, Texas.

(c) It is determined and found that the boundaries and field notes of the district form a closure, and if any mistake is made in copying the field notes in the legislative process, or otherwise a mistake is made in the field notes, it shall in no way or manner affect the organization, existence and validity of the district, or the right of the district to issue any type or kind of bonds or refunding bonds, or to pay the principal and interest thereon, or the right to assess, levy and collect taxes, or the legality or operation

of the district or its governing body, which shall be a board of directors as hereinafter provided.

Sec. 3. The district shall conduct preliminary surveys and develop a plan for the control and use of the waters of Elm Creek to the end that improvements upon any one part of the watershed will be mechanically and economically related to the improvements of the entire watershed. Upon the completion of such surveys and plans, and their adoption by the directors of the district, a certified copy thereof shall be filed with the Texas Water Rights Commission for informational purposes.

Sec. 4. (a) The accomplishment of the purposes stated in this Act being for the benefit of the people of this state and for the improvement of their properties and industries, the district in carrying out the purposes of this Act will be performing an essential public function under the Constitution, and the district shall not be required to pay any tax or assessment on the project or any part thereof, and the bonds issued hereunder and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this state.

(b) No election shall be necessary for the purpose of confirming the organization of the district and no hearing shall be held to determine whether any lands or property included within the boundaries of the district shall be excluded; provided, however, that the board shall hold such hearing upon the written request of any landowner or other property owner within the district filed with the secretary of the board prior to the calling of the first bond election for the district. The board on its own motion may call and hold an exclusions hearing or hearings in the manner provided by the general law.

(c) The ad valorem plan of taxation is hereby adopted for the district and all taxes hereafter levied by the district shall be on an ad valorem basis and no hearing shall be required on a plan of taxation.

Sec. 5. The district shall have and exercise and is hereby vested with all the rights, powers, privileges and duties conferred and imposed by the general laws of this state now in force or hereafter enacted applicable to water control and improvement districts created under the authority of Section 59, Article XVI, Constitution of Texas, but to the extent that the provisions of any such general laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. Any such general laws are hereby incorporated by reference with the same effect as if incorporated in this Act.

Sec. 6. In addition to the powers contained in said general laws, the district shall have and possess all powers necessary or requisite to fully cooperate with the federal government, its agencies, departments and representatives thereof in taking advantage of, and in securing and getting assistance, aid, benefits, grants, loans, credit and money as provided in Public Law 566, 83rd Congress, Chapter 656, 2d Session, H.R. 6788, as amended, and as same may be hereafter amended. It is the intention of the Legislature to create the district with all the powers and authority necessary to fully qualify and gain the full benefits of said public laws including, but not limited to, all powers and authority necessary or requisite to carry out the projects and works and improvements contemplated by said public laws and the power and authority to secure a loan or loans from the proper agencies or departments of the federal government, and if necessary to issue bonds of the district as collateral or security therefor, for the purpose of defraying the costs and expenses of the district in connection with the carrying out of its projects and works and improvements. The provisions of said public laws that are applicable to the district are hereby enacted into this Act by reference and are made applicable to the district.

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Sec. 7. (a) In exercising the power for which the district is created, it shall have all of the authority conferred by general law upon water control and improvement districts, including, but not limited to, the power to construct, acquire, improve, maintain and repair dams or other structures and the acquisition, by eminent domain or otherwise, of land, easements, properties, or equipment which may be needed to utilize, control, and distribute any waters that may be impounded, diverted, or controlled by the district.

(b) In the event that the district, in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, rerouting or changing the grade of, or altering the construction of any highway, railroad, electric transmission line, telephone or telegraph properties and facilities, or pipeline, all such necessary relocation, raising, rerouting, changing of grade or alteration of construction shall be accomplished at the sole expense of the district. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, rerouting or change in grade or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

Sec. 8. For the purpose of providing dams, structures, projects and works of improvement for flood prevention, the conservation and development of water, and for other necessary plants, facilities and equipment in connection therewith and for the improvement, repair and operation of same and for carrying out any other powers or authority conferred by this Act or by Chapter 25 of the General Laws of the 39th Legislature, Regular Session, and the several amendments thereof, and for the purpose of paying all costs, charges and expenses of the district, the district is empowered to issue negotiable bonds in the manner provided by general law for water control and improvement districts.

Sec. 9. No loan shall be consummated by the district from the federal government and no bonds shall hereafter be issued unless authorized at an election at which only qualified voters who reside in the district, and who own taxable property therein and who have duly rendered same for taxation, shall be qualified to vote unless a majority of the votes cast favor the proposition. Upon approval of the bonds by the attorney general and registration by the comptroller they shall be incontestable.

Sec. 10. If the plans for works and improvements or amendments thereto contemplated by the district are prepared by the Soil Conservation Service, United States Department of Agriculture, and approved by the district's directors it shall not be necessary for an engineer's report covering the plans and improvements to be constructed, together with the maps, plats, profiles and data fully showing and explaining same be filed in the office of the district before an election is held to authorize the issuance of bonds in connection with such works and improvements and it shall not be necessary for such plans and specifications, engineering reports, profiles, maps and other data, or subsequent amendments thereto to be approved by the Texas Water Rights Commission prior to the issuance of such bonds; provided, however, that before the expenditure of any funds for the construction of any works and improvements, the approval of the Texas Water Rights Commission shall be secured for that portion of the works and improvements to be constructed and it shall not be necessary for advance approval to be given for the entire project contemplated by the district, but approval may be secured or given on a separate or individual basis for that portion of the entire project or works and improvements to be constructed at any particular time and on which plans and specifications of the Soil Conservation Service, United States Department of

Agriculture, have been prepared and submitted by the directors to the Texas Water Rights Commission.

Sec. 11. All bonds of the district shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, trustees, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas, and any and all public funds of cities, towns, villages, counties, school districts or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their par value, when accompanied by all unmatured interest coupons appurtenant thereto.

Sec. 12. (a) The board of directors is authorized to call an election to submit to the resident qualified property taxpaying voters who have duly rendered their property for taxation the question of whether a maintenance tax may be levied by the district for the purpose of maintaining the projects, works, structures or improvements which the district is authorized to construct, purchase, acquire, or improve.

(b) In calling such an election, the board of directors shall specify the maximum rate of tax that may be levied and collected in any one year and shall specify that such tax shall be levied on an ad valorem basis. The election shall be called, held and conducted, and notices thereof shall be given in the mode and manner as required by the general law for the holding of elections for the authorization of the issuance of bonds and nothing herein shall prevent such election from being held at the same time as an election for the issuance of bonds, and the holding of such elections at the same time or at separate times is hereby authorized. The levy and collection of the maintenance tax, including the cost of assessing and collecting said tax, is hereby authorized upon the affirmative vote of a majority of the qualified voters voting at said election.

(c) The district is authorized to expend funds collected as maintenance taxes for easements and rights-of-way and for any of the purposes for which a district could expend bond proceeds as well as for maintenance purposes and the district is authorized to place surplus maintenance funds not needed for maintenance purposes into the sinking funds for any outstanding bonds of the district. The determination by the board of directors of the expenditure of maintenance funds of the district shall be final and cannot be judicially reviewed save on the grounds of fraud, palpable error, or gross abuse of discretion.

Sec. 13. The district is hereby empowered and authorized to cooperate with state, federal, and other agencies and groups in wildlife programs, not inconsistent with the purposes of the district set forth herein, designed to improve the general habitat of wildlife and to promote the propagation thereof.

Sec. 14. Except as modified or supplemented by the provisions of this Act, all laws or parts of laws now in effect or hereafter adopted, as well as those amendatory or supplemental to the general laws pertaining to water control and improvement districts, are adopted by reference as though set out at length herein, and such laws shall govern the district.

Sec. 15. (a) The board of directors of the district shall be comprised of eight persons. Immediately after this Act becomes effective the following named persons shall be the directors of the district and shall constitute the board of directors of said district: Virejil James, J. E. (Buck) Smith, C. M. Hambrick, Walter Spill, Richard C. Thomas, Clarence Ledbetter, J. W. Purifoy, N. L. Faubion.

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(b) The board of directors herein appointed shall serve until their successors have been duly elected and qualified. The first four directors named above shall serve until the second Tuesday in January 1968, and the following four directors shall serve until the second Tuesday in January 1969. An election for directors shall be held on the second Tuesday of each year as provided herein. Four directors shall be elected in each even-numbered year and four in each odd-numbered year.

(c) The directors of the district shall be landowners within the district and reside within Runnels or Taylor counties and shall retain such status during their tenure in office or vacate such office.

(d) Directors of the district shall subscribe to the constitutional oath of office and each shall give bond in the amount of \$5,000 for the faithful performance of his duties, the cost of which shall be paid by the district. A majority of the directors shall constitute a quorum.

(e) Each director shall serve until his successor has been duly elected or appointed and has duly qualified.

(f) Any vacancy occurring in the board of directors shall be filled for the unexpired term by a majority vote of the remaining directors.

(g) Failure to call an election for directors will in no way affect the legal status of the district or the board of directors or the individual directors or the right of said board of directors to act or function and the directors shall serve until an election is held under the provisions of law and the succeeding directors have been duly elected or appointed and have duly qualified.

Sec. 16. The Legislature finds that the requirements of Section 59(d), Article XVI, Constitution of the State of Texas, concerning the introduction of this Act have been met.

Acts 1967, 60th Leg., p. 1647, ch. 643, emerg. eff. June 16, 1967.

Title of Act:

An Act relating to the creation of the Elm Creek Water Control District as a conservation and reclamation district in portions of Runnels and Taylor counties under the provisions of Section 59, Article XVI

of the Constitution of the State of Texas; prescribing the powers, duties, functions, and procedures of the district; and declaring an emergency. Acts 1967, 60th Leg., p. 1647, ch. 643.

Art. 8280—388. Timberlakes Estates Municipal Utility District

Section 1. Under and pursuant to the provisions of Article 16, Section 59 of the Constitution of Texas, a conservation and reclamation district is hereby created and established in Montgomery County, Texas, to be known as "Timberlakes Estates Municipal Utility District," hereinafter called the "district," which shall be a governmental agency and a body politic and corporate. The creation and establishment of the district is hereby declared to be essential to the accomplishment of the purposes of Article 16, Section 59, Constitution of Texas.

Sec. 2. The district shall comprise all of the territory contained within the following described area:

Lying wholly in Montgomery County, Texas, and being 211 acres, more or less, out of the John Taylor Survey, A-547, more particularly described as follows:

Beginning at a 3" iron pipe for corner on a common line between the John Taylor Survey, A-547, and the Harry Sigel Survey, A-796, said point also being the northwest corner of Lot 75 out of the R. D. McDonald Subdivision, bearing North approximately 8566 feet from the centerline of Spring Creek.

THENCE, S 89° 58' E 1787.80 feet to a railroad iron marking a point for corner.

THENCE, S 0° 20' W 1297.0 feet to a 1½-inch iron rod marking a point for corner.

THENCE, S 89° 06' E 677.60 feet to a 3½-inch iron pipe marking a point for corner.

THENCE, S 0° 50' W 2811.55 feet to a 3-inch iron pipe marking a point for corner.

THENCE, N 89° 21' W 642.0 feet to a 1½-inch iron pipe.

THENCE, N 89° 12' W 868.60 feet to a 2½-inch iron pipe marking a point for corner.

THENCE, S 0° 50' W 31.60 feet to a point for corner.

THENCE, S 89° 20' 40" W 906.02 feet to a point for corner in the said common line dividing the J. Taylor Survey and the Harry Sigel Survey.

THENCE, North with the said common dividing line 4142.40 feet to the place of beginning.

Containing 211 acres, more or less.

Sec. 3. It is determined and found that the boundaries and field notes of the district form a closure; and if any mistake is made in copying the field notes in the legislative process, or otherwise a mistake is made in the field notes, it shall in no way or manner affect the organization, existence, and validity of the district, or the right of the district to issue any type of bonds or refunding bonds for the purposes for which the district is created, or to pay the principal and interest thereon, or the right to assess, levy, and collect taxes, or the legality or operation of the district or its governing body.

Sec. 4. It is determined and found that all of the land and other property included within the area and boundaries of the district will be benefited by the works and project which are to be accomplished by the district pursuant to the powers conferred by the provisions of Article 16, Section 59, Constitution of Texas, and that said district was and is created to serve a public use and benefit.

Sec. 5. The district shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, authority, and duties conferred and imposed by the general laws of this State now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Article 16, Section 59, Constitution of Texas; but to the extent that the provisions of any such general laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such general laws are hereby adopted and incorporated by reference with the same effect as if incorporated in full in this Act. The powers and duties herein granted to the district shall be subject to the continuing right of supervision of the State, to be exercised by and through the Texas Water Rights Commission.

Sec. 6. It shall not be necessary for the board of directors to call or hold a confirmation election for the confirmation of the district.

Sec. 7. It shall not be necessary for the board of directors to call or hold a hearing on the exclusions of land or other property from the district; provided, however, that the board shall hold such hearing upon the written request of any landowner or other property owner within the district filed with the secretary of the board prior to the calling of the first bond election for the district. The board on its own motion may call and hold an exclusions hearing or hearings in the manner provided by the general law.

Sec. 8. It shall not be necessary for the board of directors to call or hold a hearing on the adoption of a plan of taxation, but the ad valorem plan of taxation shall be used by the district.

Sec. 9. All powers of the district shall be exercised by a board of five directors. Each director shall serve for his term of office as herein provided, and thereafter until his successor shall be elected or appointed and qualified. No person shall be appointed a director unless he is 21 years of age or over and a resident of the State of Texas. Such director shall

For Annotations and Historical Notes, see V.A.T.S.

not be required to reside within the boundaries of the district. Each director shall qualify by subscribing to the oath of office and giving bond in the amount of \$5,000 for the faithful performance of his duties. The cost of such bond shall be paid by the district. Such bond shall be filed in the office of the county clerk and approved by the county judge or the commissioner's court of the county within which district is situated. Such oath shall be filed with the secretary of the district's board of directors after his selection. The bonds of directors elected or appointed after the directors named below shall be approved by the district's board of directors, filed for record in the office of the county clerk of the county in which the district is located and shall be recorded in a record kept for that purpose in the office of the district and be filed for safekeeping in the depository of the district. Immediately after this Act becomes effective, the following named persons, all of whom are 21 years of age or over and residents of the State of Texas, shall be the directors of the district and shall constitute the board of directors of the district:

R. W. Weakley
Ray McLean
Milton Wicker
George Conn
James F. Dickson

Said persons shall qualify as directors within 30 days, or as soon thereafter as practicable, from the effective date of this Act. If any of the aforementioned persons shall fail or refuse to qualify or to serve, or shall die or become incapacitated, or otherwise not be qualified to assume the duties of a director of the district under this Act, a majority of the remaining directors shall appoint a successor or successors. The directors named above or their duly appointed successor or successors shall serve until the second Tuesday in January 1969. Succeeding directors shall be elected or appointed and shall serve for the term and in the manner provided for by Article 7880—37, Vernon's Texas Civil Statutes. The annual elections shall be ordered by the board of directors. Any vacancy occurring in the board of directors shall be filled for the unexpired term by a majority of the remaining directors. The board of directors shall elect from its number a president, a vice president, and a secretary of the board of directors and of the district, and such other officers as in the judgment of the board are necessary. Three directors shall constitute a quorum at any meeting, and a concurrence of three shall be sufficient in all matters pertaining to the business of the district including the letting of construction contracts and the drawing of warrants in payment for construction work, the purchase of existing facilities, and matters relating to construction work. Warrants to pay current expenses, salaries, and accounts may be drawn and signed by an officer or employee, designated by standing order entered on the minutes of the board of directors, when such accounts have been contracted and ordered paid by the directors. The president may execute all contracts, construction or otherwise, entered into by the board of directors on behalf of the district. The vice president shall perform all duties and exercise all power conferred by this Act or the general law upon the president when the president is absent or fails or declines to act. Any order adopted or other action taken at a meeting of the board of directors at which the president is absent may be signed by the vice president, or the board may authorize the president to sign such order or other action. The secretary shall keep and sign the minutes of the meetings of the board of directors; and in his absence at any board meeting, a secretary pro tem shall be named for that meeting who may exercise all the duties and powers of the secretary for such meeting, and shall sign the minutes thereof, and may attest all orders passed or other action taken at such meeting, or the board may authorize the secretary to attest such orders or other action. The secretary shall be the custodian of all min-

utes and records of the district. The board shall appoint all necessary engineers, attorneys, auditors, and other employees. The board shall adopt a seal for the district.

Sec. 10. Before issuing any construction bonds, the district shall submit plans and specifications therefor to the Texas Water Rights Commission for approval in the manner required by Article 7880—139, Revised Civil Statutes of Texas, 1925; and the district's project and improvements during the course of construction shall be subject to inspection in the manner provided by said Article 7880—139.

Sec. 11. When any kind of bonds or refunding bonds have been approved by the Attorney General of Texas, registered by the Comptroller of Public Accounts of the State of Texas, and issued by the district, such bonds or refunding bonds shall be negotiable, legal, valid, and binding obligations of the district and shall be incontestable for any cause.

Sec. 12. The power of eminent domain of the district shall be limited to the county or counties in which the district is situated. In the event that the district, in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, rerouting or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telegraph or telephone properties and facilities, or pipeline, all such necessary relocation, raising, rerouting, changing of grade, or alteration of construction shall be accomplished at the sole expense of the district. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, rerouting, or change in grade, or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

Sec. 13. This district is hereby created notwithstanding any of the provisions of the Municipal Annexation Act (Article 970a, Revised Civil Statutes of Texas, 1925), as amended, and to the extent of the creation of the district only, said Article 970a shall have no application. In all other respects, the district hereby created is expressly made subject to all provisions of said Article 970a.

Sec. 14. It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published at least 30 days and not more than 90 days prior to the introduction of this Act in the Legislature of Texas, in a newspaper having a general circulation in the county or counties in which this district or any part thereof is situated; that a copy of such notice and a copy of this Act have been delivered to the Governor of Texas, who has submitted such notice and Act to the Texas Water Rights Commission, and said Texas Water Rights Commission has filed its recommendation as to such Act with the Governor, Lieutenant Governor and Speaker of the House of Representatives of Texas within 30 days from the date such notice and Act were received by the Texas Water Rights Commission; and that all the requirements and provisions of Article 16, Section 59(d), Constitution of the State of Texas, have been fulfilled and accomplished as therein provided.

Sec. 15. The board of directors of the district shall select any bank or trust company in the State of Texas to act as depository of the proceeds of the bonds or revenues derived from the operation of the facilities of the district, and said depository shall furnish such indemnity bonds or pledge such securities or meet such other requirements as determined by the board of directors of the district. The district may select one or more depositories.

Sec. 16. In no manner limiting the right, power, or authority of the district, as heretofore granted, the district is specifically granted the right, power, and authority to purchase and construct, or to purchase or

For Annotations and Historical Notes, see V.A.T.S.

construct, or otherwise to acquire waterworks systems, sanitary sewer systems, storm sewer systems and drainage facilities, or parts of such systems or facilities, and to make any and all necessary purchases, constructions, improvements, extension, additions, and repairs thereto, and to purchase or acquire all necessary land, rights-of-way, easements, sites, equipment, buildings, plants, structures, and facilities therefor and to operate and maintain same, and to sell water and other services. The district may exercise any of the rights, powers, and authorities granted in this Act within or without the boundaries of the district and is specifically authorized to exercise any of said rights, powers, and authorities in order to provide water and sewerage services to areas within or without the boundaries of the district. The district may vote and issue any kind of bonds or refunding bonds for any or all of such purposes herein provided, for contiguous or noncontiguous areas, and provide and make payment therefor and for necessary expenses in connection therewith.

Sec. 17. Bonds of the district, other than refunding bonds, may be sold at a price and upon the terms determined by the board of directors of the district, except that such bonds shall not be sold for a less amount than provided by law. Such bonds or refunding bonds may be sold in denominations of \$1,000 each or multiples thereof. Refunding bonds shall be sold at a price and under the terms of the general law applicable to water control and improvement districts. The district may exchange bonds or refunding bonds for property acquired by purchase, or in payment of the contract price of work done or materials furnished or services furnished for the use and benefit of the district; provided that no notice given pursuant to Article 7880—117, Revised Civil Statutes of Texas, 1925, as amended, shall be predicated upon or require the exchange of bonds or refunding bonds, and said article shall otherwise be applicable to this district in all respects.

Sec. 18. The provisions of Article 7880—77b, Revised Civil Statutes of Texas, 1925, as amended, or any other general law, pertaining to the calling of a hearing for the determination of the dissolution of a district where a bond election has failed shall be inapplicable to this district, and this district shall continue to exist and shall have full power to function and operate regardless of the outcome of any bond election. Upon the failure of any bond election, a subsequent bond election may be called after the expiration of six months from the date of the bond election which failed.

Sec. 19. Notice of all elections may be given under the hand of either the president or the secretary of the district.

Sec. 20. The returns of all elections may be canvassed by the board of directors of the district at any time within seven days after the holding of an election, or as soon thereafter as reasonably practicable. The election returns of the annual election of directors may be canvassed by the board of directors as it was composed at the time of such election, or by the directors elected at such election, or by a combination of both. At the board of directors meeting at which the returns are canvassed, composed as aforesaid, any director newly elected at such election may qualify by filing his official bond and taking the oath of office, either before or after the returns are canvassed, and upon the filing of such bond the board, composed as aforesaid, may approve same.

Sec. 21. The accomplishment of the purposes stated in this Act being for the benefit of the people of this state and for the improvement of their properties and industries, the district in carrying out the purposes of this Act will be performing an essential public function under the Constitution, and the district shall not be required to pay any tax or assessment on the project or any part thereof or on any purchases made by the district, and the bonds issued hereunder and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this state.

Sec. 22. All bonds and refunding bonds of the district shall be and are hereby declared to be legal, eligible, and authorized investments for banks, savings and loan associations, insurance companies, fiduciaries, trustees, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds and refunding bonds shall be eligible to secure the deposit of any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their face value, when accompanied by all unmatured coupons appurtenant thereto.

Sec. 23. If any word, phrase, clause, paragraph, sentence, part, portion, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act shall nevertheless be valid, and the Legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion, or provision.

Acts 1967, 60th Leg., p. 1658, ch. 644, emerg. eff. June 16, 1967.

Title of Act:

An Act creating and establishing a conservation and reclamation district under Article 16, Section 59, Constitution of Texas, known as "Timberlakes Estates Municipal Utility District"; declaring district a governmental agency, body politic and corporate; defining the boundaries; finding the field notes and boundaries form a closure, and related matters; finding a benefit to all land and other property within the district; finding that district is created to serve a public use and benefit; conferring on district the rights, powers, privileges, authority and duties of the general laws of Texas applicable to water control and improvement districts created under Article 16, Section 59, Constitution of Texas, where not in conflict with this Act and adopting same by reference; providing for continuing supervision by the State through the Texas Water Rights Commission; providing for no election for confirmation; providing for no hearing for exclusions, except on written request or the board of directors' own motion; providing for no hearing on plan of taxation and adopting ad valorem plan of taxation for district; providing for governing body of district; providing for qualifications and bonds of directors; naming first board of directors; providing for directors to fill vacancies; providing for terms and election of directors and notice of directors' elections, and related matters; providing for organization of board of directors; providing for the letting of construction contracts and the drawing of warrants; providing for the execution of contracts by the president; providing for a vice president, a secretary, and a secretary pro tem and outlining their duties; providing for employment of engineers, attorneys, auditors, and other employees; providing for a seal for the district; providing for approval of district's plans and specifications by the Texas Water Rights Commission and inspection during construction by said Commission; providing for bonds and refunding bonds to be

approved by the Attorney General of Texas and registered by the Comptroller of Public Accounts of Texas, and providing for negotiability, legality, validity, obligation, and incontestability of the bonds and refunding bonds; providing the power of eminent domain shall be limited to the county or counties within which district is situated; providing district shall bear expenses of relocating, raising, or rerouting any highway, railroad, or utility lines or pipelines made necessary by its exercise of the power of eminent domain; defining "sole expense"; providing that the Municipal Annexation Act shall have no application to the creation of this district; determining and finding the requirements of Article 16, Section 59(d), Constitution of Texas, as to notice of intention to introduce this Act have been fulfilled and accomplished; providing for the selection of a depository or depositories for the district and related matters; providing additional powers of district within and without the boundaries of district; providing for the voting and issuing of bonds to serve areas within or without the boundaries of district; providing for the sale of bonds of the district in denominations of \$1,000 or multiples thereof, for the exchange of bonds for property and services, and for the minimum price of bonds at such sale or exchange; providing that Article 7880—77b (Vernon's Texas Civil Statutes), shall not be applicable to this district, and related matters; providing that notice of all elections shall be under the hand of the president or secretary; providing for canvassing of election returns; providing the bonds of this district and their transfer and income therefrom and profits thereon and purchases made by district shall be tax-free in this State; providing the bonds and refunding bonds of this district shall be eligible investments; enacting other provisions related to the aforementioned subjects; providing for a severability clause; and declaring an emergency. Acts 1967, 60th Leg., p. 1658, ch. 644.

For Annotations and Historical Notes, see V.A.T.S.

Art. 8280—389. Rio Grande Valley Pollution Control Authority

Section 1. By virtue of Article XVI, Section 59, of the Texas Constitution, there is hereby created a defined district to be known as "Rio Grande Valley Pollution Control Authority" (hereinafter called "authority"), which shall be a governmental agency and a body politic and corporate.

Sec. 2. The authority shall comprise all of the territory contained within the boundaries of the counties of Cameron and Hidalgo. It is hereby found and determined that all of the territory contained within the boundaries of said counties will be benefitted by the works and improvements of the authority.

Sec. 3. (a) All powers of the authority shall be exercised by a board of directors (herein called "board") having five members, each of whom shall serve for a term of two years except for the directors herein named. The initial members of the board of directors shall be the following persons whose terms of office shall terminate on the dates indicated, to wit:

Carlton Farris	April 30, 1968;
A. M. Hervey	April 30, 1968;
S. H. Collier, Jr.	April 30, 1969;
Vance Raimond	April 30, 1969;
Garland F. Smith	April 30, 1969.

(b) In April of 1968 and in April of each year thereafter the Governor shall appoint the directors to succeed the directors whose terms are about to expire. Any vacancy shall be filled for the unexpired term by appointment by the Governor.

(c) Each director shall serve for his term of office as herein provided, and thereafter until his successor shall be appointed and qualified. No person shall be appointed a director unless he resides in and owns taxable property in the authority. No members of a governing body of a city, and no employee of a city shall be appointed as director. Such directors shall subscribe the constitutional oath of office, and each shall give bond for the faithful performance of his duties in the amount of \$5,000, the cost of which shall be paid by the authority. A majority shall constitute a quorum. If any director moves from the authority, he shall cease to be a director, and a vacancy shall thereupon be created.

Sec. 4. The board shall elect from its number a president and a vice president of the authority, and such other officers as in the judgment of the board are necessary. The president shall be the chief executive officer of the authority and the presiding officer of the board, and shall have the same right to vote as any other director. The vice president shall perform all duties and exercise all powers conferred by this Act upon the president when the president is absent or fails or declines to act except the president's right to vote. The board shall also appoint a secretary and a treasurer who may or may not be members of the board, and it may combine those offices. The treasurer shall give bond in such amount as may be required by the board. The condition of such bond shall be that he will faithfully account for all money which shall come into his custody as treasurer of the authority. The board shall appoint necessary engineers, attorneys and other employees, and employ a general manager. The power to employ and discharge employees may be conferred upon the manager. The board shall adopt a seal for the authority.

Sec. 5. As a necessary aid to the preservation of water for beneficial use, the authority is authorized to acquire or construct within or without the boundaries of the authority all works, plants, and other facilities necessary or useful for the purposes of gathering, transporting, treating, and disposing of waste generated within or without the boundaries of the authority. For the purpose of this Act "waste" shall mean sewage, industrial waste, municipal waste, and any other waste that may cause impair-

ment of the quality of the waters of the state. The authority shall not be empowered to store or distribute water for municipal use or for irrigation purposes, and shall not be empowered to drain lands of storm waters or construct facilities therefor.

Sec. 6. The authority is empowered to acquire land within or without the boundaries of the authority for all works, plants, and other facilities necessary or useful for the purposes of the gathering, transporting, treating, and disposing of waste. Subject to the terms of any resolution or deed of trust authorizing or securing bonds issued by the authority, the authority may sell, trade or otherwise dispose of any real or personal property deemed by the board not to be needed for authority purposes.

Sec. 7. (a) For the purpose of carrying out any power or authority conferred by this Act the authority shall have the right to acquire the fee simple title to land and other property and easements within the boundaries of the authority and adjoining counties, by condemnation in the manner provided by Title 52, Revised Civil Statutes, 1925, as amended, relating to eminent domain. This authority is hereby declared to be a municipal corporation within the meaning of Article 3268 of said Title 52, except that the authority shall not have the right to so condemn any property which may be owned by any other political subdivision, city, or town; provided, however, that as against persons, firms, and corporations, or receivers or trustees thereof, who have the power of eminent domain, the fee title may not be condemned, but the authority may condemn only an easement. The amount of and character of interest in land, other property and easements thus to be acquired shall be determined by the board. The authority shall have the same power as is conferred upon water control and improvement districts by Section 49 of Chapter 25, Acts of the Thirty-ninth Legislature, Regular Session, 1925, with reference to making surveys and attending to other business of the authority.

(b) In the event the authority, in the exercise of its power of eminent domain or police power, or any other power requiring the relocation, raising, lowering, re-routing or change in grade or alteration in the construction of any railroad, electric transmission, telegraph or telephone lines, conduits, poles, properties or facilities or pipelines, all such relocation, raising, lowering, re-routing, or changes in grade or alteration of construction shall be accomplished at the sole expense of the authority. The term "sole expense" shall mean the actual cost of such lowering, re-routing, or change in grade or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

Sec. 8. Any construction contract requiring an expenditure of more than \$5,000 shall be made after publication of a notice to bidders once each week for two weeks in a newspaper of general circulation in the authority, before awarding the contract. Such notice shall be sufficient if it states the time and place when and where the bids will be opened, the general nature of the work to be done, or the material, equipment or supplies to be purchased, and states where and the terms upon which copies of the plans and specifications may be obtained.

Sec. 9. (a) For the purpose of carrying out any power or authority conferred by this Act, the authority is empowered to issue its negotiable bonds to be payable from revenues of the authority as are pledged by resolution of the board.

(b) Such bonds shall be authorized by resolution of the board and shall be issued in the name of the authority, signed by the president or vice president, attested by the secretary and shall bear the seal of the authority. It is provided, however, that the signatures of the president, the vice president or of the secretary or of both may be printed or lithographed on the bonds if authorized by the board and that the seal of the authority may be impressed on the bonds or may be printed or lithographed

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thereon. The bonds shall mature serially or otherwise in not to exceed 40 years from their date and may be sold at a price and under terms determined by the board to be the most advantageous reasonably obtainable, provided that the interest cost to the authority, including the discount, if any, does not exceed six percent per annum, and within the discretion of the board, may be made callable prior to maturity at such times and prices as may be prescribed in the bonds, and may be made registrable as to principal or as to both principal and interest.

(c) Bonds may be issued in more than one series and from time to time as required for carrying out the purposes of this Act.

(d) The bonds may be secured by a pledge of all or part of the revenues of the authority, or by the revenues of any one or more contracts theretofore or thereafter made or other revenues or income specified by resolution of the board or in the trust indenture. Any such pledge may reserve the right, under conditions therein specified, to issue additional bonds which may be on a parity with or subordinate to the bonds then being issued.

(e) It shall be the duty of the board to fix, and from time to time to revise, the rates of compensation for waste services rendered by the authority which will be sufficient to pay the expense of operating and maintaining the facilities of the authority and to pay the bonds as they mature and the interest as it accrues and to maintain the reserve and other funds as provided in the resolution authorizing the bonds or in the trust indenture.

(f) From the proceeds from the sale of the bonds, the authority may set aside an amount for the payment of interest expected to accrue during construction, a reserve interest and sinking fund and such other funds as may be provided in the resolution authorizing the bonds or in the trust indenture. Proceeds from the sale of the bonds may also be used for the payment of all expenses necessarily incurred in accomplishing the purposes for which this authority is created, including expenses of issuing and selling the bonds. The proceeds from the sale of the bonds may be temporarily invested in direct obligations of the United States Government. Other funds may be invested in such securities as are specified in the bond resolution or trust indenture.

(g) In the event of a default or a threatened default in the payment of principal or interest on bonds, any court of competent jurisdiction may, upon petition of the holders of outstanding bonds, appoint a receiver with authority to collect and receive all income of the authority, employ and discharge agents and employees of the authority, take charge of funds of and manage the proprietary affairs of the authority without consent or hindrance by the board. Such receiver may also be authorized to make contracts for sewer services, or renew such contracts with the approval of the court appointing him. The court may vest the receiver with such other powers and duties as the court may find necessary for the protection of the holders of the bonds. The resolution authorizing the issuance of the bonds, or the trust indenture securing them, may limit or qualify the rights of the holders of less than all of the outstanding bonds payable from the same source to institute or prosecute litigation affecting the authority's property or income.

Sec. 10. The authority is authorized to issue refunding bonds for the purpose of refunding any outstanding bonds authorized by this Act and interest thereon. Such refunding bonds may be issued to refund more than one series of outstanding bonds and combine the pledges for the outstanding bonds for the security of the refunding bonds, and may be secured by other or additional revenues and mortgage liens. The provisions of this law with reference to the issuance by the authority of other bonds, their security, and their approval by the attorney general and the

remedies of the holders shall be applicable to refunding bonds. Refunding bonds shall be registered by the comptroller upon surrender and cancellation of the bonds to be refunded, but in lieu thereof, the resolution authorizing their issuance may provide that they shall be sold and the proceeds thereof deposited in the bank where the original bonds are payable, in which case the refunding bonds may be issued in an amount sufficient to pay the principal of and the interest on the original bonds to their option date or maturity date, and the comptroller shall register them without concurrent surrender and cancellation of the original bonds. Such refunding bonds may be issued without having been authorized at an election.

Sec. 11. Any bonds (including refunding bonds) authorized by this law may be additionally secured by a trust indenture under which the trustee may be a bank having trust powers situated either within or outside of the State of Texas. Such bonds, within the discretion of the board, may be additionally secured by a deed of trust or mortgage lien upon physical properties of the authority and all franchises, easements, leases, and contracts and all rights appurtenant to such properties, vesting in the trustee power to sell the properties for the payment of indebtedness, power to operate the properties and all other powers and authority for the further security of the bonds. Such trust indenture, regardless of the existence of the deed of trust or mortgage lien on the properties may contain any provisions prescribed by the board for the security of the bonds and the preservation of the trust estate, and may make provision for amendment or modification thereof and the issuance of bonds to replace lost or mutilated bonds, and may condition the right to expend authority money or sell authority property upon approval of a registered professional engineer selected as provided therein, and may make provision for the investment of funds of the authority. Any purchaser under a sale under the deed of trust lien where one is given, shall be the absolute owner of the properties, facilities, and rights so purchased and shall have the right to maintain and operate the same.

Sec. 12. After any bonds (including refunding bonds) are authorized by the authority, such bonds and the record relating to their issuance shall be submitted to the attorney general for his examination as to the validity thereof. If such bonds recite that they are secured by a pledge of the proceeds of a contract theretofore made between the authority and any city or other governmental agency, authority or district, a copy of such contract and the proceedings of the city or other governmental agency, authority or district authorizing such contract shall also be submitted to the attorney general. If he finds that such bonds have been authorized and such contracts have been made in accordance with the Constitution and laws of the State of Texas, he shall approve the bonds and such contracts and the bonds then shall be registered by the comptroller of public accounts. Thereafter the bonds, and the contracts, if any, shall be valid and binding and shall be incontestable for any cause.

Sec. 13. The authority is authorized to enter into contracts with cities and others for gathering, transporting, treating, and disposing of waste. The authority is also authorized to contract with any city for the rental or leasing of, or for the operation of waste treatment facilities of such city upon such consideration as the authority and the city may agree. Any such contract may be upon such terms and for such time as the parties may agree, and it may provide that it shall continue in effect until bonds specified therein and refunding bonds issued in lieu of such bonds are paid. The authority is authorized to sell the residuum of its treatment of wastes, whether in solid or liquid form.

Sec. 14. (a) The board shall designate one or more banks within or without the authority to serve as depository for the funds of the authority. All funds of the authority shall be deposited in such depository bank

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or banks except that bond proceeds and funds pledged to pay bonds may, to the extent provided in the indenture, be deposited with the trustee bank named in the trust indenture, and except that funds shall be remitted to the bank of payment for the payment of principal of and interest on bonds. To the extent that funds in the depository banks and the trustee bank are not insured by the F.D.I.C. they shall be secured in the manner provided by law for the security of county funds.

(b) Before designating a depository bank or banks, the board shall issue a notice stating the time and place when and where the board will meet for such purpose and inviting the banks in the authority to submit applications to be designated depositories. The term of service for depositories shall be prescribed by the board. Such notice shall be published one time in a newspaper of general circulation in the authority and specified by the board, or, in lieu of such publication, a copy of such notice may be mailed to each bank in the authority.

(c) At the time mentioned in the notice, the board shall consider the applications and the management and condition of the banks filing them, and shall designate as depositories the bank or banks which offer the most favorable terms and conditions for the handling of the funds of the authority and which the board finds have proper management and are in condition to warrant handling of authority funds. Membership on the board of an officer or director of a bank shall not disqualify such bank from being designated as depository.

(d) If no applications are received by the time stated in the notice, the board shall designate some bank or banks within or without authority upon such terms and conditions as it may find advantageous to the authority.

Sec. 15. All bonds of the authority shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, trustees, and for the sinking fund of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas, and any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivision of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their value, when accompanied by all unmatured coupons appurtenant thereto.

Sec. 16. The accomplishment of the purposes stated in this Act is for the benefit of the people of this state and for the improvement of their properties and industries, and the authority, in carrying out the purposes of this Act will be performing an essential public function under the Constitution. The authority shall not be required to pay any tax or assessment on the project or any part thereof, and the bonds issued hereunder and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this state.

Sec. 17. In carrying out the purposes of this Act or otherwise, the authority shall not be empowered to levy a tax.

Sec. 18. If any provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

Acts 1967, 60th Leg., p. 1678, ch. 648, emerg. eff. June 16, 1967.

Title of Act:

An Act creating Rio Grande Valley Pollution Control Authority, a defined district, under Article XVI, Section 59, of the Constitution, comprising all of the territory

contained in the counties of Cameron and Hidalgo for the purpose of constructing, acquiring and operating facilities for gathering, transporting, treating, and disposing of waste; providing for a board of direc-

tors for the government of said authority; authorizing the authority to acquire land for its purposes by condemnation; authorizing the authority to issue bonds and providing for the payment and security thereof; providing that said bonds shall be payable only from revenues; authorizing the issuance of refunding bonds; authorizing the execution of a trust indenture to secure bonds payable from revenues; authorizing the authority to enter into contracts with cities and others for collecting, treating

and disposing of waste; providing for the approval of bonds issued by the authority and contracts entered into by the authority by the attorney general and registration of bonds by the Comptroller of Public Accounts of the State of Texas; prescribing other powers and duties of the authority; authorizing other provisions relating to the subject; providing a severability clause; and declaring an emergency. Acts 1967, 60th Leg., p. 1678, ch. 648.

Art. 8280—390. Point Lookout Estates Municipal Utility District

Section 1. Under and pursuant to the provisions of Article 16, Section 59 of the Constitution of Texas, a conservation and reclamation district is hereby created and established in San Jacinto County, Texas, to be known as "Point Lookout Estates Municipal Utility District," hereinafter called the "district," which shall be a governmental agency and a body politic and corporate. The creation and establishment of the district is hereby declared to be essential to the accomplishment of the purposes of Article 16, Section 59, Constitution of Texas.

Sec. 2. The district shall comprise all of the territory contained within the following described area:

Lying wholly in San Jacinto County, Texas, and being 220.44 acres of land, more or less, out of the Isaac Jones League, A-23, and more particularly described as follows:

Beginning at a 2-inch iron pipe in the east right-of-way line of FM 1909, being the northerly corner of the Arnett Jones 156-acre tract and being S 51° 00' W 3710 feet and N 37° 59' W 3812.3 feet from the most easterly corner of said Isaac Jones League.

THENCE, S 37° 59' E 1392.2 feet to an iron rod for corner in the fee line of Lake Livingston.

THENCE, with the meanders of said fee line of Lake Livingston, as follows:

N 57° 08' E 887.8 feet.
 N 61° 00' E 464.9 feet.
 N 26° 12' E 138.9 feet.
 N 60° 13' W 145.7 feet.
 N 51° 46' E 52.8 feet.
 S 73° 33' E 134.8 feet.
 N 57° 05' E 147.4 feet.
 N 57° 15' E 179.8 feet.
 N 45° 27' E 208.5 feet.
 N 14° 17' E 73.0 feet.
 N 02° 24' E 285.1 feet.
 N 20° 03' W 591.7 feet.
 N 31° 37' W 292.8 feet.
 N 67° 51' W 69.0 feet.
 N 33° 47' W 95.1 feet.
 N 35° 12' E 111.1 feet.
 N 19° 09' W 349.9 feet.
 N 30° 00' W 97.9 feet.
 N 26° 59' W 221.6 feet.
 N 21° 11' W 142.8 feet.
 N 38° 34' W 92.6 feet.
 N 23° 26' W 304.6 feet.
 N 21° 05' W 78.4 feet.
 N 07° 33' W 138.4 feet.
 N 13° 05' W 254.5 feet.
 N 03° 16' W 229.8 feet.

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N 04° 31' W 251.6 feet.

N 17° 49' W 272.6 feet.

N 13° 34' W 298.8 feet to an iron rod for corner in the east right-of-way line of said FM 1909.

THENCE, in a Southerly direction along the east right-of-way line of said FM 1909, as follows:

S 24° 30' W 383.9 feet.

S 20° 30' W 97.4 feet.

S 16° 00' W 96.7 feet.

S 12° 00' W 803.4 feet to a concrete monument for corner in said east right-of-way line of FM 1909.

THENCE, S 34° 00' E 1099.7 feet to a point for corner.

THENCE, S 54° 30' W 1692.8 feet to a point for corner.

THENCE, S 34° 00' E 293.2 feet to a point for corner.

THENCE, S 54° 30' W 517.0 feet to a point for corner in the west right-of-way line of FM 1909.

THENCE, Southerly with said west right-of-way line, as follows:

S 08° 42' W 305.4 feet to a point for corner.

S 15° 00' W 200.0 feet to a point for corner.

S 30° 00' W 230.0 feet to a point for corner.

S 43° 24' W 530.0 feet to a point for corner.

S 47° 14' W 1046.1 feet to a concrete monument for corner in said west right-of-way line.

THENCE, N 36° 32' W 629.5 feet to a concrete monument for corner.

THENCE, S 52° 00' W 317.5 feet to a concrete monument for corner.

THENCE, N 37° 45' W 571.0 feet to a concrete monument for corner.

THENCE, S 52° 00' W 1264.0 feet to a concrete monument for corner.

THENCE, S 37° 32' E 1350.0 feet to a concrete monument for corner in the west right-of-way line of FM 1909.

THENCE, S 47° 00' W 503.0 feet along the west right-of-way line of FM 1909 to a point for corner.

THENCE, S 34° 35' W 286.0 feet along the west right-of-way line of FM 1909 to a point for corner.

THENCE, S 39° 20' E, at 91.0 feet pass a concrete monument in the east right-of-way line of FM 1909, a total distance of 822.6 feet to an iron rod for corner in the fee line of Lake Livingston.

THENCE, along the fee line of said Lake Livingston with its meanders as follows:

N 30° 01' W 276.7 feet.

S 67° 54' E 293.1 feet.

N 52° 40' E 470.0 feet.

N 43° 52' E 539.6 feet.

N 31° 19' E 629.7 feet.

N 44° 32' E 448.6 feet.

N 44° 05' E 88.5 feet to an iron rod for corner.

THENCE, N 36° 32' W 628.7 feet to a concrete monument in the east right-of-way line of FM 1909.

THENCE, Northerly with the said east right-of-way line of FM 1909 as follows:

N 47° 14' E 1057.3 feet to a point for corner.

N 43° 24' E 554.5 feet to a point for corner.

N 30° 00' E 235.0 feet to a point for corner.

N 15° 00' E 226.0 feet to the place of beginning.

Containing 220.44 acres of land, more or less.

Sec. 3. It is determined and found that the boundaries and field notes of the district form a closure; and if any mistake is made in copying the

field notes in the legislative process, or otherwise a mistake is made in the field notes, it shall in no way or manner affect the organization, existence, and validity of the district, or the right of the district to issue any type of bonds or refunding bonds for the purposes for which the district is created, or to pay the principal and interest thereon, or the right to assess, levy, and collect taxes, or the legality or operation of the district or its governing body.

Sec. 4. It is determined and found that all of the land and other property included within the area and boundaries of the district will be benefited by the works and project which are to be accomplished by the district pursuant to the powers conferred by the provisions of Article 16, Section 59, Constitution of Texas, and that said district was and is created to serve a public use and benefit.

Sec. 5. The district shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, authority, and duties conferred and imposed by the general laws of this State now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Article 16, Section 59, Constitution of Texas; but to the extent that the provisions of any such general laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such general laws are hereby adopted and incorporated by reference with the same effect as if incorporated in full in this Act. The powers and duties herein granted to the district shall be subject to the continuing right of supervision of the State, to be exercised by and through the Texas Water Rights Commission.

Sec. 6. It shall not be necessary for the board of directors to call or hold a confirmation election for the confirmation of the district.

Sec. 7. It shall not be necessary for the board of directors to call or hold a hearing on the exclusions of land or other property from the district; provided, however, that the board shall hold such hearing upon the written request of any landowner or other property owner within the district filed with the secretary of the board prior to the calling of the first bond election for the district. The board on its own motion may call and hold an exclusions hearing or hearings in the manner provided by the general law.

Sec. 8. It shall not be necessary for the board of directors to call or hold a hearing on the adoption of a plan of taxation, but the ad valorem plan of taxation shall be used by the district.

Sec. 9. All powers of the district shall be exercised by a board of five directors. Each director shall serve for his term of office as herein provided, and thereafter until his successor shall be elected or appointed and qualified. No person shall be appointed a director unless he is 21 years of age or over and a resident of the State of Texas. Such director shall not be required to reside within the boundaries of the district. Each director shall qualify by subscribing to the oath of office and giving bond in the amount of \$5,000 for the faithful performance of his duties. The cost of such bond shall be paid by the district. Such bond shall be filed in the office of the county clerk and approved by the county judge or the commissioner's court of the county within which district is situated. Such oath shall be filed with the secretary of the district's board of directors after his selection. The bonds of directors elected or appointed after the directors named below shall be approved by the district's board of directors, filed for record in the office of the county clerk of the county in which the district is located and shall be recorded in a record kept for that purpose in the office of the district and be filed for safekeeping in the depository of the district. Immediately after this Act becomes effective, the following named persons, all of whom are 21 years of age or over and resi-

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dents of the State of Texas, shall be the directors of the district and shall constitute the board of directors of the district:

Lenode Goldston
Jack A. Witte
Carl F. Mann, Jr.
Lewis C. Holder
A. Halla, Jr.

Said persons shall qualify as directors within 30 days, or as soon thereafter as practicable, from the effective date of this Act. If any of the aforementioned persons shall fail or refuse to qualify or to serve, or shall die or become incapacitated, or otherwise not be qualified to assume the duties of a director of the district under this Act, a majority of the remaining directors shall appoint a successor or successors. The directors named above or their duly appointed successor or successors shall serve until the second Tuesday in January 1969. Succeeding directors shall be elected or appointed and shall serve for the term and in the manner provided for by Article 7880—37, Vernon's Texas Civil Statutes. The annual elections shall be ordered by the board of directors. Any vacancy occurring in the board of directors shall be filled for the unexpired term by a majority of the remaining directors. The board of directors shall elect from its number a president, a vice president, and a secretary of the board of directors and of the district, and such other officers as in the judgment of the board are necessary. Three directors shall constitute a quorum at any meeting, and a concurrence of three shall be sufficient in all matters pertaining to the business of the district including the letting of construction contracts and the drawing of warrants in payment for construction work, the purchase of existing facilities, and matters relating to construction work. Warrants to pay current expenses, salaries, and accounts may be drawn and signed by an officer or employee, designated by standing order entered on the minutes of the board of directors, when such accounts have been contracted and ordered paid by the directors. The president may execute all contracts, construction or otherwise, entered into by the board of directors on behalf of the district. The vice president shall perform all duties and exercise all power conferred by this Act or the general law upon the president when the president is absent or fails or declines to act. Any order adopted or other action taken at a meeting of the board of directors at which the president is absent may be signed by the vice president, or the board may authorize the president to sign such order or other action. The secretary shall keep and sign the minutes of the meetings of the board of directors; and in his absence at any board meeting, a secretary pro tem shall be named for that meeting who may exercise all the duties and powers of the secretary for such meeting, and shall sign the minutes thereof, and may attest all orders passed or other action taken at such meeting, or the board may authorize the secretary to attest such orders or other action. The secretary shall be the custodian of all minutes and records of the district. The board shall appoint all necessary engineers, attorneys, auditors, and other employees. The board shall adopt a seal for the district.

Sec. 10. Before issuing any construction bonds, the district shall submit plans and specifications therefor to the Texas Water Rights Commission for approval in the manner required by Article 7880—139, Revised Civil Statutes of Texas, 1925; and the district's project and improvements during the course of construction shall be subject to inspection in the manner provided by said Article 7880—139.

Sec. 11. When any kind of bonds or refunding bonds have been approved by the Attorney General of Texas, registered by the Comptroller of Public Accounts of the State of Texas, and issued by the district, such

bonds or refunding bonds shall be negotiable, legal, valid, and binding obligations of the district and shall be incontestable for any cause.

Sec. 12. The power of eminent domain of the district shall be limited to the county or counties in which the district is situated. In the event that the district, in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, rerouting or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telegraph or telephone properties and facilities, or pipeline, all such necessary relocation, raising, rerouting, changing of grade, or alteration of construction shall be accomplished at the sole expense of the district. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, rerouting, or change in grade, or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

Sec. 13. This district is hereby created notwithstanding any of the provisions of the Municipal Annexation Act (Article 970a, Revised Civil Statutes of Texas, 1925), as amended, and to the extent of the creation of the district only, said Article 970a shall have no application. In all other respects, the district hereby created is expressly made subject to all provisions of said Article 970a.

Sec. 14. It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published at least 30 days and not more than 90 days prior to the introduction of this Act in the Legislature of Texas, in a newspaper having a general circulation in the county or counties in which this district or any part thereof is situated; that a copy of such notice and a copy of this Act have been delivered to the Governor of Texas, who has submitted such notice and Act to the Texas Water Rights Commission, and said Texas Water Rights Commission has filed its recommendation as to such Act with the Governor, Lieutenant Governor and Speaker of the House of Representatives of Texas within 30 days from the date such notice and Act were received by the Texas Water Rights Commission; and that all the requirements and provisions of Article 16, Section 59(d), Constitution of the State of Texas, have been fulfilled and accomplished as therein provided.

Sec. 15. The board of directors of the district shall select any bank or trust company in the State of Texas to act as depository of the proceeds of the bonds or revenues derived from the operation of the facilities of the district, and said depository shall furnish such indemnity bonds or pledge such securities or meet such other requirements as determined by the board of directors of the district. The district may select one or more depositories.

Sec. 16. In no manner limiting the right, power, or authority of the district, as heretofore granted, the district is specifically granted the right, power, and authority to purchase and construct, or to purchase or construct, or otherwise to acquire waterworks systems, sanitary sewer systems, storm sewer systems and drainage facilities, or parts of such systems or facilities, and to make any and all necessary purchases, constructions, improvements, extension, additions, and repairs thereto, and to purchase or acquire all necessary land, rights-of-way, easements, sites, equipment, buildings, plants, structures, and facilities therefor and to operate and maintain same, and to sell water and other services. The district may exercise any of the rights, powers, and authorities granted in this Act within or without the boundaries of the district and is specifically authorized to exercise any of said rights, powers, and authorities in order to provide water and sewerage services to areas within or without the boundaries of the district. The district may vote and issue any kind of bonds

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or refunding bonds for any or all of such purposes herein provided, for contiguous or noncontiguous areas, and provide and make payment therefor and for necessary expenses in connection therewith.

Sec. 17. Bonds of the district, other than refunding bonds, may be sold at a price and upon the terms determined by the board of directors of the district, except that such bonds shall not be sold for a less amount than provided by law. Such bonds or refunding bonds may be sold in denominations of \$1,000 each or multiples thereof. Refunding bonds shall be sold at a price and under the terms of the general law applicable to water control and improvement districts. The district may exchange bonds or refunding bonds for property acquired by purchase, or in payment of the contract price of work done or materials furnished or services furnished for the use and benefit of the district; provided that no notice given pursuant to Article 7880—117, Revised Civil Statutes of Texas, 1925, as amended, shall be predicated upon or require the exchange of bonds or refunding bonds, and said article shall otherwise be applicable to this district in all respects.

Sec. 18. The provisions of Article 7880—77b, Revised Civil Statutes of Texas, 1925, as amended, or any other general law, pertaining to the calling of a hearing for the determination of the dissolution of a district where a bond election has failed shall be inapplicable to this district, and this district shall continue to exist and shall have full power to function and operate regardless of the outcome of any bond election. Upon the failure of any bond election, a subsequent bond election may be called after the expiration of six months from the date of the bond election which failed.

Sec. 19. Notice of all elections may be given under the hand of either the president or the secretary of the district.

Sec. 20. The returns of all elections may be canvassed by the board of directors of the district at any time within seven days after the holding of an election, or as soon thereafter as reasonably practicable. The election returns of the annual election of directors may be canvassed by the board of directors as it was composed at the time of such election, or by the directors elected at such election, or by a combination of both. At the board of directors meeting at which the returns are canvassed, composed as aforesaid, any director newly elected at such election may qualify by filing his official bond and taking the oath of office, either before or after the returns are canvassed, and upon the filing of such bond the board, composed as aforesaid, may approve same.

Sec. 21. The accomplishment of the purposes stated in this Act being for the benefit of the people of this state and for the improvement of their properties and industries, the district in carrying out the purposes of this Act will be performing an essential public function under the Constitution, and the district shall not be required to pay any tax or assessment on the project or any part thereof or on any purchases made by the district, and the bonds issued hereunder and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this state.

Sec. 22. All bonds and refunding bonds of the district shall be and are hereby declared to be legal, eligible, and authorized investments for banks, savings and loan associations, insurance companies, fiduciaries, trustees, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds and refunding bonds shall be eligible to secure the deposit of any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their face value, when accompanied by all unmatured coupons appurtenant thereto.

Sec. 23. If any word, phrase, clause, paragraph, sentence, part, portion, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act shall nevertheless be valid, and the Legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion, or provision.

Acts 1967, 60th Leg., p. 1684, ch. 649, emerg. eff. June 16, 1967.

Title of Act:

An Act creating and establishing a conservation and reclamation district under Article 16, Section 59, Constitution of Texas, known as "Point Lookout Estates Municipal Utility District"; declaring district a governmental agency, body politic and corporate; defining the boundaries; finding the field notes and boundaries form a closure, and related matters; finding a benefit to all land and other property within the district; finding that district is created to serve a public use and benefit; conferring on district the rights, powers, privileges, authority and duties of the general laws of Texas applicable to water control and improvement districts created under Article 16, Section 59, Constitution of Texas, where not in conflict with this Act and adopting same by reference; providing for continuing supervision by the State through the Texas Water Rights Commission; providing for no election for confirmation; providing for no hearing for exclusions, except on written request or the board of directors' own motion; providing for no hearing on plan of taxation and adopting ad valorem plan of taxation for district; providing for governing body of district; providing for qualifications and bonds of directors; naming first board of directors; providing for directors to fill vacancies; providing for terms and election of directors and notice of directors' elections, and related matters; providing for organization of board of directors; providing for the letting of construction contracts and the drawing of warrants; providing for the execution of contracts by the president; providing for a vice president, a secretary, and a secretary pro tem and outlining their duties; providing for employment of engineers, attorneys, auditors, and other employees; providing for a seal for the district; providing for approval of district's plans and specifications by the Texas Water Rights Commission and inspection during construction by said Commission; providing for bonds and refunding bonds to

be approved by the Attorney General of Texas and registered by the Comptroller of Public Accounts of Texas, and providing for negotiability, legality, validity, obligation, and incontestability of the bonds and refunding bonds; providing the power of eminent domain shall be limited to the county or counties within which district is situated; providing district shall bear expenses of relocating, raising, or rerouting any highway, railroad, or utility lines or pipelines made necessary by its exercise of the power of eminent domain; defining "sole expense"; providing that the Municipal Annexation Act shall have no application to the creation of this district; determining and finding the requirements of Article 16, Section 59(d), Constitution of Texas, as to notice of intention to introduce this Act have been fulfilled and accomplished; providing for the selection of a depository or depositories for the district and related matters; providing additional powers of district within and without the boundaries of district; providing for the voting and issuing of bonds to serve areas within or without the boundaries of district; providing for the sale of bonds of the district in denominations of \$1,000 or multiples thereof, for the exchange of bonds for property and services, and for the minimum price of bonds at such sale or exchange; providing that Article 7880-77b (Vernon's Texas Civil Statutes), shall not be applicable to this district, and related matters; providing that notice of all elections shall be under the hand of the president or secretary; providing for canvassing of election returns; providing the bonds of this district and their transfer and income therefrom and profits thereon and purchases made by district shall be tax-free in this State; providing the bonds and refunding bonds of this district shall be eligible investments; enacting other provisions related to the aforementioned subjects; providing for a severability clause; and declaring an emergency. Acts 1967, 60th Leg., p. 1684, ch. 649.

Art. 8280—391. Windfern Municipal Utility District

Section 1. Under and pursuant to the provisions of Article 16, Section 59 of the Constitution of Texas, a conservation and reclamation district is hereby created and established in Harris County, Texas, to be known as "Windfern Municipal Utility District," hereinafter called the "district," which shall be a governmental agency and a body politic and corporate. The creation and establishment of the district is hereby declared to be essential to the accomplishment of the purposes of Article 16, Section 59, Constitution of Texas.

For Annotations and Historical Notes, see V.A.T.S.

Sec. 2. The district shall comprise all of the territory contained within the following described area:

Lying wholly in Harris County, Texas, and being 152.0365 acres of land, more or less, out of the W. K. Hamblen Survey, A-317, being more particularly described by metes and bounds as follows:

Beginning at an old fence corner marking the intersection of the westerly right-of-way line of Windfern Road (formerly Reid Road) with the northerly boundary of the said W. K. Hamblen Survey and the southern boundary of the A. Lawson Survey, A-523, said point of beginning also being the northeast corner of the tract described herein.

THENCE, in a Southerly direction following the general line of an old fence along the said westerly right-of-way line of Windfern Road, as follows:

South 1480.68 feet to a point.

West 20.00 feet to a point.

South 400.00 feet to a point.

East 20.00 feet to a point.

South 959.76 feet to a 1-inch iron pipe set in a corner of the said old fence for the southeast corner of the tract described herein.

THENCE, N 88° 15' 51" W 2366.92 feet, following the general line of an old fence to a corner of the said old fence, for the southwest corner of the tract described herein.

THENCE, N 00° 17' 57" E 2782.03 feet, following the general line of an old fence to a corner of the said old fence at its intersection with the northerly boundary line of the W. K. Hamblen Survey and the southerly boundary line of the A. Lawson Survey for the northwest corner of the tract described herein.

THENCE, S 89° 40' 38" E 2351.34 feet, following the general line of an old fence along the said northerly boundary line of the W. K. Hamblen Survey and the said southerly boundary line of the A. Lawson Survey, to the point of beginning of the tract described herein.

Containing 152.0365 acres of land, more or less.

Sec. 3. It is determined and found that the boundaries and field notes of the district form a closure; and if any mistake is made in copying the field notes in the legislative process, or otherwise a mistake is made in the field notes, it shall in no way or manner affect the organization, existence, and validity of the district, or the right of the district to issue any type of bonds or refunding bonds for the purposes for which the district is created, or to pay the principal and interest thereon, or the right to assess, levy, and collect taxes, or the legality or operation of the district or its governing body.

Sec. 4. It is determined and found that all of the land and other property included within the area and boundaries of the district will be benefited by the works and project which are to be accomplished by the district pursuant to the powers conferred by the provisions of Article 16, Section 59, Constitution of Texas, and that said district was and is created to serve a public use and benefit.

Sec. 5. The district shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, authority, and duties conferred and imposed by the general laws of this State now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Article 16, Section 59, Constitution of Texas; but to the extent that the provisions of any such general laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such general laws are hereby adopted and incorporated by reference with the same effect as if incorporated in full in this Act. The powers and duties herein granted to the district shall be subject to the

continuing right of supervision of the State, to be exercised by and through the Texas Water Rights Commission.

Sec. 6. It shall not be necessary for the board of directors to call or hold a confirmation election for the confirmation of the district.

Sec. 7. It shall not be necessary for the board of directors to call or hold a hearing on the exclusions of land or other property from the district; provided, however, that the board shall hold such hearing upon the written request of any landowner or other property owner within the district filed with the secretary of the board prior to the calling of the first bond election for the district. The board on its own motion may call and hold an exclusions hearing or hearings in the manner provided by the general law.

Sec. 8. It shall not be necessary for the board of directors to call or hold a hearing on the adoption of a plan of taxation, but the ad valorem plan of taxation shall be used by the district.

Sec. 9. All powers of the district shall be exercised by a board of five directors. Each director shall serve for his term of office as herein provided, and thereafter until his successor shall be elected or appointed and qualified. No person shall be appointed a director unless he is 21 years of age or over and a resident of the State of Texas. Such director shall not be required to reside within the boundaries of the district. Each director shall qualify by subscribing to the oath of office and giving bond in the amount of \$5,000 for the faithful performance of his duties. The cost of such bond shall be paid by the district. Such bond shall be filed in the office of the county clerk and approved by the county judge or the commissioner's court of the county within which district is situated. Such oath shall be filed with the secretary of the district's board of directors after his selection. The bonds of directors elected or appointed after the directors named below shall be approved by the district's board of directors, filed for record in the office of the county clerk of the county in which the district is located and shall be recorded in a record kept for that purpose in the office of the district and be filed for safekeeping in the depository of the district. Immediately after this Act becomes effective, the following named persons, all of whom are 21 years of age or over and residents of the State of Texas, shall be the directors of the district and shall constitute the board of directors of the district:

John Swope
Patricia Jackson
Ruben Lambert
Martin Morales
Dean Smith

Said persons shall qualify as directors within 30 days, or as soon thereafter as practicable, from the effective date of this Act. If any of the aforementioned persons shall fail or refuse to qualify or to serve, or shall die or become incapacitated, or otherwise not be qualified to assume the duties of a director of the district under this Act, a majority of the remaining directors shall appoint a successor or successors. The directors named above or their duly appointed successor or successors shall serve until the second Tuesday in January 1969. Succeeding directors shall be elected or appointed and shall serve for the term and in the manner provided for by Article 7880—37, Vernon's Texas Civil Statutes. The annual elections shall be ordered by the board of directors. Any vacancy occurring in the board of directors shall be filled for the unexpired term by a majority of the remaining directors. The board of directors shall elect from its number a president, a vice president, and a secretary of the board of directors and of the district, and such other officers as in the judgment of the board are necessary. Three directors shall constitute a quorum at any meeting, and a concurrence of three shall be sufficient

in all matters pertaining to the business of the district including the letting of construction contracts and the drawing of warrants in payment for construction work, the purchase of existing facilities, and matters relating to construction work. Warrants to pay current expenses, salaries, and accounts may be drawn and signed by an officer or employee, designated by standing order entered on the minutes of the board of directors, when such accounts have been contracted and ordered paid by the directors. The president may execute all contracts, construction or otherwise, entered into by the board of directors on behalf of the district. The vice president shall perform all duties and exercise all power conferred by this Act or the general law upon the president when the president is absent or fails or declines to act. Any order adopted or other action taken at a meeting of the board of directors at which the president is absent may be signed by the vice president, or the board may authorize the president to sign such order or other action. The secretary shall keep and sign the minutes of the meetings of the board of directors; and in his absence at any board meeting, a secretary pro tem shall be named for that meeting who may exercise all the duties and powers of the secretary for such meeting, and shall sign the minutes thereof, and may attest all orders passed or other action taken at such meeting, or the board may authorize the secretary to attest such orders or other action. The secretary shall be the custodian of all minutes and records of the district. The board shall appoint all necessary engineers, attorneys, auditors, and other employees. The board shall adopt a seal for the district.

Sec. 10. Before issuing any construction bonds, the district shall submit plans and specifications therefor to the Texas Water Rights Commission for approval in the manner required by Article 7880—139, Revised Civil Statutes of Texas, 1925; and the district's project and improvements during the course of construction shall be subject to inspection in the manner provided by said Article 7880—139.

Sec. 11. When any kind of bonds or refunding bonds have been approved by the Attorney General of Texas, registered by the Comptroller of Public Accounts of the State of Texas, and issued by the district, such bonds or refunding bonds shall be negotiable, legal, valid, and binding obligations of the district and shall be incontestable for any cause.

Sec. 12. The power of eminent domain of the district shall be limited to the county or counties in which the district is situated. In the event that the district, in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, rerouting or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telegraph or telephone properties and facilities, or pipeline, all such necessary relocation, raising, rerouting, changing of grade, or alteration of construction shall be accomplished at the sole expense of the district. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, rerouting, or change in grade, or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

Sec. 13. This district is hereby created notwithstanding any of the provisions of the Municipal Annexation Act (Article 970a, Revised Civil Statutes of Texas, 1925), as amended, and to the extent of the creation of the district only, said Article 970a shall have no application. In all other respects, the district hereby created is expressly made subject to all provisions of said Article 970a.

Sec. 14. It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published at least 30 days and not more than 90 days prior to the introduction of this Act in the Legislature of Texas, in a

newspaper having a general circulation in the county or counties in which this district or any part thereof is situated; that a copy of such notice and a copy of this Act have been delivered to the Governor of Texas, who has submitted such notice and Act to the Texas Water Rights Commission, and said Texas Water Rights Commission has filed its recommendation as to such Act with the Governor, Lieutenant Governor and Speaker of the House of Representatives of Texas within 30 days from the date such notice and Act were received by the Texas Water Rights Commission; and that all the requirements and provisions of Article 16, Section 59(d), Constitution of the State of Texas, have been fulfilled and accomplished as therein provided.

Sec. 15. The board of directors of the district shall select any bank or trust company in the State of Texas to act as depository of the proceeds of the bonds or revenues derived from the operation of the facilities of the district, and said depository shall furnish such indemnity bonds or pledge such securities or meet such other requirements as determined by the board of directors of the district. The district may select one or more depositories.

Sec. 16. In no manner limiting the right, power, or authority of the district, as heretofore granted, the district is specifically granted the right, power, and authority to purchase and construct, or to purchase or construct, or otherwise to acquire waterworks systems, sanitary sewer systems, storm sewer systems and drainage facilities, or parts of such systems or facilities, and to make any and all necessary purchases, constructions, improvements, extension, additions, and repairs thereto, and to purchase or acquire all necessary land, rights-of-way, easements, sites, equipment, buildings, plants, structures, and facilities therefor and to operate and maintain same, and to sell water and other services. The district may exercise any of the rights, powers, and authorities granted in this Act within or without the boundaries of the district and is specifically authorized to exercise any of said rights, powers, and authorities in order to provide water and sewerage services to areas within or without the boundaries of the district. The district may vote and issue any kind of bonds or refunding bonds for any or all of such purposes herein provided, for contiguous or noncontiguous areas, and provide and make payment therefor and for necessary expenses in connection therewith.

Sec. 17. Bonds of the district, other than refunding bonds, may be sold at a price and upon the terms determined by the board of directors of the district, except that such bonds shall not be sold for a less amount than provided by law. Such bonds or refunding bonds may be sold in denominations of \$1,000 each or multiples thereof. Refunding bonds shall be sold at a price and under the terms of the general law applicable to water control and improvement districts. The district may exchange bonds or refunding bonds for property acquired by purchase, or in payment of the contract price of work done or materials furnished or services furnished for the use and benefit of the district; provided that no notice given pursuant to Article 7880—117, Revised Civil Statutes of Texas, 1925, as amended, shall be predicated upon or require the exchange of bonds or refunding bonds, and said article shall otherwise be applicable to this district in all respects.

Sec. 18. The provisions of Article 7880—77b, Revised Civil Statutes of Texas, 1925, as amended, or any other general law, pertaining to the calling of a hearing for the determination of the dissolution of a district where a bond election has failed shall be inapplicable to this district, and this district shall continue to exist and shall have full power to function and operate regardless of the outcome of any bond election. Upon the failure of any bond election, a subsequent bond election may be called after the expiration of six months from the date of the bond election which failed.

For Annotations and Historical Notes, see V.A.T.S.

Sec. 19. Notice of all elections may be given under the hand of either the president or the secretary of the district.

Sec. 20. The returns of all elections may be canvassed by the board of directors of the district at any time within seven days after the holding of an election, or as soon thereafter as reasonably practicable. The election returns of the annual election of directors may be canvassed by the board of directors as it was composed at the time of such election, or by the directors elected at such election, or by a combination of both. At the board of directors meeting at which the returns are canvassed, composed as aforesaid, any director newly elected at such election may qualify by filing his official bond and taking the oath of office, either before or after the returns are canvassed, and upon the filing of such bond the board, composed as aforesaid, may approve same.

Sec. 21. The accomplishment of the purposes stated in this Act being for the benefit of the people of this state and for the improvement of their properties and industries, the district in carrying out the purposes of this Act will be performing an essential public function under the Constitution, and the district shall not be required to pay any tax or assessment on the project or any part thereof or on any purchases made by the district, and the bonds issued hereunder and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this state.

Sec. 22. All bonds and refunding bonds of the district shall be and are hereby declared to be legal, eligible, and authorized investments for banks, savings and loan associations, insurance companies, fiduciaries, trustees, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds and refunding bonds shall be eligible to secure the deposit of any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas and such bonds shall be lawful and sufficient security for said deposits to the extent of their face value, when accompanied by all unmatured coupons appurtenant thereto.

Sec. 23. If any word, phrase, clause, paragraph, sentence, part, portion, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act shall nevertheless be valid, and the Legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion, or provision.

Acts 1967, 60th Leg., p. 1692, ch. 651, emerg. eff. June 16, 1967.

Title of Act:

An Act creating and establishing a conservation and reclamation district under Article 16, Section 59, Constitution of Texas, known as "Windfern Municipal Utility District"; declaring district a governmental agency, body politic and corporate; defining the boundaries; finding the field notes and boundaries form a closure, and related matters; finding a benefit to all land and other property within the district; finding that district is created to serve a public use and benefit; conferring on district the rights, powers, privileges, authority and duties of the general laws of Texas applicable to water control and improvement districts created under Article 16, Section 59, Constitution of Texas, where not in conflict with this Act and adopting same by reference; providing for continuing supervision by the State through the Texas Water Rights Commission; providing for no election for confirmation; providing for no

hearing for exclusions, except on written request or the board of directors' own motion; providing for no hearing on plan of taxation and adopting ad valorem plan of taxation for district; providing for governing body of district; providing for qualifications and bonds of directors; naming first board of directors; providing for directors to fill vacancies; providing for terms and election of directors and notice of directors' elections, and related matters; providing for organization of board of directors; providing for the letting of construction contracts and the drawing of warrants; providing for the execution of contracts by the president; providing for a vice president, a secretary, and a secretary pro tem and outlining their duties; providing for employment of engineers, attorneys, auditors, and other employees; providing for a seal for the district; providing for approval of district's plans and specifications by the Texas Water Rights

Commission and inspection during construction by said Commission; providing for bonds and refunding bonds to be approved by the Attorney General of Texas and registered by the Comptroller of Public Accounts of Texas, and providing for negotiability, legality, validity, obligation, and incontestability of the bonds and refunding bonds; providing the power of eminent domain shall be limited to the county or counties within which district is situated; providing district shall bear expenses of relocating, raising, or rerouting any highway, railroad, or utility lines or pipelines made necessary by its exercise of the power of eminent domain; defining "sole expense"; providing that the Municipal Annexation Act shall have no application to the creation of this district; determining and finding the requirements of Article 16, Section 59(c), Constitution of Texas, as to notice of intention to introduce this Act have been fulfilled and accomplished; providing for the selection of a depository or depositories for the district and related matters; providing additional pow-

ers of district within and without the boundaries of district; providing for the voting and issuing of bonds to serve areas within or without the boundaries of district; providing for the sale of bonds of the district in denominations of \$1,000 or multiples thereof, for the exchange of bonds for property and services, and for the minimum price of bonds at such sale or exchange; providing that Article 7880—77b (Vernon's Texas Civil Statutes), shall not be applicable to this district, and related matters; providing that notice of all elections shall be under the hand of the president or secretary; providing for canvassing of election returns; providing the bonds of this district and their transfer and income therefrom and profits thereon and purchases made by district shall be tax-free in this State; providing the bonds and refunding bonds of this district shall be eligible investments; enacting other provisions related to the aforementioned subjects; providing for a severability clause; and declaring an emergency. Acts 1967, 60th Leg., p. 1692, ch. 651.

Art. 8280—392. Lamar County Water Supply District

Section 1. By virtue of Article XVI, Section 59 of the Texas Constitution, there is hereby created a Conservation and Reclamation District to be known as "Lamar County Water Supply District" (hereinafter called "District"), which shall be a governmental agency and a body politic and corporate.

Sec. 2. Said District shall contain all of the territory contained in the boundaries of Lamar County, Texas, except that part of Lamar County contained within the corporate limits of the City of Paris, Texas, as of the effective date of this Act. It is hereby found and determined that all of the territory contained within the boundaries as above set forth will be benefited by the works and improvements of the District.

Sec. 3. (a) All powers of the Authority shall be exercised by a Board of Directors, each of whom shall serve for a term of two (2) years except for the directors appointed by this Act. The following directors are hereby appointed:

NAME		FOR TERM ENDING
J. C. Biard	Paris, Texas	April 30, 1969
M. F. Gilliam	Chicota, Texas	April 30, 1969
H. A. Todd	Faught, Texas	April 30, 1969
James S. Grant	Deport, Texas	April 30, 1969
J. R. Whitney	Brookston, Texas	April 30, 1968
G. Harold Rhoades	Roxton, Texas	April 30, 1968
Harold G. Prowse	Powderly, Texas	April 30, 1968

The Board of Directors shall consist of seven (7) members until such time as said Board shall determine that it would be to the best interest of the District to increase the number of members of said Board. Upon such determination, said Board may, by resolution, provide that said Board shall be increased to a total membership of nine (9) members. If the membership is so increased, the Commissioners Court of Lamar County shall appoint the new members of said Board for a term of office not to exceed two (2) years.

(b) In April of 1968 and in April of each year hereafter the Commissioners Court of Lamar County, Texas, shall appoint a director or directors to succeed the director or directors whose term or terms are about to expire. Any vacancy shall be filled for the unexpired term by the Commissioners Court of Lamar County, Texas.

For Annotations and Historical Notes, see V.A.T.S.

(c) Each director shall serve for his term of office as herein provided, and thereafter until his successor shall be appointed and qualified. No person shall be appointed a director unless he resides in Lamar County, Texas, or in a county all or a portion of which is contained in the District. Such directors shall subscribe the Constitutional Oath of Office, and each shall give bond for the faithful performance of his duties in the amount of Five Thousand Dollars (\$5,000), the cost of which shall be paid by the District. A majority shall constitute a quorum. If any director moves from a county all or a portion of which is contained in the District, or otherwise ceases to be a director, the Commissioners Court of Lamar County, Texas, shall appoint a director to succeed him, for the unexpired term.

(d) Each director shall receive a fee of not to exceed Twenty Dollars (\$20) for attending each meeting of the Board, provided that no more than Forty Dollars (\$40) shall be paid to any director for meetings held in any one (1) calendar month. Each director shall also be entitled to receive not to exceed Twenty Dollars (\$20) per day devoted to the business of the District and to reimbursement for actual expenses incurred in attending to District business provided that such service and expense are expressly approved by the Board.

Sec. 4. The Board of Directors shall elect from its number a president and a vice president of the District, and such other officers as in the judgment of the Board are necessary. The president shall be the chief executive officer of the District and the presiding officer of the Board, and shall have the same right to vote as any other director. The vice president shall perform all duties and exercise all powers conferred by this Act upon the president when the president is absent or fails or declines to act except the president's right to vote. The Board shall also appoint a secretary and a treasurer who may or may not be members of the Board, and it may combine those offices. The treasurer shall give bond in such amount as may be required by the Board of Directors. The condition of such bond shall be that he will faithfully account for all money which shall come into his custody as treasurer of the District. The Board shall appoint necessary engineers, attorneys and other employees, and may employ a general manager. The power to employ and discharge employees may be conferred upon the manager. The Board shall adopt a seal for the District.

Sec. 5. Other territory situated within the counties of Red River, Fannin and Delta may be annexed to the District in the following manner:

(a) A petition praying for such annexation signed by a majority of the qualified voters of the territory proposed to be annexed who own taxable property therein and who have duly rendered the same to the city (if situated within a city or town) or county for taxation shall be filed with the Board of Directors of the District. The petition shall describe the territory by metes and bounds, or otherwise, unless such territory is the same as that contained in a city or town, in which event it shall be sufficient to state that the territory to be annexed is that which is contained within such city or town.

(b) If the Board of Directors finds that the petition complies with, and is signed by the number of qualified persons required by the foregoing subsection, it shall adopt a resolution stating the conditions, if any, under which such territory may be annexed to the District, and fixing a time and place when and where a hearing shall be held by the Board of Directors, on the question of whether the territory will be benefited by the improvements, works, and facilities then owned or operated or contemplated to be owned or operated by the District. Railroad right-of-way which is not situated within the defined limits of an incorporated city or town will not be benefited by improvements, works and facilities which the District is authorized to construct; therefore, it is provided that no railroad right-of-way shall hereafter be annexed to the District except such right-of-way

as is contained within the limit of an incorporated city or town then or theretofore annexed to the District.

(c) Notice of the adoption of such resolution stating the time and place of such hearing, addressed to the citizens and owners of property in such territory shall be published one (1) time in a newspaper of general circulation within such territory and designated by the Board of Directors at least ten (10) days prior to the date of such hearing. The notice shall describe the territory in the same manner in which it is required or permitted by this Act to be described in the petition.

(d) All persons interested may appear at such hearing and offer evidence for or against the proposed annexation. Such hearing may proceed in such order and under such rules as may be prescribed by the Board of Directors, and the hearing may be recessed from time to time. If, at the conclusion of the hearing, the Board of Directors finds that lands in such territory will be benefited by the present or contemplated improvements, works or facilities of the District, the Board of Directors may adopt a resolution annexing such territory to the District.

Sec. 6. The District is empowered to acquire the fee simple title to land and other properties and easements within or without the boundaries of the District, and to construct, lease or otherwise acquire all works, plants and other facilities necessary or useful for the purpose of transporting water to cities and others within or without the District for municipal, domestic, industrial and mining purposes. Subject to the terms of any deed of trust issued by the District, the District may sell, trade or otherwise dispose of any real or personal property deemed by the Board of Directors not to be needed for District purposes. The District is not authorized to develop underground sources of water and the District is not authorized to acquire land by condemnation. In the event that the District, in the exercise of any power granted hereunder, makes necessary the relocation, raising, rerouting or changing the grade of, or altering the construction of any highway, railroad, electric transmission line, telephone or telegraph properties and facilities, or pipeline, all such necessary relocation, raising, rerouting, changing of grade or alteration of construction shall be accomplished at the sole expense of the District.

The powers and duties herein granted to the District shall be subject to the continuing right of supervision of the State, to be exercised by and through the Texas Water Rights Commission.

Sec. 7. Any construction contract requiring an expenditure of more than Two Thousand Dollars (\$2,000) shall be made after publication of a notice to bidders once each week for two (2) weeks before awarding the contract. Such notice shall be sufficient if it states the time and place when and where the bids will be opened, the general nature of the work to be done, or the material, equipment or supplies to be purchased, and states where and the terms upon which copies of the plans and specifications may be obtained. The publication shall be in a newspaper of general circulation in the District and designated or approved by the Board of Directors.

Sec. 8. (a) For the purpose of providing a source of water supply for cities and other users within or without the District for municipal, domestic, industrial and mining purposes, as authorized by this Act, and for the purpose of carrying out any other power or authority conferred by this Act, the District is empowered to issue its negotiable bonds to be payable from such revenues of the District as are pledged by resolution of the Board of Directors. Pending the issuance of definitive bonds the Board may authorize the delivery of negotiable interim bonds or notes, eligible for exchange or substitution by use of the definitive bonds.

(b) Such bonds shall be authorized by resolution of the Board of Directors and shall be issued in the name of the District, signed by the president or vice president, attested by the secretary and shall bear the seal of the District. It is provided, however, that the signatures of the

For Annotations and Historical Notes, see V.A.T.S.

president or of the secretary or of both may be printed or lithographed on the bonds if authorized by the Board of Directors, and that the seal of the District may be impressed on the bonds or may be printed or lithographed thereon. The bonds shall mature serially or otherwise in not to exceed forty (40) years from their date, shall bear interest at a rate not to exceed six (6%) percent per annum, and may be sold at a price and under terms determined by the Board of Directors to be the most advantageous reasonably obtainable, and within the discretion of the Board, may be made callable prior to maturity at such times and prices as may be prescribed in the resolution authorizing the bonds, and may be made registrable as to principal or as to both principal and interest, and may be in such denomination as the Board of Directors shall specify in the authorizing resolution; provided that none of said bonds shall be sold for less than ninety (90%) percent of their face value.

(c) Bonds may be issued in more than one (1) series and from time to time as required for carrying out the purposes of this Act.

(d) The bonds may be secured by a pledge of all or part of the net revenues of the District, or by the net revenues of any one (1) or more contracts theretofore or thereafter made or other revenues or income specified by resolution of the Board of Directors or in the trust indenture. Any such pledge may reserve the right, under conditions therein specified, to issue additional bonds which will be on a parity with or subordinate to the bonds then being issued.

(e) The District shall not have the power to levy taxes of any kind.

(f) When bonds payable from revenues are issued, it shall be the duty of the Board of Directors to fix, and from time to time to revise, the rates of compensation for water sold and services rendered by the District which will be sufficient to pay the expense of operating and maintaining the facilities of the District and to pay the bonds as they mature and the interest as it accrues and to maintain the reserve and other funds as provided in the resolution authorizing the bonds.

(g) From the proceeds from the sale of the bonds, the District may set aside an amount for the payment of interest expected to accrue during construction and a reserve interest and sinking fund, and such provision may be made in the resolution authorizing the bonds. Proceeds from the sale of the bonds may also be used for the payment of all expenses necessarily incurred in accomplishing the purpose for which this District is created, including expenses of issuing and selling the bonds, and engineering and attorneys fees.

(h) In the event of a default or a threatened default in the payment of principal or of interest on bonds herein authorized, any court of competent jurisdiction may, upon petition of the holders of outstanding bonds, appoint a receiver with authority to collect and receive all income of the District, employ and discharge agents and employees of the District, take charge of funds on hand and manage the proprietary affairs of the District without consent or hindrance by the directors. Such receiver may also be authorized to sell or make contracts for the sale of water or renew such contracts with the approval of the court appointing him. The court may vest the receiver with such other powers and duties as the court may find necessary for the protection of the holders of the bonds. The resolution authorizing the issuance of the bonds or the trust indenture securing them may limit or qualify the rights of the holders of less than all of the outstanding bonds payable from the same source to institute or prosecute litigation affecting the District's property or income.

Sec. 9. The District is authorized to issue refunding bonds for the purpose of refunding any outstanding bonds authorized by this Act and interest thereon. Such refunding bonds may be issued to refund more than one (1) series of outstanding bonds and combine the pledges for the outstanding bonds for the security of the refunding bonds, and may be

secured by other or additional revenues and mortgage liens. The provisions of this Act with reference to the issuance by the District of other bonds, their security, and their approval by the Attorney General and the remedies of the holders shall be applicable to refunding bonds. Refunding bonds shall be registered by the Comptroller upon surrender and cancellation of the bonds to be refunded, but in lieu thereof, the resolution authorizing their issuance may provide that they shall be sold and the proceeds thereof deposited in the bank where the original bonds are payable, in which case the refunding bonds may be issued in an amount sufficient to pay the principal of and the interest on the original bonds to their option date or maturity date, and the Comptroller shall register them without concurrent surrender and cancellation of the original bonds.

Sec. 10. Any bonds (including refunding bonds) authorized by this law may be additionally secured by a trust indenture under which the trustee may be a bank having trust powers situated either within or outside of the State of Texas. Such bonds, within the discretion of the Board of Directors, may be additionally secured by a deed of trust or mortgage lien upon physical properties of the District and all franchises, easements, leases and contracts and all rights appurtenant to such properties, vesting in the trustee power to sell the properties for the payment of the indebtedness, power to operate the properties and all other powers and authority for the further security of the bonds. Such trust indenture, regardless of the existence of the deed of trust or mortgage lien on the properties may contain any provisions prescribed by the Board of Directors for the security of the bonds and the preservation of the trust estate, and may make provision for amendment or modification thereof and the issuance of bonds to replace lost or mutilated bonds, and may condition the right to expend District money or sell District property upon approval of a registered professional engineer selected as provided therein, and may make provision for the investment of funds of the District. Any purchaser under a sale under the deed of trust lien, where one is given, shall be the absolute owner of the properties, facilities and rights so purchased and shall have the right to maintain and operate the same.

Sec. 11. After any bonds (including refunding bonds) are authorized by the District, such bonds and the record relating to their issuance shall be submitted to the Attorney General for his examination as to the validity thereof. Where such bonds recite that they are secured by a pledge of the proceeds of a contract theretofore made between the District and any city or other governmental agency, authority or district, a copy of such contract and the proceedings of the city or other governmental agency, authority or district authorizing such contract shall also be submitted to the Attorney General. If such bonds have been authorized and if such contracts have been made in accordance with the Constitution and laws of the State of Texas he shall approve the bonds and such contracts and the bonds then shall be registered by the Comptroller of Public Accounts. Thereafter the bonds, and the contracts, if any, shall be valid and binding and shall be incontestable for any cause.

Sec. 12. The District is authorized to enter into contracts with cities and others for supplying water to them or for purchasing water from them. The District is also authorized to contract with any city for the rental or leasing of, or for the operation of the water production, water supply, water filtration or purification and water supply facilities of such city upon such consideration as the District and the city may agree. Any such contract may be upon such terms and for such time as the parties may agree, and it may provide that it shall continue in effect until bonds specified therein and refunding bonds issued in lieu of such bonds are paid.

Sec. 13. The District is authorized to accept grants, gifts or other aid from any source, public or private, and is authorized to contract with cor-

For Annotations and Historical Notes, see V.A.T.S.

porations, public or private, natural persons, and with governmental agencies, state, federal and local.

Sec. 14. (a) The Board of Directors shall designate one (1) or more banks within or without the district to serve as depository for the funds of the District. All funds of the District shall be deposited in such depository bank or banks except that funds pledged to pay bonds may be deposited with the trustee bank named in the trust agreement, and except that funds shall be remitted to the bank of payment for the payment of principal of and interest on bonds. To the extent that funds in the depository banks and the trustee bank are not insured by the F.D.I.C. they shall be secured in the manner provided by law for the security of county funds.

(b) Before designating a depository bank or banks, the Board of Directors shall issue a notice stating the time and place when and where the Board will meet for such purpose and inviting banks to submit applications to be designated depositories. The term of service for depositories shall be prescribed by the Board. Such notice shall be published one (1) time in a newspaper or newspapers of general circulation published in the District and specified by the Board.

(c) At the time mentioned in the notice, the Board shall consider the applications and the management and condition of the banks filing them, and shall designate as depositories the bank or banks which offer the most favorable terms and conditions for the handling of the funds of the District and which the Board finds have proper management and are in condition to warrant handling of District funds. Membership on the Board of Directors of an officer or director of a bank shall not disqualify such bank from being designated as depository.

(d) If no applications are received by the time stated in the notice, the Board shall designate some bank or banks within or without the District upon such terms and conditions as it may find advantageous to the District.

Sec. 15. All bonds of the District shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, trustees, and for the sinking fund of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds shall be eligible to secure the deposit of any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their market value, when accompanied by all unmatured coupons appurtenant thereto.

Sec. 16. The District is authorized to invest any of its funds, including proceeds from the sale of bonds, in direct obligations of, or obligations, the principal of and interest on which are guaranteed by, the United States of America, and to invest such funds in direct obligations of or participation certificates guaranteed by the Federal Intermediate Credit Bank, the Federal Home Loan Bank, Federal Land Bank, or banks for cooperatives, and to place its funds on interest bearing time deposits with banks if such deposits are secured with a pledge of securities of the kind just specified, to the extent not otherwise provided in the Resolution or the Trust Indenture under which its bonds are issued. Income and profits on such investments shall be applied as provided in such Resolution or Trust Indenture.

Sec. 17. The accomplishment of the purposes stated in this Act is for the benefit of the people of this State and for the improvement of their properties and industries, and the District, in carrying out the purposes of this Act will be performing an essential public function under the Constitution. The District shall not be required to pay any tax or assessment on the project or any part thereof, and the bonds issued hereunder and

their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this State.

Sec. 18. Article 7880—139, Vernon's Annotated Civil Statutes, relating to approval by the Texas Water Rights Commission of projects and bonds is hereby adopted and shall be applicable to the District.

Sec. 19. Any time after the effective date of this Act, any duly incorporated city or town initially included within the territory comprising the District may file with the Board of Directors of the District a resolution or ordinance duly adopted by the governing body of such city or town requesting that the territory contained within the corporate limits of such city or town be detached from the District. Upon receipt of such request, the Board of Directors shall pass a resolution detaching such territory from the District. In like manner, any duly incorporated city or town, whether initially included within the District or not, which annexes territory comprising part of the District, may request that the territory so annexed to such city or town be detached from the District. Upon such request the Board of Directors of the District shall adopt a resolution detaching such territory from the District. Provided, that the Board of Directors of the District shall not be required to detach territory which would reduce the size of the District below an area of less than four hundred square miles.

Sec. 20. Nothing in this Act shall be interpreted as amending or repealing Article 7471, Revised Civil Statutes of Texas, which provide for priorities of the use of water. Any permits which may be required shall be secured from the Texas Water Rights Commission.

Sec. 21. It is hereby found that notice of intention to introduce this bill has been published at least thirty (30) days and not more than ninety (90) days prior to its introduction in a newspaper having general circulation in Lamar County, Texas, and in the manner provided by Article XVI, Section 59(d) of the Constitution, that a copy of said notice and of this bill as introduced were delivered to the governor, and the time, form and manner of giving said notice is hereby approved and ratified. The evidence of the foregoing was exhibited in the Legislature before the passage of this Act.

Sec. 22. If any provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

Acts 1967, 60th Leg., p. 1701, ch. 653, emerg. eff. June 16, 1967.

Title of Act:

An Act creating a Conservation and Reclamation District under Article XVI, Section 59, of the Constitution comprising all of the territory contained in the boundaries of Lamar County, Texas, except that part of Lamar County contained within the corporate limits of the city of Paris, Texas, as of the effective date of this Act, to be known as Lamar County Water Supply District, for the purpose of providing a source of water supply for cities and other users within or without the District for municipal, domestic, industrial and mining purposes; providing for a Board of Directors to govern said District; providing a method for the annexation of additional territory thereto and for the detachment of territory therefrom; providing that the District shall not have any powers of taxation or condemnation; authorizing the District to acquire land, easements and other properties within or without the District and to lease or otherwise acquire all works, plants, and other facilities necessary or

useful for transporting water to cities and others, within or without the District; providing for continuing supervision by the state through the Texas Water Rights Commission; authorizing the issuance of revenue bonds and making provision for the payment and security thereof; providing that Article 7880—139, Vernon's Annotated Civil Statutes, shall be applicable to the District; providing that the District shall bear the expense of relocation, raising or rerouting of any highway, railroad or utility lines or pipelines made necessary by the exercise of its powers; authorizing the District to enter into contracts for the sale of and purchase of water; authorizing the District to accept grants, gifts and other aid; providing for a depository bank; authorizing the investment of District funds; prescribing other powers and duties of the District; enacting other provisions relating to the subject; providing for severability; and declaring an emergency. Acts 1967, 60th Leg., p. 1701, ch. 653.

TITLE 130—WORKMEN'S COMPENSATION LAW

Part 4.

Art.
8309c—1. Extension of workmen's compensation insurance to employees of certain drainage districts [New].

PART 1

Art. 8306. Damages and compensation for personal injuries

Art. 8306, sec. 7—e. Artificial appliances

Sec. 7—e. (a) In all cases where liability for compensation exists for an injury sustained by an employee in the course of his employment where artificial appliances of any kind would materially and beneficially improve the future usefulness and occupational opportunities of such injured employee, the association shall furnish such employee with the artificial appliance or appliances needed by him for such occupational opportunities. The association shall not be liable for replacing or repairing any artificial appliances so furnished. The cost of such artificial appliances so furnished to any such employee shall be in keeping with the salary or wages received by such employee.

(b) In the event the association shall fail or refuse to furnish or provide such artificial appliances, such employee shall make application to the Board for such artificial appliances. On receipt of such application the Board shall order a medical examination of the employee and obtain such other evidence as in their opinion they may deem necessary, after which the Board shall determine whether or not the artificial appliances would materially and beneficially improve the future usefulness and occupational opportunities of the injured employee and in the event they find that such improvement would exist, then the Board shall order the association to furnish the artificial appliances.

Sec. 7—e amended by Acts 1967, 60th Leg., p. 451, ch. 204, § 1, eff. Aug. 28, 1967.

PART 3

Art. 8308. Employers' Insurance Association

* * * * *

Furnishing workmen's compensation benefits to additional employees or classifications of employees by purchasing appropriate insurance

Sec. 18. Any employer may assume with respect to any employee or classification of employees not within the coverage of this law, other than any such employee or classification of employees for whom a rule of liability or a method of compensation has been or may be established by the Congress of the United States, the liability for compensation imposed upon employers by this law with respect to employees within the coverage of this law, and the purchase and acceptance by such employer of valid workmen's compensation insurance applicable to such employee or classification of employees shall constitute as to such employer subscription to this law without any further act on the part of such employer, but only with respect to such employee or such classification of employees as is within the coverage of said workmen's compensation insurance, and such subscription shall take effect from the effective date of such workmen's compensation insurance and shall continue as long only as such employer remains a subscriber, and each such employee shall be held to have waived

his right of action at common law or under any statute of this State to recover damages for injuries sustained in the course of his employment if he shall not have given his employer notice that he claimed such right, in accordance with the provisions of Article 8306, Section 3a. It is specifically provided, however, that under no circumstances shall the failure of any employer to assume with respect to any employee or classification of employees the liability for compensation and to purchase workmen's compensation insurance applicable to such employee or classification of employees, as made optional with the employer by this law, be construed as depriving such employer of the common law defenses listed in Section 1 of Article 8306, Revised Civil Statutes of the State of Texas.

Sec. 18 added by Acts 1967, 60th Leg., p. 1812, ch. 695, § 1, eff. Aug. 28, 1967.

Information to be furnished when employer becomes subscriber

Sec. 18a. Whenever any employer of labor in this State becomes a subscriber to this law, he shall immediately notify the board of such fact, stating in such notice his name, place of business, character of the business, approximate number of employees, estimated amount of his payroll and the name of the insurance company carrying his insurance, the date of issuing the policy and the date when the same will expire, and whenever any policy is renewed that fact shall be made known to the board and the notice thereof shall contain the above facts. Any such notice of renewal of an existing policy, by the same insurance company, may be signed by the licensed local recording agent through whom the renewal policy is issued. The association shall also report the same to the board, giving the name of the employer, place of business, character of the business, approximate number of employees, estimated amount of payroll, date of issuance and date of expiration of said policy. Any employer or association willfully failing or refusing to make any such report shall be liable for and shall pay to the State of Texas a penalty of not more than One Thousand Dollars (\$1,000) for each offense, the same to be recovered by suit in Travis County by the Attorney General or by the district or county attorney under his direction in the district court thereof.

Sec. 18a amended by Acts 1967, 60th Leg., p. 206, ch. 118, § 1, emerg. eff. May 4, 1967.

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Acts 1967, 60th Leg., p. 1812, ch. 695, which amended this article by adding section 18 thereto, provided in sections 2 and 3 thereof:	"Sec. 3. If the provisions of this Act or the application hereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable."									
"Sec. 2. In the event that any of the provisions of this Act are in conflict with the provisions of any other law, the provisions hereof shall take precedent and shall prevail to the extent of such conflict.										

PART 4

Art. 8309. Definitions and general provisions

Art. 8309, sec. 1a. Executive officers as employees of corporation

Sec. 1a. Every executive officer elected or appointed and empowered in accordance with the charter and bylaws of a corporation which is a subscriber to this law, including charitable, religious, educational and other non-profit corporations as well as business corporations but excluding those educational corporations controlled by Article 8309b and 8309d, may, notwithstanding any other provision of this law, be brought within the coverage of its insurance contract by any such cor-

poration by specifically including such executive officer in such contract of insurance and the election to bring such executive officer within the coverage shall continue for the period such contract of insurance is in effect, and during such period such executive officers thus brought within the coverage of the insurance contract shall be employees of such corporation under this law. Under no circumstance shall any executive officer of any corporation be counted in determining whether or not the employer has three or more employees so as to be subject to the provisions of the Workmen's Compensation Law as specified in Section 2, Part 1, of this Act.

Sec. 1a amended by Acts 1967, 60th Leg., p. 426, ch. 192, § 1, eff. May 15, 1967.

Sections 2 and 3 of the amendatory act of 1967 provided:

"Sec. 2. In the event that any of the provisions of this Act are in conflict with the provisions of any other law, the provisions hereof shall take precedent and shall prevail to the extent of such conflict.

"Sec. 3. If the provisions of this Act or the application hereof to any person or circumstance is held invalid such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable."

Art. 8309c—1. Extension of workmen's compensation insurance to employees of certain drainage districts

Sec. 1. The provisions of Section 60, Article III, Constitution of the State of Texas, relating to the right of counties and other political subdivisions of this state, to provide workmen's compensation insurance for all employees of such political subdivision, shall be extended to include drainage districts as political subdivisions of this state which have been converted into conservation and reclamation districts under the provisions of Section 59, Article XVI, Constitution of the State of Texas.

Sec. 2. The provisions of Chapter 428, Acts of the 51st Legislature, Regular Session, 1949 (Article 8309c, Vernon's Texas Civil Statutes), shall apply to such Drainage Districts, including the provisions of Section 1 through Section 19 of such chapter outlining the procedure to be followed by the commissioners of such drainage districts in adopting the provisions relating to such workmen's compensation insurance, which shall be identical to such procedures followed by counties in this state, including the right to provide for the payment of all costs, charges and premiums on such policies of insurance and the benefits to be paid thereunder and the commissioners of such drainage districts shall have the same authority and be under the same obligations and duties as those now conferred on commissioners courts of the several counties throughout the state with regard to the provisions of said Chapter 428; provided that the provisions of this Act shall not be mandatory upon the commissioners of such drainage districts.

Acts 1967, 60th Leg., p. 1843, ch. 716, eff. Aug. 28, 1967.

Acts 1967, 60th Leg., p. 1843, ch. 716, § 3 provided: "Sec. 3. If any word, phrase, clause, sentence, paragraph, section, or other part of this Act or the application thereof to any person or circumstance, shall ever be held by a court of competent jurisdiction to be invalid or unconstitutional, the remainder of this Act and the application of such word, phrase, clause, sentence, paragraph, section or other part of this Act to other persons or circumstances shall not be affected thereby."

Title of Act:

An Act relating to the extension of workmen's compensation insurance to employees of certain drainage districts under the terms of Chapter 428, Acts of the 51st Legislature, Regular Session, 1949 (Article 8309c, Vernon's Texas Civil Statutes), and pursuant to Section 60, Article III, Constitution of the State of Texas; and declaring an emergency. Acts 1967, 60th Leg., p. 1843, ch. 716.

Art. 8309e—1. Employees of independent school districts

Authority to provide insurance for employees

Sec. 1. All independent school districts located in any county are hereby permitted and authorized to provide insurance for all employees of such independent school districts, such power and authority to be exercised in accordance with the provisions of Article 8309e, Vernon's Texas Civil Statutes, as it now exists or as it may be hereafter amended. The provisions of this Act authorizing such independent school districts to provide Workmen's Compensation benefits or to take out Workmen's Compensation Insurance is permissive only, and the provisions hereof, as well as the provisions of Article 8309e, with respect to either self-insurance or insurance under a policy of insurance, is not mandatory.

Sec. 1 amended by Acts 1967, 60th Leg., p. 268, ch. 128, § 1, eff. Aug. 28, 1967.

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PENAL CODE

TITLE 1—GENERAL PROVISIONS

CHAPTER THREE—PERSONS PUNISHABLE, AND THE CIRCUMSTANCES WHICH EXCUSE, EXTENUATE, OR AGGRAVATE AN OFFENSE

Art. 30. 34 Children not punishable

Section 1. No person may be convicted of any offense, except perjury, which was committed before he was 15 years of age; and for perjury only when it appears by proof that he had sufficient discretion to understand the nature and obligation of an oath.

Sec. 2. No male under 17 years of age and no female under 18 years of age may be convicted of an offense except perjury unless the juvenile court waives jurisdiction and certifies the person for criminal proceedings.

Sec. 3. No person who has been adjudged a delinquent child may be convicted of any offense alleged in the petition to adjudge him a delinquent child or any offense within the knowledge of the juvenile judge as evidenced by anything in the record of the juvenile proceeding.

Amended by Acts 1967, 60th Leg., p. 1086, ch. 475, § 7, eff. Aug. 28, 1967.

Acts 1967, 60th Leg., p. 1082, ch. 475, §§ 2-7 amended Vernon's Ann.Civ.St. art. 2338-1, §§ 3, 5, 6, 12, 13 and this article; sections 1 and 8 of the amendatory act set forth the purpose of the act and provided a severability clause and are set out as notes under Vernon's Ann.Civ.St. art. 2338-1.

TITLE 3—PRINCIPALS, ACCOMPLICES AND ACCESSORIES

CHAPTER FOUR—TRIAL OF ACCOMPLICES AND ACCESSORIES

Art. 82. Repealed. Acts 1967, 60th Leg., p. 1752, ch. 659, § 40. Eff. Aug. 28, 1967

Acts 1967, 60th Leg., p. 1752, ch. 659 amended various articles of the Code of Criminal Procedure, 1965; sections 41 and 42 of the act of 1967, savings and severability clauses, are set out as notes under Vernon's Ann.C.C.P. art. 1.14.

**TITLE 4—OFFENSES AGAINST THE STATE, ITS TERRITORY,
AND REVENUE****CHAPTER SEVEN—THE FLAG AND LOYALTY**

Arts. 150, 151. Repealed. Acts 1967, 60th Leg., vol. 2, p. 2619, ch. 785, § 4. Eff. Sept. 1, 1967

See, now, V.A.T.C., Bus. & C. § 17.07.

Acts 1967, 60th Leg., vol. 2, p. 2343, ch. 785, adopting the Business & Commerce Code, repealed articles 150, 151 effective September 1, 1967.

For text of the Business and Commerce Code, with Tables and Index, see page 1485.

CHAPTER SEVEN A—THE STATE SEAL [NEW]

Art. 157a. Repealed. Acts 1967, 60th Leg., vol. 2, p. 2619, ch. 785, § 4. Eff. Sept. 1, 1967

The repealed article, derived from Acts 1955, 54th Leg., p. 898, ch. 350, § 1, related to advertising and other prohibited uses of the Great Seal of Texas.

See, now, V.A.T.C., Bus. & C. § 17.08.

Acts 1967, 60th Leg., vol. 2, p. 2343, ch. 785, adopting the Business & Commerce Code, repealed article 157a effective September 1, 1967.

For text of the Business and Commerce Code, with Tables and Index, see page 1485.

TITLE 6—OFFENSES AFFECTING THE RIGHT OF SUFFRAGE

CHAPTER FIVE—ILLEGAL VOTING

Art. 240. Participating in primary elections or conventions of more than one party

Whoever votes or offers to vote at either a general primary election or a runoff primary election or participates or offers to participate in a convention of a political party, having voted at either a general primary election or a runoff primary election or participated in a convention of any other party during the same voting year, shall be fined not less than one hundred dollars nor more than five hundred dollars. As used in this article, the term "voting year" means the period for which each annual voter registration is effective.

Amended by Acts 1963, 58th Leg., p. 1017, ch. 424, § 115, eff. Aug. 23, 1963; Acts 1967, 60th Leg., p. 1926, ch. 723, § 69, eff. Aug. 28, 1967.

Acts 1967, 60th Leg., p. 1858, ch. 723, §§ 1-68 amended, revised and added various articles to V.A.T.S. Election Code; sections 69-72 of the 1967 act amended various articles of the Penal Code; sections 73-76 amended and added various articles to the

Civil Statutes and sections 77 and 78 thereof, repealing various articles of the Election Code, Penal Code and Civil Statutes and providing for the applicability of the act to certain elections, are set out as notes under V.A.T.S. Election Code, art. 1.01a.

Synopsis of Changes—1967

Amended to change the definition of "voting year" to conform to the 1966 voter registration law, which changed the beginning date from February 1 to March 1.

CHAPTER SEVEN—RIOTS AND UNLAWFUL ASSEMBLIES AND MISCONDUCT AT ELECTIONS

Art. 259. Hiring vehicle to convey voters; removing ballots from polling place

Whoever hires any vehicle or hires any person to operate a vehicle for the purpose of conveying voters to the polling place, or rewards any person in money or other thing of value for procuring a vehicle or a driver for such purpose, shall be fined not exceeding five hundred dollars. This article shall not be construed to prohibit a voter from paying for the services of a vehicle or a driver for the purpose of conveying him to the polling place or to prevent him from allowing other voters to ride in the vehicle with him while he is going to the polling place in order to vote or returning therefrom after having voted.

Whoever willfully removes any ballots from the polling place, except as permitted by law, shall be fined not exceeding five hundred dollars. Amended by Acts 1963, 58th Leg., p. 1017, ch. 424, § 118, eff. Aug. 23, 1963; Acts 1967, 60th Leg., p. 1926, ch. 723, § 70, eff. Aug. 28, 1967.

Acts 1967, 60th Leg., p. 1858, ch. 723, §§ 1-68, amended, revised and added various articles to V.A.T.S. Election Code; sections 69-72 of the 1967 act amended various articles of the Penal Code; sections 73-76 amended and added various articles to the Civil Statutes and sections 77 and 78 there-

of, repealing various articles of the Election Code, Penal Code and Civil Statutes and providing for the applicability of the act to certain elections, are set out as notes under V.A.T.S. Election Code, art. 1.01a.

Synopsis of Changes—1967

The penal provisions relating to electioneering near the polls which formerly appeared in this statute have been transferred to Art. 8.27 of the Election Code by

Sec. 34 of this chapter [Acts 1967, 60th Leg., p. 1858, ch. 730]. The provision prohibiting the hiring of vehicles to convey voters to the polls has been rewritten to

clarify its application and to state expressly that it does not apply to the hiring of a vehicle by a voter for his own transporta-

tion and the transportation of others who accompany him on his trip to the polling place to cast his ballot.

CHAPTER NINE—ELECTION FOR CONSTITUTIONAL AMENDMENTS

Repealed

Chapter 9, Election for Constitutional Amendments, consisting of articles 270-274, was repealed by Acts 1967, 60th Leg., p. 1932, ch. 723, § 77.

Arts. 270-274. Repealed. Acts 1967, 60th Leg., p. 1932, ch. 723, § 77. Eff. Aug. 28, 1967

Sec. now, V.A.T.S. Election Code, art. 10.01 et seq.

Synopsis of Changes—1967

Chapter 9, Title 6, Penal Code, defining certain offenses relating to elections on constitutional amendments, and Chapter 10 defining offenses relating to elections for United States Senator, were repealed be-

cause the subject matter of these two chapters is adequately covered by the statutes which relate to elections generally, and these special statutes are not necessary.

CHAPTER TEN—ELECTION OF UNITED STATES SENATOR

Repealed

Chapter 10, Election of United States Senator, consisting of articles 275-280, was repealed by Acts 1967, 60th Leg., p. 1932, ch. 723, § 77.

Arts. 275-280. Repealed. Acts 1967, 60th Leg., p. 1932, ch. 723, § 77. Eff. Aug. 28, 1967

Sec. now, V.A.T.S. Election Code, art. 12.01 et seq.

Synopsis of Changes—1967

Chapter 9, Title 6, Penal Code, defining certain offenses relating to elections on constitutional amendments, and Chapter 10 defining offenses relating to elections for United States Senator, were repealed be-

cause the subject matter of these two chapters is adequately covered by the statutes which relate to elections generally, and these special statutes are not necessary.

TITLE 7—RELIGION AND EDUCATION

CHAPTER TWO—SUNDAY LAWS

Art. 286a. Sale of goods on both the two consecutive days of Saturday and Sunday

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Emergency purchases; certification

Sec. 4a. Repealed. Acts 1967, 60th Leg., p. 79, ch. 39, § 1, eff. Aug. 28, 1967.

* * * * *

Section 4a, repealed by Acts 1967, 60th Leg., p. 79, ch. 39, § 1, required certification for emergency purchases.

TITLE 8—OFFENSES AGAINST PUBLIC JUSTICE

CHAPTER SEVEN—FAILURE OF DUTY

Art. 405. Repealed. Acts 1967, 60th Leg., p. 890, ch. 385, § 1. Eff. Aug. 28, 1967

Acts 1965, 59th Leg., p. 1151, ch. 543, which amended Vernon's Ann.Civ.St. art. 4605 and which added rule 50b to Vernon's Ann.Civ.St. art. 4477, provided in section 3: "All laws or parts of laws in conflict with the provisions of this Act are hereby re-

pealed, including but not limited to Article 405, Penal Code of Texas." A subsequent article numbered 405, derived from Acts 1965, 59th Leg., p. 1522, ch. 663, § 1, was repealed by Acts 1967, 60th Leg., p. 890, ch. 385, § 1.

TITLE 9—OFFENSES AGAINST THE PUBLIC PEACE

CHAPTER TWO—RIOTS

Art. 466a.	Acts calculated to produce injury or damage to property, person or life	Art.	of another person; injunction relief [New].
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Art. 466a. Acts calculated to produce injury or damage to property, person or life of another person; injunctive relief

Section 1. Every person who, at a time and place and under circumstances reasonably calculated to produce a clear and present and immediate threat or danger to the physical well-being, property or life of another, knowingly and willfully commits an act, or urges another to commit an act, so calculated and tending to produce injury or damage to the property, person or life of another person, shall be guilty of a misdemeanor punishable by a fine of not more than \$2,000, or a jail sentence of not more than two (2) years, or by both such fine and jail sentence.

Sec. 2. In all cases where such actions are threatened, the State by and through its County or District Attorney, may have injunctive relief as an additional sanction against all who are so threatening to commit such unlawful act or acts. Where such actions are threatened in, on, or against any state agency, or property thereof, the Attorney General may institute such proceedings. All such injunctive proceedings shall be in the name of the State of Texas and be guided by the rules of other injunction proceedings. No bond shall be required.

Acts 1967, 60th Leg., p. 800, ch. 333, emerg. eff. June 3, 1967.

Title of Act: An Act relating to incitement to riot; providing for injunctive relief and proce-	dure therefor; providing a penalty; and declaring an emergency. Acts 1967, 60th Leg., p. 800, ch. 333.
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TITLE 10—OFFENSES AGAINST MORALS, DECENCY
AND CHASTITY

CHAPTER SEVEN—MISCELLANEOUS OFFENSES

Art. 527a. Repealed. Acts 1967, 60th Leg., vol. 2, p. 2619, ch. 785, § 4.
Eff. Sept. 1, 1967

Acts 1967, 60th Leg., vol. 2, p. 2343, ch. 785, adopting the Business & Commerce Code, repealed article 527a effective September 1, 1967.

For text of the Business and Commerce Code, with Tables and Index, see page 1485.

The repealed article, derived from Acts 1955, 54th Leg., p. 386, ch. 107, § 2, as amended by Acts 1955, 54th Leg., p. 1174, ch. 453, § 1, prohibited wholesale distribu-

tors from requiring retailers to purchase particular publications to obtain others.

See, now, V.A.T.C. Bus. & C. § 15.06.

**TITLE 11—OFFENSES AGAINST PUBLIC POLICY AND
 ECONOMY**

CHAPTER EIGHT—TEXAS LIQUOR CONTROL ACT

Art. 666—32½. Expense of holding elections [New].	Art. 667—33. Method of collecting tax on ale and malt liquor [New].
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I. INTOXICATING LIQUORS

Art. 666—12. Cancellation or suspension of permit; grounds

The Board or Administrator may cancel or may suspend for a period of time not exceeding sixty (60) days, after notice and hearing, any permit or any renewal of such permit if it is found that any of the following is true:

(1) That the permittee has at any time been convicted for the violation of any provision of this Act.¹

(2) That the permittee has violated any provision of this Act or any rule or regulation of the Board at any time.

(3) That the permittee has made any false or misleading representation of statement in his application or renewal application.

(4) That the permittee is indebted to the State for any taxes, fees, or payment of penalties imposed by this Act or by any rule or regulation of the Board.

(5) That the permittee is not of good moral character, or that his reputation for being a peaceable and law-abiding citizen in the community where he resides is bad.

(6) That the place or manner in which the permittee conducts his business is of such a nature which, based on the general welfare, health, peace, morals, and safety of the people and on the public sense of decency, warrants the cancellation or suspension of the permit.

(7) That the permittee is not maintaining an acceptable bond.

(8) That the permittee, his agent, servant, or employee, maintains a noisy, lewd, disorderly or insanitary establishment or has been supplying impure or otherwise deleterious beverages.

(9) That the permittee is insolvent or mentally or physically unable to carry on the management of his establishment.

(10) That the permittee is in the habit of using alcoholic beverages to excess.

(11) That either the permittee, his agent, servant, or employee knowingly misrepresented to a customer or the public any liquor sold by him.

(12) That the permittee, his agent, servant, or employee was intoxicated on the licensed premises.

(13) That the permittee, his agent, servant, or employee sold or delivered alcoholic beverages to any intoxicated person.

(14) That the permittee, his agent, servant, or employee possessed on the premises covered by his permit any alcoholic beverage that he was not authorized by his permit to purchase and sell.

(15) That any Package Store or Wine Only Package Store permittee, his agent, servant, or employee transported, caused to be transported, shipped or caused to be shipped liquor into a dry State, or into any dry area within this State.

(16) That the permittee, his agent, servant, or employee sold or delivered any liquor on Sunday.

(17) That the permittee, his agent, servant, or employee knowingly sold or delivered liquor to any person under the age of twenty-one (21) years.

(18) That the permittee, his agent, servant, or employee sold or delivered any liquor on Christmas Day.

(19) That the permittee, his agent, servant, or employee employed any person under the age of twenty-one (21) years of age to sell, handle, transport, or dispense, or to assist in selling, handling, transporting or dispensing any liquor.

(20) That the permittee is residentially domiciled with any person who has financial interest in any establishment engaged in the business of selling beer at retail, except as provided in Section 23(a) (5) and Section 17(1) of Article I of the Texas Liquor Control Act.

(21) That the permittee is residentially domiciled with any person whose permit or license has been cancelled for cause within twelve (12) months next preceding the date of application.

(22) That the permittee, his agent, servant, or employee sold, offered for sale, distributed, or delivered any alcoholic beverage during any period of suspension of his permit by the Board or Administrator.

(23) That the permittee is not a citizen of the United States or has not been a citizen of Texas for a period of three (3) years immediately preceding the filing of his application; provided, however, this Paragraph (23) shall not apply to any person who has been issued a permit or a renewal thereof on or before September 1, 1948, and has at some time been a citizen of the United States.

(24) That the permittee has been finally convicted of a felony during the period he is the holder of any permit or renewal thereof.

(25) That the permittee, his agent, servant, or employee permitted any intoxicated person to remain on the premises.

(26) That the retail permittee, his agent, servant, or employee, sold or delivered any liquor between 9:00 P.M. of any day and 10:00 A.M. of the following day.

(27) That the permittee, his agent, servant, or employee permitted any person to open any container or to possess any open container of alcoholic beverage on the licensed premises.

(28) Where the word "permittee" is used in this Section it shall also mean and include each member of a partnership or association and each officer and the owner or owners of the majority of the corporate stock of a corporation, except as provided in Section 23(a) (5) and Section 17(1) of Article I of the Texas Liquor Control Act.²

(29) In addition to the causes for cancellation or suspension hereinafter set out, the Board or Administrator may cancel or suspend the permit of any person upon satisfactory proof that the permittee has been finally convicted of any penal provisions of this Act.

Amended by Acts 1967, 60th Leg., p. 160, ch. 85, § 1, eff. Aug. 28, 1967.

¹ Articles 666—1 et seq., 667—1 et seq.

² Articles 666—23a and 666—17.

Acts 1967, 60th Leg., p. 161, ch. 85, § 2 of repealed subsection (b) of article 667—
amended article 666—18; section 3 thereof 10 and subsection (23) of article 667—19.
amended article 666—25 and section 4 there-

Art. 666—15. Classification of permits

Permits shall be of the following classes:

(1) Brewer's Permit. A Brewer's Permit shall authorize the holder thereof to:

(a) Manufacture, bottle, package, label, and sell malt liquors, and import ale and malt liquor acquired from a holder of a Nonresident Brewer's Permit;

- (b) Sell same in this State to wholesale permit holders only;
 (c) Sell same out of state to qualified persons.

Regardless of any other provision of the Texas Liquor Control Act, a person who holds a Nonresident Seller's Permit may have an interest in the business, assets, corporate stock, or permit of a person who holds a Brewer's Permit.

The annual State fee for a Brewer's Permit shall be One Thousand Dollars (\$1,000)

Par. (1) amended by Acts 1967, 60th Leg., p. 40, ch. 20, § 1, eff. Sept. 1, 1967.

* * * * *

Art. 666—18. Qualifications of permittees

No person who has not been a citizen of Texas for a period of three (3) years immediately preceding the filing of his application therefor shall be eligible to receive a permit under this Act. No permit except a Brewer's Permit, and such other licenses and permits as are necessary to the operation of a Brewer's Permit, shall be issued to a corporation unless the same be incorporated under the laws of the State and unless at least fifty-one (51%) percent of the stock of the corporation is owned at all times by citizens who have resided within the State for a period of three (3) years and who possess the qualifications required of other applicants for permits; provided, however, that the restrictions contained in the preceding clause shall not apply to domestic or foreign corporations that were engaged in the legal alcoholic beverage business in this State under charter or permit prior to August 24, 1935. Partnerships, firms, and associations applying for permits shall be composed wholly of citizens possessing the qualifications above enumerated. Any corporation (except carrier) holding a permit under this Act which shall violate any provisions hereof, or any rule or regulations promulgated hereunder, shall be subject to forfeiture of its charter and it shall be the duty of the Attorney General, when any such violation is called to his attention, to file a suit for such cancellation in a District Court of Travis County. Such provisions of this section as require Texas citizenship or require incorporation in Texas shall not apply to the holders of agent's, industrial, medicinal and carrier's permits.

Amended by Acts 1967, 60th Leg., p. 161, ch. 85, § 2, eff. Aug. 28, 1967.

Acts 1967, 60th Leg., p. 160, ch. 85, § 1 of repealed subsection (b) of article 667—
 amended article 666—12; section 3 thereof 10 and subsection (23) of article 667—19.
 amended article 666—25 and section 4 there-

Art. 666—25. Sale regulations

It shall be unlawful for any person to sell or deliver any liquor:

(a) Between 9:00 o'clock p. m. of any day and 10:00 o'clock a. m. of the following day of any day except Sunday, provided, however, that nothing in this section shall prevent a wholesaler from making deliveries to retailers between the hours of 7:00 o'clock a. m. and 9:00 o'clock p. m.

(b) On Christmas Day.

(c) On Sundays.

Amended by Acts 1967, 60th Leg., p. 162, ch. 85, § 3, eff. Aug. 28, 1967.

Acts 1967, 60th Leg., p. 160, ch. 85, § 1 of repealed subsection (b) of article 667—
 amended article 666—12; section 2 thereof 10 and subsection (23) of article 667—19.
 amended article 666—18 and section 4 there-

Art. 666—32. Local option election

The commissioners court of each county in the state, upon proper petition, shall order an election wherein the qualified voters of such county, or of any justice precinct, or incorporated city or town therein, may by the exercise of local option determine whether or not the sale of alcoholic

beverages of one or more of the various types and alcoholic contents shall be prohibited or legalized within the prescribed limits of such county, justice precinct, or incorporated city or town.

Subject to the provisions of this section and Section 32½ of the Texas Liquor Control Act,¹ upon the written application of any ten or more qualified voters of any county, justice precinct, or incorporated city or town, the county clerk of such county shall issue to the applicants a petition to be circulated among the qualified voters thereof for the signatures of those qualified voters in such area who desire that a local option election be called therein for the purpose of determining whether the sale of alcoholic beverages of one or more of the various types and alcoholic contents shall be prohibited or legalized within the prescribed limits of such county, justice precinct, or incorporated city or town.

An application for a petition seeking an election to legalize the sale of alcoholic beverages of one or more of the various types and alcoholic contents shall be headed "Application for Local Option Election Petition to Legalize," and shall contain a statement just ahead of the signatures of the applicants, as follows: "It is the hope, purpose and intent of the applicants whose signatures appear hereon to see legalized the sale of alcoholic beverages referred to in the issue set out above." The petition so issued shall clearly state the issue to be voted upon in such election, which shall be the same issue as that set out in the application, and the issue shall be one of those set out in Section 40 of Article I of the Texas Liquor Control Act.²

An application for a petition seeking an election to prohibit the sale of alcoholic beverages of one or more of the various types and alcoholic contents shall be headed "Application for Local Option Election Petition to Prohibit", and shall contain a statement just ahead of the signatures of the applicants, as follows: "It is the hope, purpose and intent of the applicants whose signatures appear hereon to see prohibited the sale of alcoholic beverages referred to in the issue set out above." The petition so issued shall clearly state the issue to be voted upon in such election, which shall be the same issue as that set out in the application, and the issue shall be one of those set out in Section 40 of Article I of the Texas Liquor Control Act.²

The petition for a local option election seeking to legalize the sale of alcoholic beverages of one or more of the various types and alcoholic contents shall be headed "Petition for Local Option Election to Legalize," and shall contain a statement just ahead of the signatures of the petitioners, as follows: "It is the hope, purpose and intent of the petitioners whose signatures appear hereon to see legalized the sale of alcoholic beverages referred to in the issue set out above."

The petition for a local option election seeking to prohibit the sale of alcoholic beverages of one or more of the various types and alcoholic contents shall be headed, "Petition for Local Option Election to Prohibit," and shall contain a statement just ahead of the signatures of the petitioners, as follows: "It is the hope, purpose and intent of the petitioners whose signatures appear hereon to see prohibited the sale of alcoholic beverages referred to in the issue set out above."

Each such petition shall show the date of its issue by the county clerk and shall be serially numbered, and each page of such petition shall bear the same date and serial number, and shall bear the seal of the county clerk. The county clerk shall deliver as many copies of the petition as may be required by the applicants, and each copy shall bear the date, number and seal on each page as required in the original. The county clerk shall keep a copy of each such petition and a record of the applicants therefor. When any such petition so issued shall within thirty days after the date of issue be filed with the county clerk bearing the actual signatures of as many as twenty-five percent of the qualified voters of any such

For Annotations and Historical Notes, see V.A.T.S.

county, justice precinct, or incorporated city or town, together with a notation showing the residence address of each of the said signers, together with the number that appears on his voter registration certificate, taking the vote for Governor at the last preceding general election at which presidential electors were elected as the basis for determining the number of qualified voters in any such county, justice precinct, or incorporated city or town, it is hereby required that the commissioners court at its next regular session shall order a local option election to be held upon the issue set out in such petition. Such order shall state in its heading and in its text whether the local option election to be held is for the purpose of prohibiting or for the purpose of legalizing the sale of the alcoholic beverages set out in the issue recited in the application and the petition. It shall be the duty of the county clerk to check the names of the signers of any such petition, and the voting precincts in which they reside, to determine whether or not the signers of such petition were in fact qualified voters in such county, justice precinct, or incorporated city or town at the time such petition was issued, and to certify to the commissioners court the number of qualified voters signing such petition. No signature shall be counted, either by the county clerk or the commissioners court, where there is reason to believe it is not the actual signature of the purported signer or that it is a duplication either of name or of handwriting used in any other signature on the petition, and no signature shall be counted unless the residence address of the signer is shown, and unless it is signed exactly as the name of the voter appears on the official copy of the current list of registered voters for the voting year which the petition is issued.

The minutes of the commissioners court shall record the date any such petition is presented, the names of the signers thereof, and the action taken with relation to the same. In any election ordered by the commissioners court, the issue ordered to appear on the ballot shall be the same as that applied for and set out in the petition. No subsequent election upon the same issue shall be held within one year from the date of the last preceding local option election in any county, justice precinct, or incorporated city or town.

Amended by Acts 1953, 53rd Leg., p. 643, ch. 249, § 2; Acts 1955, 54th Leg., p. 484, ch. 138, § 1; Acts 1963, 58th Leg., p. 1196, ch. 478, § 1, eff. Aug. 23, 1963; Acts 1967, 60th Leg., p. 1927, c. 723, § 71, eff. Aug. 28, 1967.

¹ Article 666—32½.

² Article 666—40.

Synopsis of Changes—1967

These statutes [arts. 666—32 through 666—35] are amended to make certain clarifications and to eliminate certain conflicts with the Election Code. Art. 666—36½, on appointment of supervisors, is being repealed. It was enacted at a time when there was no general law authorizing appointment of supervisors (watchers) for elections on propositions; but such a statute was enacted in 1963 (Election Code, Art. 3.06), and the special statute in the Liquor Control Act is no longer necessary. Art. 666—34, on posting notice of the election, is not being amended.

Amended [Art. 666—32] to provide that the signature of a voter on the petition for an election will not be counted unless it is signed exactly as the name of the voter appears on the list of registered voters and unless the residence address of the signer is shown. (Former statute had been construed to require one of these conditions but not both.) Also amended to make the list of registered voters for the year in

which the petition is issued the controlling one, and to clarify that the statute requires 25% of the number of voters voting in the last preceding presidential general election as signers on the petition, rather than 25% of voters who actually voted at that election.

Section 2 of the amendment of 1955 was a severability clause. Section 3 repealed conflicting laws. Section 4 was an emergency clause.

Acts 1967, 60th Leg., p. 1858, ch. 723, §§ 1-68, amended, revised and added various articles to V.A.T.S. Election Code; sections 69-72 of the 1967 act amended various articles of the Penal Code; sections 73-76 amended and added various articles to the Civil Statutes and sections 77 and 78 thereof, repealing various articles of the Election Code, Penal Code and Civil Statutes and providing for the applicability of the act to certain elections, are set out as notes under V.A.T.S. Election Code, art. 1.01a.

Art. 666—32½. Expense of holding elections

(a) The expense of holding any local option election authorized by the Texas Liquor Control Act in any county, justice precinct or incorporated city or town shall be paid by the county, but the expense to the county shall be limited to the holding of one election in each of the above political subdivisions within a one-year period where the intent of the election is to legalize the sale of alcoholic beverages, and the expense to the county shall be limited to the holding of one election in each of the aforesaid political subdivisions within a one-year period where the intent of the election is to prohibit the sale of alcoholic beverages. All other local option elections, excepting the aforementioned one election in a one-year period with intent to legalize the sale of alcoholic beverages, and excepting the aforementioned one election in a one-year period with intent to prohibit the sale of alcoholic beverages, shall be paid by the county from funds derived by the county as prescribed in Subsection (b) of this section as follows:

(b) When the application for an election in a county, justice precinct or incorporated city or town is presented, the county clerk at the time and before the issuance of any petition for a local option election shall require a deposit in the form of a cashier's check in the aggregate amount of twenty-five cents per voter listed on the current list of registered voters as residing in the county, justice precinct or incorporated city or town for which the election is sought. The money so received shall be deposited in the county's general fund, and no refund shall be made to the applicants regardless of whether the petition is returned to the county clerk or the election is ordered. When there is presented to the county clerk an application which must be accompanied by a deposit, the county clerk shall not issue a petition to the applicants unless and until the deposit is made, and a county clerk who issues a petition upon such an application without first receiving the deposit is guilty of a misdemeanor and shall be fined not less than two hundred dollars nor more than five hundred dollars, or imprisoned in the county jail for not more than 30 days, or both fined and imprisoned.

Added by Acts 1967, 60th Leg., p. 1930, ch. 723, § 72, eff. Aug. 28, 1967.

Synopsis of Changes—1967

This is a new statute, providing in substance that the county will pay for one election per year in each county, justice precinct, and incorporated city or town, where the intent of the election is to legalize sale, and one election per year where the intent of the election is to prohibit sale; but any other election held within a period of one year from the date of the preceding election to legalize or to prohibit, as the case may be, must be paid from a deposit made by the applicants for the election petition in the aggregate amount of 25 cents for each registered voter in the affected territory.

Acts 1967, 60th Leg., p. 1858, ch. 723, §§ 1-68, amended, revised and added various articles to V.A.T.S. Election Code; sections 69-72 of the 1967 act amended various articles of the Penal Code; sections 73-76 amended and added various articles to the Civil Statutes and sections 77 and 78 thereof, repealing various articles of the Election Code, Penal Code and Civil Statutes and providing for the applicability of the act to certain elections, are set out as notes under V.A.T.S. Election Code, art. 1.01a.

Art. 666—33. Order for election

When the commissioners court orders an election as herein provided for, it shall be the duty of the court to order such election to be held upon a day not less than twenty nor more than thirty days from the date of the order, and the order thus made shall state the issue to be voted upon in such election, and the order shall be held to be prima facie evidence that all provisions necessary to give it validity or to clothe the court with jurisdiction to make it valid, have been duly complied with.

The election shall be held at a voting place within each regular county election precinct as established by the commissioners court within the

affected territory if the election is for the entire county or for a justice precinct, and at a voting place within each election precinct established by the governing body of the city or town for its municipal elections if the election is for an incorporated city or town. If the governing body of a city or town has not established precincts for its municipal elections, the commissioners court shall prescribe the election precincts for the local option election, under the rules governing establishment of precincts for municipal elections. The election shall be held at the customary polling place within each election precinct, if available; and if it is not available for that election, the commissioners court shall designate some other polling place. The order for the election shall state the polling place for each election precinct. The order shall also state the precinct numbers of county precincts included in each municipal election precinct if the election is for an incorporated city or town. The general election laws shall govern the appointment of the election judges and clerks, who shall be qualified voters of the election precinct in which they are named to serve. Watchers for the election may be appointed in accordance with the general laws of the state, but they shall be qualified voters of the election precinct in which they are named to serve.

Not less than three days before any local option election, the county judge shall cause to be held a public school of instruction for those who will actually conduct the election at the polling places, such school to be open to any interested person. The county clerk shall post in his office a notice of the time and place of the meeting at least forty-eight hours before it is held. The county clerk shall also notify each presiding judge of the time and place at which such school will be held, and it shall be the duty of each presiding judge to give like notice to those persons who will serve as clerks and watchers, if appointed, at the election in his precinct. Amended by Acts 1953, 53rd Leg., p. 643, ch. 249, § 3, eff. Aug. 26, 1953; Acts 1967, 60th Leg., p. 1927, ch. 723, § 71, eff. Aug. 28, 1967.

Synopsis of Changes—1967

Amended to clarify the election precincts for holding the elections, the designation of location of polling places, and the appointment and qualifications of the election judges, clerks, and watchers. Adds provisions requiring that a school of instruction for election officers be held preceding each election.

Acts 1967, 60th Leg., p. 1858, ch. 723, §§ 1-68, amended, revised and added various articles to V.A.T.S. Election Code;

sections 69-72 of the 1967 act amended various articles of the Penal Code; sections 73-76 amended and added various articles to the Civil Statutes and sections 77 and 78 thereof, repealing various articles of the Election Code, Penal Code and Civil Statutes and providing for the applicability of the act to certain elections, are set out as notes under V.A.T.S. Election Code, art. 1.01a.

Art. 666—35. Official ballot; requisites

(a) At the election the vote shall be by official ballot which shall have printed thereon at the top thereof the words "Official Ballot", (beneath which there shall be printed the following instruction note: "Scratch or mark out one statement so that the one remaining indicates the way you wish to vote.") The ballot also shall have printed thereon the issue appropriate to the election order as provided in Section 40 of this Act.¹ The county clerk shall furnish the presiding judge of each election precinct within such subdivision or county with a number of such ballots, to be at least as many as the number of qualified voters in the precinct, plus ten percent of such number of voters.

(b) Notwithstanding any provision of the general election laws, the issue to be voted on shall be printed on the ballot in the exact language stated in Section 40 of this Act,¹ and the ballot shall be marked as provided herein. However, the failure of a voter to mark his ballot in strict conformity with these directions shall not invalidate the ballot, and a ballot shall be counted if the intention of the voter is clearly ascertainable, except where the law expressly prohibits the counting of the ballot. In

elections to legalize the sale of alcoholic beverages, those in favor of such legalization shall erase the words "Against the legal sale of, etc." by marking a pencil mark through same; and those who oppose such legalization shall erase the words "For the legal sale of, etc." by marking a pencil mark through same. In elections to prohibit the sale of alcoholic beverages, those who favor such prohibition shall erase the words "For the legal sale of, etc." by marking a pencil mark through same; and those who oppose such prohibition shall erase the words "Against the legal sale of, etc." by marking a pencil mark through same.

Amended by Acts 1953, 53rd Leg., p. 643, ch. 249, § 4, eff. Aug. 26, 1953; Acts 1967, 60th Leg., p. 1929, ch. 723, § 71, eff. Aug. 28, 1967.

¹ Article 666—40.

Synopsis of Changes—1967

The number of ballots to be furnished is changed from twice the number of qualified voters to 110% of the qualified voters, and provisions relating to failure of the election judge to sign a ballot and to the giving of assistance to voters are deleted (see Arts. 8.11, 8.13, and 8.21 of the Election Code for the general law on these subjects). Rewrites provisions on form of printing the proposition on the ballot and method of marking the ballot, so as to keep in effect the existing law, which is an exception to the changes made by Chapter 452, above [Acts 1967, 60th Leg., p. 1026, ch. 452], for elections on propositions generally.

Acts 1967, 60th Leg., p. 1858, ch. 723, §§ 1-68, amended, revised and added various articles to V.A.T.S. Election Code; sections 69-72 of the 1967 act amended various articles of the Penal Code; sections 73-76 amended and added various articles to the Civil Statutes and sections 77 and 78 thereof, repealing various articles of the Election Code, Penal Code and Civil Statutes and providing for the applicability of the act to certain elections, are set out as notes under V.A.T.S. Election Code, art. 1.01a.

Art. 666—36½. Repealed. Acts 1967, 60th Leg., p. 1932, ch. 723, § 77.
Eff. Aug. 28, 1967

Synopsis of Changes—1967

Sec. 36½, Texas Liquor Control Act (Art. 666—36½, Vernon's Penal Code), pertaining to appointment of supervisors for local option elections, was repealed because its

subject matter is now covered by general provisions of the Election Code enacted in 1963.

Art. 666—37. Canvass of votes; continuance of operations as distributor and wholesaler

(a) Said court shall hold a special session on the fifth day after holding of said election, or as soon thereafter as practicable, for the purpose of canvassing the votes and certifying the results, and if a majority of the voters favor the issue "Against the legal sale, etc." as to any alcoholic beverages of the various types and alcoholic content, said court shall immediately make an order declaring the results of said vote and absolutely prohibiting the sale of such prohibited type or types of alcoholic beverages within the political subdivision after thirty (30) days from the date of declaring the results thereof, and thereafter until such time as the qualified voters therein may thereafter at the legal election held for such purpose by a majority vote decide otherwise; and the order thus made shall be held as prima facie evidence that all provisions of law have been complied with in giving notice of and holding said election and counting and returning the votes and declaring the results thereof.

In any local option election in which it is sought to prohibit the sale of alcoholic beverages in which a majority of the votes cast favor the issue "For the legal sale of" etc., or in any local option election in which it is sought to legalize the sale of alcoholic beverages on one or more of the various types and alcoholic contents or manner of sale not already legal in the political subdivision involved in which a majority of the votes cast favor the issue "Against the legal sale of" etc., then the sale of all alco-

holic beverages which were legal in said county, justice's precinct, or incorporated city or town before the holding of such local option election shall continue to be legal.

(b) Notwithstanding the foregoing, or any other provision of the Texas Liquor Control Act, a licensed distributor of beer whose warehouse or other facilities used in connection with such distributorship are located in any county, justice precinct, or incorporated city or town, at the time the sale of beer is prohibited in any such political subdivision by a valid local option election such distributor nevertheless shall have the right to continue to operate as a distributor in such political subdivision, and to maintain the necessary premises and facilities in such political subdivision for such distribution, and to enjoy all the rights and privileges incident to such distributorship previously enjoyed as such distributor in such political subdivision, including but not limited to, the right to possess, store, warehouse and sell beer in such political subdivision, and also to deliver beer into and out of such political subdivision; provided, however, that during the period the sale of beer is prohibited in such political subdivision as a result of such election, sale of beer and delivery of beer by such distributor shall be made only to licensed outlets located outside of such political subdivision where the possession and sale of beer is legal.

(c) Notwithstanding the foregoing Subsection (a) of this Section, or any other provision of the Texas Liquor Control Act, any holder of a Wholesaler's Permit whose warehouse or other facilities used in connection with such wholesale operation are located in any county, justice precinct, or incorporated city or town, at the time when the sale of the type or types of liquor authorized to be sold by such permit holder may be prohibited in any such political subdivision by a valid local option election, such Wholesaler's Permit holder nevertheless shall have the right to continue to operate as a wholesaler in such political subdivision and to maintain the necessary premises and facilities in such political subdivision for such wholesale operation and to enjoy all the rights and privileges incident to such Wholesaler's Permit previously enjoyed as such permit holder in such political subdivision, including but not limited to, the right to possess, store, warehouse and sell liquor in such political subdivision, and also to receive and deliver such liquor into and out of such political subdivision; provided, however, that during the period the sale of liquor is prohibited in such political subdivision as a result of such election, sale of liquor and delivery of such liquor by such Wholesaler's Permit holder shall be made only to permit-holding outlets located outside of such political subdivision where the possession and sale of liquor is legal.

(d) The purpose of subsections (b) and (c), above, is to protect the financial investment of distributors and wholesalers in such political subdivision that have voted to prohibit the sale of previously legalized type or types of alcoholic beverages in such political subdivision and not to authorize such distributors or wholesalers to sell any alcoholic beverage or beverages to be possessed or consumed in such political subdivision where the sale of such alcoholic beverage or beverages has been prohibited by such election.

Amended by Acts 1953, 53rd Leg., p. 643, ch. 249, § 6; Acts 1963, 58th Leg., p. 1196, ch. 478, § 2, eff. Aug. 23, 1963; Acts 1967, 60th Leg., p. 31, ch. 13, § 1, eff. Aug. 28, 1967.

Art. 666—57. Brewer's permit

Regardless of any other provision of the Texas Liquor Control Act, any person who has theretofore been issued a Manufacturer's License or any renewal thereof under Article II¹ of the Texas Liquor Control Act, and so long as such Manufacturer's License or any renewal thereof remains in force, shall be entitled to the issuance, for the same location, of a Brewer's Permit, as well as renewals thereof, upon written application to the Board and payment of the fee therefor.

Regardless of any other provision of the Texas Liquor Control Act,² no person who has theretofore been issued a Manufacturer's License or a Brewer's Permit shall subsequently be denied a Manufacturer's License or any renewal of a Manufacturer's License, or a Brewer's Permit or any renewal of a Brewer's Permit, for the same location on the grounds that the sale of beer or ale has been prohibited by local option in the area in which the licensed premises are located and, except for the right to make sales of beer or ale contrary to such local option prohibition, any Manufacturer's License or Brewer's Permit so previously held, or issued or renewed under this provision shall authorize its holder to do all things which such a holder is authorized to do under any provision of the Texas Liquor Control Act, as herein or hereafter amended, including but not limited to the manufacture, brewing, possession, storage, packaging, and transportation of beer or ale to areas wherein the sale of beer or ale is legal, and including the delivery at such holder's licensed premises of beer or ale to purchasers domiciled outside Texas, common carriers, contract carriers, or other carriers duly authorized to transport beer or ale, Distributors and/or Class B Wholesalers; and all such purchasers, carriers, Distributors and Class B Wholesalers are hereby authorized to receive at such holder's licensed premises such beer or ale for transportation to an area wherein the sale of beer or ale is legal, after the occurrence, in an area wherein the sale of beer or ale is legal, of the following: prior order, acceptance of such order, and either payment for same or legal satisfaction of payment for same.

Regardless of any other provision of the Texas Liquor Control Act, any holder of a Manufacturer's License or a Brewer's Permit is hereby authorized to manufacture or brew malt beverages and package same in containers for shipment outside of the State of Texas, and the holder of a Manufacturer's License is authorized to import beer, and the holder of a Brewer's Permit is authorized to import ale and malt liquor into Texas, even though the alcoholic content of such products, or the containers in which they are packaged, or the packages themselves, or the labels on the containers or the packages would make such products illegal for sale in Texas, and any such holder shall have the right to export such products to points outside Texas, and to make deliveries at such holder's premises for shipment outside Texas, without being liable for any tax imposed by the State of Texas on beer or ale sold for resale in Texas.

The Board by rule and regulation and the Administrator by directive are hereby empowered to do any and all things necessary to carry out the intent of this Section.

Acts 1935, 44th Leg., 2nd C. S., p. 1795, ch. 467, art. 1, § 57, added by Acts 1961, 57th Leg., p. 1066, ch. 478, § 2, eff. Aug. 28, 1961, amended by Acts 1967, 60th Leg., p. 40, ch. 20, § 2, eff. Sept. 1, 1967.

¹ Article 667—1 et seq.

² Articles 666—1 et seq., 667—1 et seq.

Section 1 of Acts 1967, 60th Leg., p. 40, ch. 20, amended article 666—15, section 3 thereof was a savings clause and section 4 repealed conflicting laws.

II. MALT LIQUORS

Art. 667—10. Prohibited hours

* * * * *

(b) Repealed. Acts 1967, 60th Leg., p. 162, ch. 85, § 4, eff. Aug. 28, 1967.

Acts 1967, 60th Leg., p. 162, ch. 85, § 4, which repealed subsection (b) of this article and subsection (23) of art. 667—19 provided: "Subsection (b) of Section 10 and Subsection (23) of Section 19 of Article II of the Texas Liquor Control Act, Acts 1935, Forty-fourth Legislature, Second Called Session, as amended (codified as Article

667-10(b) and Article 667-19(23), Vernon's Annotated Penal Code of the State of Texas), are hereby repealed."

Acts 1967, 60th Leg., p. 159, ch. 85, § 1 amended article 666—12; section 2 thereof amended article 666—18 and section 3 thereof amended article 666—25.

Art. 667—19. Cancellation or suspension of license

The Board or Administrator may cancel or suspend for a period of time not exceeding sixty (60) days, after notice and hearing, any license or any renewal of such license, upon finding that the licensee has:

A. If a Retail Dealer's Off-Premise License or Retail Dealer's On-Premise License:

* * * * *

(23). Repealed. Acts 1967, 60th Leg., p. 162, ch. 85, § 4, eff. Aug. 28, 1967.

* * * * *

Acts 1967, 60th Leg., p. 160, ch. 85, § 1 amended article 666—12; section 2 thereof amended article 666—18 and section 3 thereof amended article 666—25.

Prior to repeal in 1967, subsection (23) was amended by Acts 1953, 53rd Leg., p. 643, ch. 249, § 13, and read as follows: "Delivered or consumed or permitted the consumption of any alcoholic beverage on

the licensed premises on the day of any general primary election or general election held in this State between the hours of 7:00 a. m. and 8:00 p. m."

For text of Acts 1967, 60th Leg., p. 159, ch. 85, § 4 which repealed subsection (b) of art. 667—10 and subsection (23) of this article, see note under art. 667—10.

Art. 667—33. Method of collecting tax on ale and malt liquor

(a) The tax levied in Section 21 of Article 1¹ on ale and malt liquor is levied only on its first sale in Texas, or only on its importation into Texas, whichever shall first occur.

(b) On ale or malt liquor imported into this State the duty of paying the tax shall rest primarily upon the Importer, and said tax shall become due and payable on the tenth day of the month following that month in which said ale or malt liquor was imported into this State.

(c) On ale or malt liquor brewed in this State the duty of paying the tax shall rest primarily upon the Brewer, and said tax shall become due and payable on the tenth day of the month following that month on which the first sale of said ale or malt liquor was made in this State.

(d) It is not intended that the tax herein levied in Section 21 of Article I of the Texas Liquor Control Act shall be collected on ale or malt liquor shipped out of this State for consumption outside this State, or sold aboard ships for ship's supplies, and the Board shall provide forms for obtaining exemption from such taxes and shall provide by rule and regulation for equitable and final disposition of any tax credit brought about by such payment of any such unintended or excess tax. The Board may promulgate rules and regulations generally for the enforcement of this provision.

(e) The Board is hereby authorized and empowered to require of all Brewers and Nonresident Brewers, and all Importers, Wholesalers, and Class B Wholesalers of ale and malt liquor such information as to purchases, sales, and shipments as will enable the Board to collect the full amount of tax due the State, and it shall be unlawful for any such Brewer, Nonresident Brewer, Importer, Wholesaler, or Class B Wholesaler of ale or malt liquor to fail or refuse to give the Board such information. The Board shall have the power to seize and withhold from sale any ale or malt liquor the Brewer, Nonresident Brewer, Importer, Wholesaler, or Class B Wholesaler of which refuses to give to the Board any information which the Board may require under this provision, or fails or refuses to permit the Board to make investigation of pertinent records, whether they be located within or without this State.

(f) Any person in possession of ale or malt liquor on which the tax is delinquent shall be held in violation of this Article and liable for the taxes herein provided and for the penalties for such violations.

(g) The Board shall require of Brewers of ale and malt liquor in Texas and of Importers of ale and malt liquor a bond or bonds executed by

the Brewer or Importer as principal, and a surety company duly qualified and doing business in this State, as surety, and said bond or bonds shall be made payable to the order of the State of Texas and conditioned as the Board may require and approved by the Attorney General of Texas as to form. Said bond or bonds shall be in such amount as will adequately protect the State against the anticipated tax liability of the principal during any six (6) weeks' period.

(h) Such sworn statements of taxes due as may be required by the Board, and remittance therefor made payable to the State Treasurer, shall be forwarded to the Board each month not later than the due date set out herein. All such remittances shall be turned over by the Board to the State Treasurer, and after the allocation of funds to defray administrative expenses of the Board as provided in the current Departmental Appropriation Act, all remaining funds shall be deposited in the State Treasury as set out in paragraphs (a) and (b) of Section 23½ of Article II of the Texas Liquor Control Act.²

(i) In any suit brought to enforce the collection of any tax due on ale or malt liquor brewed in or imported into Texas, a certificate by the Board or Administrator showing the delinquency shall be prima facie evidence of the levy of the tax, or the delinquency of the amount of tax and penalty set forth therein and of compliance by the Board with all provisions of this Act in relation to the computation and levy of the tax.

(j) The Board by rule and regulation and the Administrator by directive are hereby empowered to do any and all things necessary to carry out the intent of this Section.

(k) This section shall be effective on and after September 1, 1967, and on and after that date the purchase, affixing or mutilation of ale or malt liquor tax stamps shall no longer be required in Texas, and all requirements as to ale and malt liquor tax stamps in the Texas Liquor Control Act, as amended heretofore and herein, are hereby specifically repealed.

Added by Acts 1967, 60th Leg., p. 145, ch. 75, § 1, eff. Sept. 1, 1967.

¹ Article 666—21.

² Article 667—23½.

Sections 2 and 3 of Acts 1967, 60th Leg., p. 145, ch. 75, provided:

"Sec. 2. If any section, subsection, paragraph, sentence, clause, or provision of this Act is for any reason held invalid, such invalidity shall not affect any other

portion of this Act; but this Act shall be construed and enforced as if such invalid provision had not been contained therein.

"Sec. 3. All laws and parts of laws in conflict herewith are hereby repealed to the extent of such conflict."

TITLE 12—PUBLIC HEALTH

CHAPTER TWO—UNWHOLESOME FOOD, DRINK
OR MEDICINE

Art. 719a. Marketing citrus fruit unfit for consumption

* * * * *

Registration of packing houses; inspection and testing of citrus fruit transported into Texas for marketing and sale

Sec. 4. * * *
* * * * *

(b) When the Commissioner of Agriculture has reason to believe that any citrus fruit transported from any area outside of Texas into Texas to be marketed or sold in Texas fails to comply with the maturity standards and requirements applicable to similar citrus fruit produced in Texas, he is authorized to test such citrus fruit. Such out of State fruit shall be tested upon the same basis and under the same maturity standards and requirements applicable to similar citrus fruit produced in Texas.

Sec. 4, subsec. (b) amended by Acts 1967, 60th Leg., p. 200, ch. 112, § 1, eff. Aug. 28, 1967.

* * * * *

Section 2 of the 1967 amendatory act repealed conflicting laws to the extent of conflict and section 3 thereof was a severability provision.

CHAPTER THREE—DRUGS, NARCOTICS AND POISONS

Art. 726d. Dangerous drugs

* * * * *

Definitions

Sec. 2. For the purposes of this Act:

(a) The term "dangerous drug" means any drug unsafe for self-medication, except preparations of drugs defined in Subdivisions (a) (6), (a) (7), (a) (9), and (a) (10) hereof, designed for the purpose of feeding or treating animals (other than man) or poultry, and so labeled, and includes the following:

(1) Any barbiturate or other hypnotic drug. "Barbiturate" includes malonylurea derivatives and barbituric acid derivatives. 'Other hypnotic drug' includes chloral, paraldehyde, sulfonmethane derivatives, or any other compounds or mixtures or preparations that may be used for producing hypnotic effects.

(2) Amphetamine, desoxyephedrine, or compounds or mixtures thereof, except preparations for use in the nose and unfit for internal use.

(3) Hallucinogens, including lysergic acid diethylamide, LSD-25, LSD, dimethyltryptamine, psilocybin, bufotenine, peyote, mescaline, and their salts and derivatives, or any compounds, mixtures or preparations which are chemically identical with such substances; provided, however, that the provisions of this subdivision shall not apply to unharvested peyote growing in its natural state.

(4) Aminopyrine, or compounds or mixtures thereof.

(5) Cantharidin or a compound related structurally to cantharidin; or cinchophen, neocinchophen, or compounds or mixtures thereof.

(6) Diethylstilbestrol, or compounds or mixtures thereof.

(7) Ergot, cotton root, or their contained or derived active compounds or mixtures thereof.

(8) Oils of croton, rue, savin or tansy or their contained or derived compounds or mixtures thereof.

(9) Sulfanilamide or substituted sulfanilamides, or compounds or mixtures thereof, except preparations for topical application only containing not more than five percent (5%) strength.

(10) Thyroid and its contained or derived active compounds or mixtures thereof.

(11) Phenylhydantoin derivatives.

(12) Thallium or any compound thereof.

(13) Any drug which bears the legend: Caution: federal law prohibits dispensing without prescription.

(14) Barbiturates or hypnotic drugs when combined and compounded with non-barbiturates or non-hypnotic drugs.

Provided, however, that preparations which contain certain other drugs not covered by the provisions of this Act, other than those dangerous drugs specified in Section 2(a) (2) through (13) inclusive, in sufficient proportions to confer upon the preparation qualities other than those possessed by the dangerous drugs alone are exempt from the provisions of this Act.

Sec. 2, subsec. (a) amended by Acts 1965, 59th Leg., p. 971, ch. 466, § 1, eff. Aug. 30, 1965; Acts 1967, 60th Leg., p. 1847, ch. 720, § 1, eff. Aug. 28, 1967.

* * * * *

Unlawful acts and omissions

Sec. 3. The following acts, the failure to act as hereinafter set forth, and the causing of any such act or failure are hereby declared unlawful, except as provided in Section 4:

* * * * *

(d) The possession of a barbiturate or hypnotic drug, as well as those drugs set forth in Section 2(a) (2) and (3) hereof, by any person unless such person obtained the drug under the specific provision of Section 3(a) (1) and (2) of this Act and possesses the drug in the container in which it was delivered to him by the pharmacist or practitioner selling or dispensing the same; and any other possession of a barbiturate or hypnotic drug, as well as those drugs set forth in Section 2(a) (2) and (3) hereof, shall be prima facie evidence of illegal possession.

Sec. 3, subsec. (d) amended by Acts 1967, 60th Leg., p. 1848, ch. 720, § 2, eff. Aug. 28, 1967.

* * * * *

Penalties

Sec. 15. (a) Any person, firm or corporation possessing in violation of Section 3 of this Act any dangerous drug defined in Subdivisions 1, 2, 4, 5, 6, 7, 8, 9, 10, 11, 12, or 13 of Section 2(a) of this Act shall be fined an amount not to exceed Three Thousand Dollars (\$3,000) or confined in jail for a period of not less than thirty (30) days nor more than two (2) years, or by both such fine and imprisonment. For any second or subsequent violation, any person shall be confined in the penitentiary not less than two (2) years nor more than ten (10) years.

(b) Any person, firm or corporation possessing in violation of Section 3 of this Act any dangerous drug defined in Subdivision 3 of Section 2(a) of this Act shall be fined an amount not to exceed Three Thousand Dollars (\$3,000) or confined in jail for a period of not less than thirty (30) days nor more than one (1) year, or by both such fine and imprisonment.

(c) Any person who sells, delivers or manufactures any dangerous drug defined in Subdivisions 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 or 13 of Section 2(a) in violation of this Act, shall be guilty of a felony and upon

For Annotations and Historical Notes, see V.A.T.S.

conviction is punishable by confinement in the penitentiary for not less than two (2) nor more than ten (10) years.

Sec. 15 amended by Acts 1967, 60th Leg., p. 1848, ch. 720, § 3, eff. Aug. 28, 1967.

CHAPTER FOUR—BARBER SHOPS AND BEAUTY PARLORS

Art. 728. Definitions

In this chapter, unless the context requires a different definition,

(1) "barbering" includes any of the following practices or combinations of practices when performed upon persons above the seventh cervical vertebra for cosmetic purposes and not for the treatment of disease or physical or mental illness or deformity, and when performed for the public:

(A) shaving or trimming the beard;

(B) cutting the hair;

(C) any of the following treatments or combinations of treatments which are performed in the same place where (A) or (B) of this Section is practiced;

(i) giving facial or scalp massages;

(ii) singeing, shampooing, dyeing, or tinting the hair;

(iii) applying cosmetic preparations, antiseptics, powders, oils, creams, clays, lotions, or tonics to the scalp, face, or neck; or

(iv) styling or processing the hair of males only.

None of the above described acts and practices shall constitute "barbering" within the provisions of this Act when performed upon females by persons engaged in the practice of hairdressing and cosmetology and who are licensed by the Texas State Board of Hairdressers and Cosmetologists.

(2) "barber" means a person who;

(A) performs an act of barbering;

(B) professes to do barbering; or

(C) holds himself out to do barbering;

(3) "manager" means a person who controls or directs the business affairs of a barber shop or directs the work of a person employed in a barber shop or both;

(4) "barber shop" means a place where barbering is practiced except when said place is owned or operated in whole or in part by the State of Texas or any political subdivision thereof and except when said place is duly licensed as a barber school or college.

Amended by Acts 1967, 60th Leg., p. 2018, ch. 746, § 1, eff. Aug. 28, 1967.

Art. 734a. Texas Barber Law

* * * * *

Barber shop permit; application; inspection; display;
transfer; renewal; supervision

Sec. 3. (A) No person may own, operate, or manage a barber shop without a barber shop permit issued by the board.

(B) Any firm, corporation or person who opens a new barber shop shall within three (3) days submit an application in writing to the Board of Barber Examiners for a temporary barber shop permit together with an inspection fee of one (\$1.00) dollar. The applicant must place in his application the permanent address of his shop.

(C) The board must issue a barber shop permit to any applicant who holds a valid class A barber license and whose shop meets the minimum health standards for barber shops as promulgated by the State Department of Public Health.

(D) A barber shop permit must be displayed in a conspicuous place in the barber shop for which the permit is issued.

(E) A permit shall not be issued to any barber shop which is not complying with the sanitary rules and regulations promulgated pursuant to Section 28 of this Act, and Title 12, Chapter 4 of the Penal Code, or for any shop employing a barber who is not complying with the Provisions of this Act.

(F) Permits are not transferable to another person. If the ownership of a barber shop is transferred to another person, the shop may continue in operation if the new owner applies for and obtains a new permit not more than 30 days after the transfer of ownership. Provided, however, a permit is transferable from the permittee to any member of his immediate family, who may or may not be a licensed barber, who wants to continue to operate said shop as a family proprietorship.

(G) To continue operating a barber shop, a person must renew the permit issued to his shop by paying a renewal fee of one (\$1.00) dollar before November 2 of each year.

(H) The owner or manager of a barber shop which is being operated on the effective date of this Act must obtain a permit before November 2, 1967, to continue operating the shop. The permit is effective until November 1, 1968 and must be renewed annually thereafter as provided in Subsection (G) of this section.

(I) No person may operate a barber shop unless the shop is at all times under the general supervision and management of a registered Class A barber.

(J) A person operating under a permit who wishes to move his operation to another location may do so by notifying the Board of Barber Examiners ten (10) days before he makes the move.

Sec. 3 amended by Acts 1967, 60th Leg., p. 2019, ch. 746, § 2, eff. Aug. 28, 1967.

Definitions of barbering

Sec. 4. The practice of barbering is hereby defined to be the following practices when not done in the practice of medicine, surgery, osteopathy, or necessary treatments of healing the body by one authorized by law to do so; and when not done by a relative who cuts only the hair of those in his or her immediate family; and when done on living persons.

(A) Shaving or trimming the beard.

(1) Cutting the hair;

(2) Styling or processing the hair of males only.

(B) By giving any of the following treatments by any person engaged in shaving or trimming the beard and/or cutting the hair.

(1) Giving facial and scalp massages, or applications of oils, creams, lotions, or other preparations, either by hand or electrical appliances;

(2) Singeing, shampooing, or dyeing the hair or applying hair tonics;

(3) Applying cosmetic preparations, antiseptics, powders, oils, clays, or lotions to the scalp, face, neck or that part of the body above the shoulders.

Provided, however, that nothing contained in this Act shall be construed to include those persons lawfully engaged in beauty culture, hair-dressing or cosmetology under Chapter 116, Acts of the 44th Legislature, Regular Session, 1935, as amended (Article 734b, Vernon's Texas Penal Code), when so engaged in giving treatments or applications to female persons only, but such persons shall not be permitted to shave, trim the beard, style, process, color or cut the hair of male persons except in accordance with the provisions and requirements of this Act relating to barbering.

Sec. 4 amended by Acts 1967, 60th Leg., p. 2020, ch. 746, § 3, eff. Aug. 28, 1967.

Assistant under supervision of registered Class A barber

Sec. 5. No registered assistant barber shall independently practice barbering, but he may as an assistant barber do any or all of the acts constituting the practice of barbering under the general supervision of a registered Class A Barber, who is engaged in barbering full time in the same shop. No more than three assistant barbers shall be employed for each registered Class A barber, in any shop.

Sec. 5 amended by Acts 1967, 60th Leg., p. 2020, ch. 746, § 4, eff. Aug. 28, 1967.

* * * * *

Assistant barbers; barbers' technicians

Sec. 14. (a) Any assistant barber who is at least sixteen and one-half years of age and who is of good moral character and temperate habits and who has a diploma showing graduation from a seventh grade grammar school, or an equivalent education as determined by an examination conducted by the Board, and who has a certificate of registration as an assistant barber in a State or country which has substantially the same requirements for registration as an assistant barber as is provided for by this Act, shall upon payment of the required fee be issued a permit to work as an assistant barber until called by the Board of Examiners for examination to determine his fitness to receive a certificate of registration as an assistant barber. Should such person be able to pass the required examination, he will be issued a certificate of registration as a registered assistant barber, and that the time spent in such other State or country as an assistant barber shall be credited upon the period of assistant barber required by this Act as a qualification to take the examination to determine his fitness to receive a certificate of registration as a registered barber.

(b) Any person who has at least 60 days study as a barber's technician including the study of shampooing, shampoos, manipulations, making appointments, preparing patrons, drying hair, and sterilizing tools and at least 60 hours study of sterilization and the barber laws may be licensed to practice as a barber's technician. Any licensed barber's technician may assist the barber in shampooing and sterilizing in a barber shop and shall work under the direction of a registered class-A barber or a men's hair stylist. No barber's technician may cut hair.

Sec. 14 amended by Acts 1967, 60th Leg., p. 2022, ch. 746, § 7, eff. Aug. 28, 1967.

* * * * *

Refusal, suspension, or revocation of certificates; grounds

Sec. 21. The board shall either refuse to issue or to renew, or shall suspend or revoke any certificate of registration for any one of, or a combination of the following causes:

- (A) Gross malpractice;
- (B) Continued practice by a person knowingly having an infectious or contagious disease;
- (C) Advertising by means of knowingly making false or deceptive statements;
- (D) Advertising, practicing, or attempting to practice under another's trade name or another's name;
- (E) Habitual drunkenness or habitual addiction to the use of morphine, cocaine, or other habit-forming drugs;
- (F) Immoral or unethical conduct;
- (G) The commission of any of the offenses described in Section 24 of this Act;
- (H) No certificate shall be issued or renewed, unless and until each applicant shall present a health certificate from a regular practicing

medical doctor showing that the applicant is free from any kind of infectious or contagious diseases, tuberculosis, communicable diseases, and free from the use of any kind of morphine, cocaine, or other habit-forming drug, or a habitual drunkard and that said applicant shall make affidavit to said medical examiner that all of the said facts are true. Sec. 21 amended by Acts 1967, 60th Leg., p. 2020, ch. 746, § 5, eff. Aug. 28, 1967.

Violation or noncompliance with requirement; hearing; denial, suspension or revocation of certificate; appeal

Sec. 22. (a) If a barber inspector believes that any of the grounds specified in Section 21 exist, or that the holder of a certificate or permit has failed to comply with any of the requirements of this Act, he shall notify the holder of the certificate or permit of that fact and summons him to appear for hearing as provided in this section. The hearing shall be had not less than twenty (20) days after notification in writing to the holder of the certificate or permit, specifying the violation or non-compliance alleged. For the purpose of hearing such cases concurrent jurisdiction is vested in the county court of the county where the holder of the certificate or permit resides and in the county court of the county where the violation allegedly occurred. The court may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relative books and papers. The holder of the certificate or permit shall have the right to be represented by counsel. At the hearing, the board shall be represented by the attorney general, district attorney or county attorney. At such a hearing the issue to be determined is whether any grounds exist under Section 21 for denial, refusal to renew, suspension, or revocation of the certificate or permit. The judge who presides at the hearing shall report his finding to the board, which may, if the finding warrants, deny, suspend, revoke, or refuse to renew the certificate or permit.

(b) If, after the hearing specified in Subsection (a), the board denies, suspends, revokes, or refuses to renew a certificate or permit, then the person holding the certificate or permit may file suit to prevent the action of the Board or to appeal from the order of the Board. Any and all suits filed hereunder shall be filed within twenty (20) days from the date of the order of said Board in a District Court of the county where the person filing such suit or appeal has his residence, or in any of the District Courts of Travis County, Texas. Such suit shall be a trial de novo as that term is used in appeals from Justice Courts to County Courts, and under no circumstances shall the substantial evidence rule, as defined by the Supreme Court of Texas, ever be used or applied in such cases. The burden of proof shall be on the Board to prove a violation.

Sec. 22 amended by Acts 1967, 60th Leg., p. 2021, ch. 746, § 5a, eff. Aug. 28, 1967.

Sec. 22—A. Repealed. Acts 1967, 60th Leg., p. 2021, ch. 746, § 5b. Eff. Aug. 28, 1967.

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Offenses and penalty

Sec. 24. Each of the following offenses shall constitute a misdemeanor punishable upon conviction in a court of competent jurisdiction by a fine of not less than twenty-five dollars (\$25.00) nor more than two hundred dollars (\$200.00).

- (A) The violation of any of the provisions of Section 1, 2, 3, and 5 of this Act;
- (B) Permitting any person in one's employ, supervision or control to practice as a barber or as an assistant barber, unless that person has a current certificate of registration issued by the board;

For Annotations and Historical Notes, see V.A.T.S.

(C) Obtaining or attempting to obtain a certificate of registration by fraudulent representation;

(C-1) For anyone who owns, operates or manages a barber school or college to work a chair or to permit teachers, instructors, licensed barbers or any one other than an enrolled student to render barbering services to the public in their said establishment;

“(D) The willful failure to display a certificate of registration as required by Section 19 of this Act.

Sec. 24 amended by Acts 1967, 60th Leg., p. 2022, ch. 746, § 6, eff. Aug. 28, 1967.

* * * * *

Inspectors; sale of supplies or engaging in other business

Sec. 27a. (a) No barber inspector or other employee of the State Board of Barber Examiners may sell barber supplies or engage in any other business which deals directly with barbers, barber shops, or barber schools except that he may engage in the practice of barbering.

(b) Violation of this section is a misdemeanor, and upon conviction is punishable by a fine of not more than \$5,000, or by confinement in the county jail for not more than two years, or both.

Sec. 27a added by Acts 1967, 60th Leg., p. 2022, ch. 746, § 6a, eff. Aug. 28, 1967.

* * * * *

Section 8 of the amendatory act of 1967 shall nevertheless be valid the same as if provided: "If any portion of this Act is held unconstitutional by a court of competent jurisdiction, the remaining portions the invalid portion had not been a part thereof."

CHAPTER ELEVEN—MISCELLANEOUS

Arts. 776, 777. Repealed. Acts 1967, 60th Leg., p. 1762, ch. 665, § 4. Eff. Jan. 1, 1968

See, now, Vernon's Ann.Civ.St. arts. 4525, 4527a and 4527b.

Acts 1967, 60th Leg., p. 1762, ch. 665, amended and added various articles to the

Civil Statutes relating to the practice of professional nursing; section 5 of the act, an effective date provision, is set out as a note under Vernon's Ann.Civ.St. art. 4518.

TITLE 13—OFFENSES AGAINST PUBLIC PROPERTY

CHAPTER ONE—HIGHWAYS AND VEHICLES

Art. 802e. Driving by certain minors while intoxicated; traffic violations

* * * * *

Sec. 1a. No such minor may plead guilty to any offense described in Section 1 of this Act except in open court before the judge. No such minor shall be convicted of such an offense or fined as provided in this Act except in the presence of one or both parents or guardians having legal custody of the minor. The court shall cause one or both parents or guardians to be summoned to appear in court and shall require one or both of them to be present during all proceedings in the case. However, the court may waive the requirement of the presence of parents or guardians in any case in which, after diligent effort, the court is unable to locate them or to compel their presence.

Sec. 1a added by Acts 1967, 60th Leg., p. 1086, ch. 476, § 1, eff. Aug. 28, 1967.

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Art. 827a—3. Length of vehicles transporting poles, piling or unrefined timber

Section 1. Notwithstanding other provisions of the statutes governing the length of motor vehicles and combinations thereof which may be operated over the highways and roads, it shall be lawful to operate such vehicles and combinations not to exceed ninety (90) feet in length including the load where such vehicles and combinations are used exclusively for transporting poles, piling or unrefined timber from the point of origin of such timber (the forest where such timber is felled) to a wood processing mill. No such vehicles and combinations as covered by the provisions of this Act shall be permitted to travel in excess of one hundred and twenty-five (125) miles from their point of origin to destination or delivery point.

Sec. 1 amended by Acts 1967, 60th Leg., p. 760, ch. 315, § 1, emerg. eff. May 27, 1967.

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Sec. 3a. Subsection (d), Section 3, Chapter 42, General Laws, Acts of the 41st Legislature, 2nd Called Session, 1929, as amended by Section 3, Chapter 282, General Laws, Acts of the 42nd Legislature, Regular Session, 1931 (Article 827a, Vernon's Texas Penal Code), does not apply to a vehicle covered by this Act insofar as that subsection prescribes limits on the extension of the load beyond the rear of the vehicle.

Sec. 3a added by Acts 1967, 60th Leg., p. 760, ch. 315, § 2, emerg. eff. May 27, 1967.

CHAPTER SIX—GAME, FISH AND OYSTERS

<p>Art. 895d. Nonforfeiture of sport licenses for violation of game and fish laws [New].</p> <p>931a. Minimum size limit on redbfish [New].</p> <p>934b—4. Commercial exploitation of horned toads [New].</p> <p>934b—5. Commercial exploitation of Texas tortoises [New].</p> <p>955a—2. Sale of fish taken from Hubbard Creek Lake [New].</p> <p>955a—3. Importation, possession, sale or release of harmful tropical fish or fish eggs [New].</p>	<p>Art. 978f—3c. Program for market development for seafoods [New].</p> <p>978f—3d. State system of scientific areas [New].</p> <p>978f—5a. Wildlife management areas; expenditure of funds to counties and school districts in lieu of taxes [New].</p> <p>978f—8. Reciprocal agreements; hunting and fishing privileges for residents of Louisiana [New].</p> <p>978j—1. Uniform Wildlife Regulatory Act [New].</p>
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Uniform Wildlife Regulatory Act

Acts 1967, 60th Leg., p. 1959, ch. 730, The Uniform Wildlife Regulatory Act, codified as article 978j—1, conferring upon the Parks and Wildlife Commission the power and duty of protecting and regulating the harvest of wildlife resources in various counties and repealing various acts of a similar nature, provides, inter alia, in section 18: "All game laws, General or Special, presently in force or enacted during the 60th Legislature, pertaining to the State of Texas or any county or counties therein, shall be in full force and effect until the Parks and Wildlife Commission shall, in accordance with this Act issue a proclamation, rule or regulation dealing with the subject matter of the county affected by such presently existing game law." See article 978j—1, § 18.

Art. 875. Exemptions

English sparrows, crows, ravens, vultures or buzzards, "ricebirds" identified as harmful, blackbirds, roadrunners and the goshawk, the Cooper's hawk or blue darter, the sharp-shinned hawk, jaybird, sapsuckers, woodpeckers, butcher-birds or shrike, the great horned owl and the starling are not included among the birds protected by this Chapter; and providing, further, that nothing in this Section shall prevent the purchase and sale of canaries and parrots, or the keeping of same in cages as domestic pets.

Amended by Acts 1967, 60th Leg., p. 108, ch. 52, § 1, emerg. eff. Apr. 17, 1967.

Art. 888. Depredation of wild birds and animals

(a) Whenever any of the wild birds or animals protected by the laws of this state are found to be damaging or destroying crops or domestic animals, the person whose property is being injured shall give written notice of the facts to the county judge of the county in which the damage is being done if a depredation permit is desired. The county judge shall notify the Parks and Wildlife Department of the location of the property where the damage is being done, the type of crops or animals being destroyed, and the name of the applicant. The Department shall inspect the property and shall determine whether damage is being done as alleged. If so, the Department shall make such recommendations to the owner of the property as are feasible and appropriate for controlling the damage.

(b) When the county judge receives the notice under Section (a) of this article, he shall immediately cause a substantial copy of the notice to be posted in the county courthouse.

(c) On receiving an application as prescribed in this section, the Department may in its discretion issue permits for killing wild birds and

animals without regard to closed season, bag limit, or night shooting. The application must be in writing, must contain a statement of the facts and an agreement to comply with the requirements of this article relating to the disposition of game, and must be sworn to by the applicant. The application must be accompanied by (1) a signed statement of the employee of the Department who made the investigation that damage is being done and that control measures have been recommended; (2) a statement of fact by applicant that he has taken all measures recommended by Department for prevention of damage; and (3) a certification by the county judge that the sworn application is true.

(d) Each permit issued by the Department shall distinctly specify the time period for which it is granted, the area which it covers, the kind of birds or animals to be killed, and the person or persons permitted to kill the noxious birds or animals. The permit shall not authorize the killing of migratory game birds protected by the Federal Migratory Bird Treaty Act unless the applicant has first procured a permit from the United States Fish and Wildlife Service.

(e) If the Department decides to issue the permit, it shall deliver the permit to the county judge, but not until at least 24 hours have elapsed since the Department received the initial notice from the county judge under Section (a) of this article.

(f) If the permit authorizes the killing of deer, then the permittee, as soon as practicable after a deer is killed, shall notify the game warden or other employee of the Department of the area covered by the permit, of the place where the deer carcass is located. The officer notified shall cause the carcass to be disposed of by donating it to a charitable institution or hospital or to needy persons.

(g) The Department may cancel the permit if the permittee violates any term or condition of the permit, or exceeds the authority granted by the permit, or if issuance of the permit does not accomplish the intended purposes.

(h) A permittee who fails to give the notice required by Section (f) of this article, or who disposes of a deer carcass or allows its disposition in any manner except as provided in Section (f) of this article, or who violates any term or condition of the permit, is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$50 nor more than \$500.

Amended by Acts 1967, 60th Leg., p. 883, ch. 383, § 1, eff. Aug. 28, 1967.

Savings Provision

Acts 1967, 60th Leg., p. 1959, ch. 730, The Uniform Wildlife Regulatory Act, codified as article 978j—1, conferring upon the Parks and Wildlife Commission the power and duty of protecting and regulating the harvest of wildlife resources in various counties and repealing various acts of a similar nature, provides in section 15, inter alia, that "in Colorado County the provisions of Article 888, Penal Code of Texas, 1925, shall not be affected."

Art. 892. Certain animals declared to be game animals

Wild deer, wild elk, wild antelope, wild Desert Bighorn sheep, wild black bear, wild gray or cat squirrels, wild fox squirrels or red squirrels, collared peccary or javelina, and the American Bison or buffalo are hereby declared to be game animals within the meaning of this Act. However, no species of any of these animals or any other animals is classified as a game animal if it is not indigenous to the state or any part of the state. Aoudad sheep are game animals in Armstrong, Briscoe, Donley, Floyd, Hall, Motley, Randall, and Swisher Counties.

Amended by Acts 1963, 58th Leg., p. 8, ch. 6, § 1; Acts 1965, 59th Leg., p. 782, ch. 372, § 1, eff. June 9, 1965; Acts 1967, 60th Leg., p. 868, ch. 374, § 1, eff. Aug. 28, 1967.

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For Annotations and Historical Notes, see V.A.T.S.

Art. 893. Repealed. Acts 1967, 60th Leg., p. 116, ch. 61, § 2. Eff. Aug. 28, 1967

Art. 895d. Nonforfeiture of sport licenses for violation of game and fish laws

Notwithstanding any other provision of law, hunting licenses, required by Chapter 370, Acts of the 55th Legislature, Regular Session, 1957, as amended (Article 895c, Vernon's Texas Penal Code), and fishing licenses, required by Chapter 239, Acts of the 55th Legislature, Regular Session, 1957 (Article 4032b-1, Vernon's Texas Civil Statutes), are not subject to forfeiture for violation of any general, local or special game or fish law or for violation of any rule or regulation of the Parks and Wildlife Commission. No other license issued by the Parks and Wildlife Commission is subject to forfeiture unless forfeiture is expressly provided by law, and in such cases the question of forfeiture is a matter to be decided by the jury, or by the judge in the absence of a jury, in the same manner as other penalties are assessed.

Acts 1967, 60th Leg., p. 116, ch. 61, § 1, eff. Aug. 28, 1967.

Title of Act:

An Act abolishing forfeiture of sport hunting and fishing licenses as a part of the penalty for violating game and fish

laws; repealing Article 893, Penal Code of Texas, 1925, as amended; and declaring an emergency. Acts 1967, 60th Leg., p. 116, ch. 61.

Art. 901. Hunting from automobile, airplane or boat

Savings Provision

Acts 1967, 60th Leg., p. 1959, ch. 730, The Uniform Wildlife Regulatory Act, codified as article 978j-1, conferring upon the Parks and Wildlife Commission the power and duty of protecting and regulating the harvest of wildlife resources in various counties and repealing various acts of a similar nature, provides in section 15, inter alia, that "in Webb County Articles 901, 902, and 924a of the Penal Code of the State of Texas shall not be affected."

Art. 902. Hunting with headlight

Savings Provision

Acts 1967, 60th Leg., p. 1959, ch. 730, The Uniform Wildlife Regulatory Act, codified as article 978j-1, conferring upon the Parks and Wildlife Commission the power and duty of protecting and regulating the harvest of wildlife resources in various counties and repealing various acts of a similar nature, provides in section 15, inter alia, that "in Webb County Articles 901, 902, and 924a of the Penal Code of the State of Texas shall not be affected."

Art. 924a. Electricity producing apparatus to shock fish

It shall be unlawful for any person at any time of the year to catch or attempt to catch or obtain fish by the aid of what is commonly known as "telephoning" or by using any other electricity-producing apparatus designed for shocking fish. Any person violating any of the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine in any sum of not less than Twenty-five Dollars (\$25) nor more than Two Hundred Dollars (\$200). The possession of any such equipment in any boat or along any bank or shore of any of the rivers, creeks, lakes and bays of this State shall be prima facie evidence that the person found in possession of such electrical equipment is violating the provisions of the Act. Provided, however, that it shall be lawful for a duly licensed Commercial Gulf Shrimp Boat as such term

"Commercial Gulf Shrimp Boat" is defined in Section 3(f), Chapter 340, Acts of the Regular Session of the Fifty-eighth Legislature of Texas, 1963, as amended,¹ to use an electricity-producing apparatus generating not more than 1 volt connected to a trawl or net otherwise conforming to the provisions of Section 7(f), of Chapter 340, Acts of the Regular Session of the Fifty-eighth Legislature of Texas, 1963, as amended,¹ to catch shrimp in the outside waters of the State of Texas, having a depth of more than seven (7) fathoms, as such term outside waters is defined by Section 3(a), of Chapter 340, Acts of the Regular Session of the Fifty-eighth Legislature of Texas, 1963, as amended,¹ such trawl or net thus electrically equipped being herein designated as an "electro-trawl"; and the possession of such electro-trawl on board a Commercial Gulf Shrimp Boat in any of the waters of the State of Texas shall not be unlawful, but, except as specifically provided herein, such electric trawl, and the use thereof, shall in all other respects conform with all of the provisions of the Texas Shrimp Conservation Act, Chapter 340, Acts of the Regular Session of the Fifty-eighth Legislature of Texas, 1963, as amended.¹

Amended by Acts 1967, 60th Leg., p. 1796, ch. 686, § 1, emerg. eff. June 17, 1967.

¹ See Vernon's Ann.Civ.St. art. 4075b.

Savings Provision

Acts 1967, 60th Leg., p. 1959, ch. 730, The Uniform Wildlife Regulatory Act, codified as article 978j—1, conferring upon the Parks and Wildlife Commission the power and duty of protecting and regulating the harvest of wildlife resources in various counties and repealing various acts of a similar nature, provides in section 15, inter alia, that "in Webb County Articles 901, 902, and 924a of the Penal Code of the State of Texas shall not be affected."

Sections 2 and 3 of the amendatory act of 1967 provided:

"Sec. 2. All laws or parts of laws in conflict with provisions of this Act are repealed to the extent of such conflict only.

"Sec. 3. It is hereby declared to be the legislative intent to enact each separate provision of this Act independent of all other provisions, and the fact that any section, word, clause, sentence, or part

of this Act shall be declared unconstitutional shall in no event affect any other section, word, clause, sentence, or part thereof; and it is hereby declared to be the intent of the Legislature to have passed each sentence, section, part, or clause hereof irrespective of the fact that any other section, sentence, clause, or part thereof may be declared invalid."

Art. 931a. Minimum size limit on redfish

Section 1. It shall be unlawful for any person to take from the waters of the State of Texas and retain, or place in a container, boat, creel, live-box, or on any stringer, any redfish less than 14 inches in length before September 1, 1972.

Sec. 2. Any person or persons who violates any provisions of Section 1 of this Act is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$25 nor more than \$200.

Sec. 3. All laws or parts of laws in conflict with provisions of this Act are suspended to the extent of such conflict only.

Acts 1967, 60th Leg., p. 893, ch. 389, eff. Aug. 28, 1967.

Title of Act:

An Act establishing a temporary minimum size limit on redfish in the State of Texas; providing a penalty for violations;

and declaring an emergency. Acts 1967, 60th Leg., p. 893, ch. 389.

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For Annotations and Historical Notes, see V.A.T.S.

Art. 934a. Commercial fisherman and wholesale dealer's license

* * * * *

License fees; sizes of fish which may be sold

Sec. 3. The licenses and the fees to be paid for the same are hereby provided for in this Act and are as follows:

1. Commercial Fisherman's License, fee Five Dollars (\$5). Fifteen cents (15¢) of the fee for each such license may be retained by the issuing agent for services in issuing such license, except that employees of the Texas Parks and Wildlife Department may not retain such fee. The license shall expire August 31st following the date of issuance.

Sec. 3, subsec. 1 amended by Acts 1963, 58th Leg., p. 963, ch. 386, § 1, eff. Aug. 23, 1963; Acts 1967, 60th Leg., p. 362, ch. 173, § 1, eff. Aug. 28, 1967.

2. Wholesale Fish Dealers' License, fee for each place of business, Two Hundred Fifty Dollars (\$250).

2-a. Wholesale Truck Dealers' Fish License, fee for each truck, One Hundred Twenty-five Dollars (\$125).

Sec. 3, subsecs. 2, 2a, amended by Acts 1967, 60th Leg., p. 362, ch. 173, § 2, eff. Aug. 28, 1967.

* * * * *

Acts 1967, 60th Leg., p. 362, ch. 173, §§ 1, 2 amended subsections 1, 2 and 2-a of section 3 of this article; section 3 of the act of 1967 amended article 934b—2, § 2; section 4 of the act of 1967 amended Ver-

non's Ann.Civ.St. art. 4075b, § 9; section 5 of the act is codified as article 978f—3c; section 6 thereof repealed conflicting laws and section 7 was a partial invalidity clause.

Art. 934b—2. Commercial fishing in tidal waters

* * * * *

Commercial fishermen's licenses

Sec. 2. Before any commercial fisherman shall take, catch or assist in taking, any fish, shrimp or oysters, or any other edible aquatic life from the tidal salt waters of this state, a license shall first be procured from the Texas Parks and Wildlife Department privileging him so to do. The fee for such Commercial Fisherman's License shall be Five Dollars (\$5). Fifteen cents (15¢) may be retained by the issuing agent for each license issued, except that employees of the Texas Parks and Wildlife Department may not retain such fee. The license shall expire August 31st following the date of issuance.

Sec. 2 amended by Acts 1963, 58th Leg., p. 963, ch. 386, § 2, eff. Aug. 23, 1963; Acts 1967, 60th Leg., p. 362, ch. 173, § 3, eff. Aug. 28, 1967.

* * * * *

Acts 1967, 60th Leg., p. 362, ch. 171, §§ 1, 2 amended article 934a, § 3, subsecs. 1, 2 and 2-a; section 4 of the act of 1967 amended Vernon's Ann.Civ.St. art. 4075b, § 9; sec-

tion 5 of act of 1967 is codified as article 978f—3c; section 6 thereof repealed conflicting laws, and section 7 was a partial invalidity clause.

Art. 934b—4. Commercial exploitation of horned toads

Killing, capturing, selling, or transporting horned toads within the State of Texas

Section 1. (a) It shall be unlawful for any person to capture, trap, trap for, ensnare, wilfully kill or injure, take or have in his possession for the purpose of sale, barter, or commercial exploitation, horned toads in the State of Texas except for the propagation and scientific purposes as provided by law; provided further, that possession includes the transportation, shipping, or storing of horned toads, dead or alive, within the State of Texas.

(b) As used in this Act, "horned toad" means a horned toad or horned lizard of the genus Phrynosoma.

Penalty

Sec. 2. A person who violates the provisions of Section 1 of this Act is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$10 nor more than \$200. Providing further, that each horned toad taken, captured, killed, injured, or possessed, as provided by Section 1, shall constitute a separate offense and shall be subject to the penalty provided by this Section.

Injunction

Sec. 3. Any district attorney, county attorney, sheriff, the executive director of the Parks and Wildlife Department or his authorized representative, or proper authorities in any county of this state may institute any appropriate action or proceedings, including the use of a petition for injunction, to prevent the violation of this Act.

Acts 1967, 60th Leg., p. 761, ch. 316, emerg. eff. May 27, 1967.

Title of Act: providing a penalty; and declaring an emergency. Acts 1967, 60th Leg., p. 761, ch. 316.
An Act relating to the protection of horned toads from commercial exploitation;

Art. 934b—5. Commercial exploitation of Texas tortoises**Killing, capturing, selling or transporting Texas Tortoises (Gopherus berlandieri) within the State of Texas**

Section 1. It shall be unlawful for any person to willfully kill or injure, take or have in his possession for the purpose of sale, barter, or commercial exploitation, Texas Tortoises (*Gopherus berlandieri*) in the State of Texas except for propagation and scientific purposes as provided by law; provided further, that possession includes the transportation, shipping, or storing of Texas Tortoises (*Gopherus berlandieri*), dead or alive, within or into the State of Texas.

Penalty

Sec. 2. A person who violates the provisions of Section 1 of this Act is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$10 nor more than \$200 or by confinement in the county jail for not less than 10 days nor more than 60 days, or by both; providing further, that each Texas Tortoise (*Gopherus berlandieri*) taken, killed, injured, or possessed, as provided by Section 1, shall constitute a separate offense and shall be subject to the penalty provided by this Section.

Injunction

Sec. 3. Any district attorney, county attorney, sheriff or proper authorities in any county of this state, or the Director of the State Parks and Wildlife Department may institute any appropriate action or proceedings, including the use of a petition for injunction, to prevent the violation of this Act.

Acts 1967, 60th Leg., p. 763, ch. 318, emerg. eff. May 27, 1967.

Title of Act: commercial exploitation; providing a penalty; and declaring an emergency. Acts 1967, 60th Leg., p. 763, ch. 318.
An Act relating to the protection of Texas Tortoises (*Gopherus berlandieri*) from

Art. 952aa—5. Fishing in Angelina River and Mud Creek**Savings Provision**

Acts 1967, 60th Leg., p. 1959, ch. 730, The Uniform Wildlife Regulatory Act, codified as article 978j—1, conferring upon the Parks and Wildlife Commission the power and duty of protecting and regulating the harvest of wildlife resources in various counties and

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repealing various acts of a similar nature, provides in section 15, inter alia, that "in Rusk County the provisions of Chapter 415, Acts of the 59th Legislature, Regular Session, 1965, shall not be repealed."

Art. 952l—12. Taking of fish from Espiritu Santo Bay and other bays and lakes

Taking fish by means other than hook and line; fines

Section 1. It is hereby made unlawful for any person to take or catch fish from the waters of Espiritu Santo Bay, or in those portions of San Antonio Bay South or Southeast of the Intracoastal Waterway, or in Shoalwater Bay, Barroom Bay, Pats Bay, Cory Cove, Big Bayou, Saluria Bayou, Rahal Bayou, Steamboat Pass, Mailboat Channel, Pringle Lake, Contee Lake, South Pass Lake, Long Lake, Big Pocket, Lighthouse Cove, Power Lake, Twin Lakes, Cedar Lake, Swan Lake, Panther Point Lake, Cottonwood Bayou or Shell Reef Bayou, in Calhoun County, Texas, by any other means than hook and line, rod and reel, or trotline, or flounder gig and light, or by the use of cast net or minnow seine used in catching bait not exceeding twenty (20) feet in length. Any person drawing a seine or setting a net for the purpose of taking fish in the waters of Espiritu Santo Bay, or in those portions of San Antonio Bay South or Southeast of the Intracoastal Waterway, or in Shoalwater Bay, Barroom Bay, Pats Bay, Cory Cove, Big Bayou, Saluria Bayou, Rahal Bayou, Steamboat Pass, Mailboat Channel, Pringle Lake, Contee Lake, South Pass Lake, Long Lake, Big Pocket, Lighthouse Cove, Power Lake, Twin Lakes, Cedar Lake, Swan Lake, Panther Point Lake, Cottonwood Bayou, or Shell Reef Bayou, in Calhoun County, Texas, or any person catching or taking fish in such waters by any other means than by hook and line, rod and reel, or trotline, or flounder gig and light, or by the use of cast net or minnow seine not exceeding twenty (20) feet in length shall be deemed guilty of a misdemeanor, and shall be fined in a sum of not less than Twenty-Five Dollars (\$25.00) nor more than Two Hundred Dollars (\$200.00).
Sec. 1 amended by Acts 1967, 60th Leg., p. 1154, ch. 511, § 1, emerg. eff. June 14, 1967.

Arrests; disposition of seized seines and nets

Sec. 2. When any peace officer of this state or any law enforcement officer employed by the Parks and Wildlife Department sees any seine, strike net, gill net, or trammel net, or any device the use of which is prohibited under Section 1 of this Act where the use of such device is prohibited and has reason to believe and does believe that the same is being used or possessed in violation of the provisions of this Act, it shall be his duty to arrest the party using or possessing such device and, without a warrant, shall seize such device as evidence. It shall be the duty of such peace officer or employee to deliver such device to a court of competent jurisdiction of the county in which it was seized, where it shall be held as evidence until after the trial. If the defendant is found guilty of possessing or using such device unlawfully, the court shall enter an order directing the immediate destruction of such device by any state game warden or by the sheriff or constable of the county where the case was tried, and the game warden or sheriff or constable of the county shall immediately destroy such device and make a sworn report to the judge of such court, showing how, when, and where said device was destroyed. When such device is found by a peace officer of this state or any law enforcement officer employed by the Parks and Wildlife Department without anyone in possession where its use is prohibited, it shall be seized by such officer without warrant and delivered to the appropriate court in the county in which it was found. Said peace officer or employee shall

make affidavit that such device was found in or on the tidal waters of this state at a point where its use was prohibited, which said affidavit shall describe such device and the court shall direct the game warden or sheriff or any constable of the county to post a copy of said affidavit in the courthouse of the county in which said device was seized, and said officer shall make his return to the court showing when and where said notice was posted. Thirty (30) days after such notice is posted, the court, either in term-time or in vacation, shall enter an order directing the immediate destruction of such device by any game warden or the sheriff or any constable in the county, and said officer executing said order, shall, under oath, make his return to said court, showing how, when, and where, such device was destroyed. It shall be the duty of the Parks and Wildlife Department to enforce this Act.

The Parks and Wildlife Department when requested by authorized representatives of units of The University of Texas System and the Texas A&M University System, engaged in teaching and research related to marine science and oceanography, may transfer to such units of The University of Texas System and the Texas A&M University System fish nets, seines, and other marine equipment, which have been confiscated under this Act, to be used in carrying out the teaching and research programs within said institutions.

Sec. 2 amended by Acts 1967, 60th Leg., p. 1154, ch. 511, § 1, emerg. eff. June 14, 1967.

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Savings Provision

Acts 1967, 60th Leg., p. 1959, ch. 730, The Uniform Wildlife Regulatory Act, codified as article 978j—1, conferring upon the Parks and Wildlife Commission the power and duty of protecting and regulating the harvest of wildlife resources in various counties and repealing various acts of a similar nature, provides in section 15, inter alia, that Acts 1963, 58th Leg., p. 624, ch. 230, and any other laws relating to netting for fish in Calhoun or Victoria Counties shall not be altered or affected. See article 978j—1, § 15.

Art. 955a—2. Sale of fish taken from Hubbard Creek Lake

Section 1. (a) Except as provided in Subsection (b) of this section, no person may

(1) sell or barter, or offer to sell or barter, any fish taken from Hubbard Creek Lake in Shackelford and Stephens counties; or

(2) take or catch, attempt to take or catch, or possess or transport any fish from Hubbard Creek Lake for the purpose of barter or sale.

(b) Subsection (a) of this section does not apply to a person

(1) catching, taking, possessing, transporting, bartering, or selling fish from Hubbard Creek Lake pursuant to a contract with the Parks and Wildlife Department for removal of rough fish under Chapter 422, Acts of the 51st Legislature, Regular Session, 1949, as now or later amended (Article 4050c, Vernon's Texas Civil Statutes); or

(2) catching, taking, or possessing not more than 200 minnows on any one day for use as bait in fishing the waters of Hubbard Creek Lake.

Sec. 2. A person who violates any provision of this Act is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$10 nor more than \$200; and the illegal possession or sale of each fish is a separate offense.

Acts 1967, 60th Leg., p. 570, ch. 258, eff. Aug. 28, 1967.

Title of Act: An Act relating to sale of fish taken from Hubbard Creek Lake in Shackelford and Stephens counties; prescribing a penalty; and declaring an emergency. Acts 1967, 60th Leg., p. 570, ch. 258.

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For Annotations and Historical Notes, see V.A.T.S.

Art. 955a—3. Importation, possession, sale or release of harmful tropical fish or fish eggs

Section 1. (a) No person may, without first obtaining written permission from the executive director of the Parks and Wildlife Department, import into this state, possess, sell, or release any tropical fish or fish eggs which are harmful or potentially harmful to human or animal life, as determined by the Parks and Wildlife Department.

(b) The Parks and Wildlife Department shall

- (1) determine which tropical fish are harmful or potentially harmful;
- (2) publish a list containing the names of the fish; and
- (3) promulgate rules necessary to carry out the provisions of this Act.

Sec. 2. A person who knowingly violates a provision of Section 1(a) of this Act, or a rule of the department promulgated under Section 1(b) (3), is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$50 nor more than \$200.

Acts 1967, 60th Leg., p. 678, ch. 282, emerg. eff. May 25, 1967.

Title of Act: certain fish or fish eggs; providing a penalty; and declaring an emergency. Acts 1967, 60th Leg., p. 678, ch. 282.

An Act relating to prohibiting the importation, possession, sale, or release of

Art. 978f—3c. Program for market development for seafoods

The Parks and Wildlife Department is hereby empowered, authorized and directed to develop, promote, administer and support, either by and through his own personnel or by contract with others, and either with only state funds or in conjunction with federal or private funds, a market promotion program to foster and expand the sale and consumption of seafoods by the public. Forty percent (40%) of the funds collected from Commercial Fisherman's License fees, twenty percent (20%) of Wholesale Fish Dealers' License fees and Wholesale Truck Dealers' Fish License fees, and fifty percent (50%) of Shrimp House Operators' License fees, shall be used by the said Department in establishing and carrying out the above program.

Acts 1967, 60th Leg., p. 362, ch. 173, § 5, eff. Aug. 28, 1967.

Acts 1967, 60th Leg., p. 362, ch. 173, §§ 1-3 amended article 934a, § 3 subsecs. 1 to 2-a, and article 934b—2, § 2; section 4 of the act of 1967 amended Vernon's Ann.Civ. St. art. 4075b, § 9; section 6 thereof repealed conflicting laws, and section 7 was a partial invalidity clause.

Art. 978f—3d. State system of scientific areas

Section 1. The Parks and Wildlife Commission, hereafter called the commission, is hereby authorized to promote and establish a state system of scientific areas for the purposes of education, scientific research, and/or preservation of flora or fauna of scientific or educational value.

Sec. 2. To the extent necessary to carry out the purposes of this Act, the commission shall have the following powers and authorities:

(a) To determine the acceptance or rejection of state scientific areas proposed for incorporation into a state system of scientific areas;

(b) To make and publish all rules and regulations necessary for the management and protection of such scientific areas;

(c) To cooperate and contract with any agencies, organizations, or individuals for purposes of this Act;

(d) To accept gifts, grants, devise, and bequests of money, securities, or property to be used in accordance with the tenor of such gift, grant, devise, or bequest;

(e) To formulate policies for the selection, acquisition, management, and protection of state scientific areas;

(f) To negotiate for and approve the dedication of state scientific areas as part of the system;

(g) To advocate research, investigations, interpretive programs, and publication and dissemination of information pertaining to state scientific areas and related areas of scientific value.

Sec. 3. All departments, agencies, and instrumentalities of the state, including counties, municipalities, public corporations, districts, boards, commissions, universities and colleges are empowered and are urged to acquire, administer, and dedicate as state scientific areas within the system under the policies established by the commission for purposes of this Act. Nothing contained in this Act shall be construed as interfering with the purposes stated in the establishment of or pertaining to any state or local park, preserve, wildlife refuge, or other area or the proper management and development thereof except that any agency administering any area designated as a state scientific area under the system shall be responsible for preserving the natural character of the area in accordance with the policies established by the commission. Designation of an area as a state scientific area within the system or allowance by the commission of an intrusion, easement or taking therein shall not void or replace any protected status under law which the area would have were it not so designated.

Sec. 4. The Parks and Wildlife Commission shall not use any funds available to it for the acquisition of scientific areas unless the funds are specifically appropriated for the purposes of this Act.

Acts 1967, 60th Leg., p. 1794, ch. 684, emerg. eff. June 17, 1967.

Section 5 of the act of 1967 provided: "All laws general and special in conflict with the provisions of this Act are hereby repealed to the extent of such conflict only."

Title of Act:

An Act authorizing the Parks and Wildlife Commission to establish a state sys-

tem of scientific areas and authorizing governmental agencies to acquire, develop and manage scientific areas; repealing certain laws to the extent of conflict; and declaring an emergency. Acts 1967, 60th Leg., p. 1794, ch. 684.

Art. 978f—5a. Wildlife management areas; expenditure of funds to counties and school districts in lieu of taxes

The Parks and Wildlife Department is hereby authorized and directed to expend funds to counties and school districts for assessments in lieu of property taxes on wildlife management areas purchased from federal funds or grants authorized by Pittman-Robertson Act or Dingell-Johnson Act. It is the intent of this bill to encourage the development of wildlife management areas in the counties of the state; however, it is a matter of equity that the local units of government are entitled to funds assessed in lieu of property taxes for these wildlife management areas. No general revenue funds may be expended in lieu of taxes for wildlife management areas; however, special funds may be expended for this purpose provided reimbursement or matching from the federal government is available at a federal ratio of 2 to 1 or better.

Acts 1967, 60th Leg., p. 1823, ch. 702, emerg. eff. June 17, 1967.

Title of Act:

An Act authorizing and directing the Parks and Wildlife Department to expend funds to counties and school districts in lieu of taxes for wildlife management areas; prohibiting use of general revenue funds in

lieu of taxes for such wildlife management areas and authorizing use of special funds under certain conditions; and declaring an emergency. Acts 1967, 60th Leg., p. 1823, ch. 702.

Art. 978f—8. Reciprocal agreements; hunting and fishing privileges for residents of Louisiana

Section 1. A resident of Louisiana may engage in lawful sport hunting and fishing in Jefferson, Orange and Shelby counties if he has purchased a valid license by the state of his residence and that his state grants a similar, reciprocal sport hunting and fishing privilege in the parishes

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adjacent to those counties listed in this section, to residents of Jefferson, Orange and Shelby counties of the State of Texas.

Sec. 2. A resident of Louisiana may engage in lawful sport fishing and hunting in any of the waters forming a boundary by the Sabine River and the Sabine Lake between his state and this state without a Texas license if he has a valid license issued by the state of his residence and that his state grants a similar reciprocal fishing and hunting privilege to residents of the State of Texas.

Acts 1967, 60th Leg., p. 1173, ch. 524, eff. Aug. 28, 1967.

Title of Act: and residents of other states; and declaring
An Act relating to reciprocal hunting and an emergency. Acts 1967, 60th Leg., p.
fishing privileges between Texas residents 1173, ch. 524.

Art. 978i. Repealed. Acts 1967, 60th Leg., p. 1967, ch. 730, § 15. Eff. Sept. 1, 1967

See, now, art. 978j—1.

Art. 978j. Local game and fish laws

Uniform Wildlife Regulatory Act

Acts 1967, 60th Leg., p. 1959, ch. 730, The Uniform Wildlife Regulatory Act, codified as article 978j—1, conferring upon the Parks and Wildlife Commission the power and duty of protecting and regulating the harvest of wildlife resources in various counties and repealing various acts of a similar nature, provides, inter alia, in section 18: "All game laws, General or Special, presently in force or enacted during the 60th Legislature, pertaining to the State of Texas or any county or counties therein, shall be in full force and effect until the Parks and Wildlife Commission shall, in accordance with this Act issue a proclamation, rule or regulation dealing with the subject matter of the county affected by such presently existing game law." See art. 978j—1, § 18.

For fish and game law applicable only to the named counties, see notes under Vernon's Ann.P.C. art. 978j.

Art. 978j—1. Uniform Wildlife Regulatory Act

Title; application of act

Section 1. This Act shall be referred to for all purposes as "The Uniform Wildlife Regulatory Act." This Act shall apply only to Anderson, Andrews, Aransas, Archer, Armstrong, Austin, Bailey, Bandera, Bastrop, Baylor, Bee, Bell, Bexar, Blanco, Borden, Bosque, Bowie, Brazoria, Brazos, Brewster, Briscoe, Brown, Burleson, Burnet, Caldwell, Calhoun, Callahan, Cameron, Carson, Castro, Childress, Clay, Cochran, Coke, Coleman, Collingsworth, Colorado, Comal, Comanche, Cooke, Coryell, Cottle, Crockett, Crosby, Culberson, Dallam, Dallas, Dawson, Deaf Smith, Denton, DeWitt, Dimmit, Donley, Duval, Eastland, Edwards, Ellis, El Paso, Erath, Falls, Fayette, Fisher, Floyd, Foard, Fort Bend, Franklin, Freestone, Frio, Gaines, Garza, Gillespie, Glasscock, Goliad, Gonzales, Gray, Grimes, Guadalupe, Hale, Hall, Hamilton, Hansford, Hardeman, Hardin, Harris, Harrison, Hartley, Haskell, Hays, Hemphill, Henderson, Hidalgo, Hill, Hockley, Hood, Houston, Howard, Hudspeth, Hunt, Hutchinson, Irion, Jack, Jackson, Jasper, Jeff Davis, Jefferson, Jim Wells, Johnson, Jones, Karnes, Kerr, Kimble, Kinney, Knox, Lamar, Lamb, Lampasas, Liberty, Limestone, Lipscomb, Live Oak, Llano, Lubbock, Lynn, Madison, Martin, Mason, Matagorda, Maverick, Medina, Menard, Midland, Milam, Mills, Mitchell, Montague, Montgomery, Moore, Motley, McCulloch, McLennan, Navarro, Newton, Nolan, Ochiltree, Oldham, Orange, Palo Pinto, Panola, Parker, Parmer, Pecos, Polk, Potter, Presidio, Randall, Reagan, Real, Red River,

Reeves, Roberts, Robertson, Rusk, San Patricio, San Saba, Schleicher, Shackelford, Sherman, Somervell, Starr, Stephens, Sterling, Stonewall, Sutton, Swisher, Tarrant, Taylor, Terrell, Terry, Throckmorton, Titus, Tom Green, Travis, Trinity, Tyler, Uvalde, Val Verde, Victoria, Walker, Waller, Webb, Wharton, Wheeler, Wichita, Wilbarger, Willacy, Williamson, Wilson, Wise, Yoakum, Young and Zavala Counties; and to all of the water area of Lake Towakoni located within Rains, Van Zandt, and Kaufman Counties; and to all of the water area of the Joe B. Hogsett Reservoir known as the Cedar Creek Reservoir, located within Henderson and Kaufman Counties; and to the land and water area of the Somerville Reservoir located in Burleson, Lee and Washington Counties; and to that portion of Lake Texoma in Cooke and Grayson Counties; and to all of the water area of the Sam Rayburn Reservoir in Angelina, Nacogdoches, Sabine and San Augustine Counties.

**Prohibition on hunting, taking, killing or possessing game and fish;
powers and duties of Parks and Wildlife Commission**

Sec. 2. Subject to the limitations provided in Section 3, it shall be unlawful, except as provided in this Act, for any person to hunt, take, kill or possess, or attempt to take or kill any game bird or game animals in these counties of the State of Texas at any time; or to take, kill, trap or possess, or attempt to take, kill or trap any fur-bearing animal in the counties to which this Act applies, at any time; or to take or attempt to take any fish or other aquatic life or marine animals by any means or method in these counties of this state at any time. In order to better conserve an ample supply of the wildlife resources in the counties to which this Act applies to the end that the most reasonable and equitable privileges may be enjoyed by the people of said counties and their posterity in their ownership and in the taking of such resources, it is deemed for the public welfare that this Legislature should provide a law adaptable to changing conditions and emergencies which threaten depletion or waste of the wildlife resources in said counties. The Parks and Wildlife Commission is therefore granted the authority, power and duty to provide by proclamation, rule or regulation, from time to time, periods of time when it shall be lawful to take a portion of the wildlife resources in said counties or in any portion of any of said counties when its investigations and findings of fact disclose that there is an ample supply of such wildlife resources that a portion thereof may be taken which will not threaten depletion or waste of such supply. It shall also, by proclamation, rule or regulation, from time to time, provide the means and the method and the place and the manner in which such wildlife resources may be lawfully taken, provided, however, that it shall be unlawful for any person to hunt, take, kill or possess, or attempt to hunt, take or kill any game bird or game animal in any county or in any portion of any county at any time; or to take, kill, trap or possess, or attempt to take, kill, or trap any fur-bearing animal in any county or in any portion of any county at any time; or to take or attempt to take any fish by any means or method in any county or in any portion of any county at any time; unless the owner of the land or the water, or his duly authorized agent shall give consent thereto.

Definitions

Sec. 3.

a. "Depletion" as used in this Act shall be construed to mean reduction of a species below immediate recuperative potentials by any deleterious cause or causes.

b. "Waste" as used in this Act shall be construed to mean supply of a species or sex thereof sufficient that a seasonal harvest thereof will aid in the re-establishment of normal numbers of such species.

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c. For the purpose of this Act, the wildlife resources of the State of Texas are defined to be all the game birds and game animals, fur-bearing animals of all kinds, alligators, fish and other aquatic life and marine animals of all kinds; provided, however, that the following limitations apply in the counties herein mentioned:

(1.) In Aransas, Jefferson, Matagorda, and Orange Counties shrimp are not included in the term "wildlife resources."

(2.) In Austin and Waller Counties, only deer, quail, and turkeys are included in the term "wildlife resources."

(3.) In Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, Pecos, Presidio, Reeves, and Terrell Counties fish are not included in the term "wildlife resources."

(4.) In Burleson County fish are not included in the term "wildlife resources," except in the Somerville Reservoir.

(5.) In Duval County antlerless deer are not included in the term "wildlife resources."

(6.) In Calhoun, Harris and Victoria Counties salt water species of marine life are not included in the term "wildlife resources."

(7.) In Goliad and Live Oak Counties, only wild deer, wild turkey, wild quail and alligators, are included in the term "wildlife resources."

(8.) In Jasper, Newton and Tyler Counties, fox are not included in the term "wildlife resources."

(9.) In Bowie, Lamb, San Patricio and Victoria Counties, quail are not included in the term "wildlife resources."

(10.) In San Saba County, only deer are included in the term "wildlife resources."

(11.) In the Sam Rayburn Reservoir in Angelina, Nacogdoches, Sabine, and San Augustine Counties, only fresh water fish are included in the term "wildlife resources."

d. For the purposes of this Act the following limitations apply within the Counties named in this subsection.

(1.) In Aransas County this Act does not apply to the part of San Antonio Bay lying within the northeast part of Aransas County, nor to the Aransas River where it forms the boundary with Refugio County, nor to Copano Creek where it forms the boundary with Calhoun County.

(2.) In Cameron County this Act applies to the waters of the Laguna Madre and its abutting waters but does not apply to the waters of the Gulf of Mexico.

(3.) In Willacy County this Act does not apply to any of the coastal waters of the county, as the term "coastal waters" is defined in the Texas Shrimp Conservation Act.

Research investigations and studies of reduction or increase in supply of wildlife resources; open seasons

Sec. 4. It shall be the duty of the Parks and Wildlife Department to conduct, from time to time, or continuously, scientific research investigations and studies of the supply, economic value, environment, breeding habits and, so far as possible, the sex ratio of the different species of wildlife resources as well as the factors affecting their increase or decrease, particularly with reference to hunting, trapping, fishing, disease, infestation, predation, agricultural pressure, over-population, and any and all other factors that enter into a reduction or an increase in the supply of such wildlife resources of this state. Pursuant to and based upon such studies, said Commission shall enter its findings of fact with respect thereto, and if, in the opinion of the Commission, an open season or period of time may be safely provided for any of the wildlife resources of said county, said Commission is authorized and directed from time to time to provide an open season or period of time when such wildlife resources may be taken. The proclamation, rule or regulation issued by the

Commission shall be specific as to the quantity, species, sex, insofar as possible, age or size that may be taken. Such proclamation, rule or regulation shall provide the method and/or means that may be resorted to as well as the area, county or portion of the county where such wildlife resources may be taken. In order to prevent depletion or waste of the wildlife resources of said State of Texas, the Parks and Wildlife Commission shall have authority from time to time by proclamation, rule or regulation to conserve the wildlife resources of said county by an open season or period of time when it shall be lawful to take a portion of such wildlife resources from said county or portion of said county of the State of Texas.

Preventing depletion; declaring state of emergency

Sec. 5. When said Commission finds from its investigations herein provided for that danger of depletion, as defined in this Act, of any species of fish, game bird, game animal or fur-bearing animal exists in any portion of said counties, it shall be the duty of the said Commission to revoke or modify or otherwise amend its order or orders so as to deter or prevent contribution to depletion of such species by the taking thereof. When said Commission finds that danger of waste, as defined in this Act, of any of such species of fish, game bird, game animal or fur-bearing animal, or sex thereof, exists in all or any portion of said counties the Commission may issue or amend or revoke or modify such of its rules and regulations as will afford to all of the people of this state the most equitable and reasonable privileges in the pursuit, taking or killing of such species or sex thereof in said area. When the Commission finds that danger of depletion exists in any area by virtue of an emergency condition, the Commission may declare a state of emergency as to such species in said area, and its orders, rules and regulations issued under such state of emergency shall take effect and be in full force immediately upon issuance thereof.

Hunting antlerless deer, antelope and elk; proclamation, rule or regulation; agreement of landowner

Sec. 6. The Parks and Wildlife Commission's proclamation, rule or regulation permitting the hunting or taking of antlerless deer, antelope and elk shall not be effective as to any specific tract of land upon which antlerless deer, antelope or elk are to be taken until the owner or person in charge of that specific tract of land upon which antlerless deer, antelope or elk are to be taken shall have agreed in writing to the removal by hunting of such antlerless deer, antelope or elk from the tract under supervision and regulation of the Commission; and to the number of antlerless deer, antelope or elk which may be removed therefrom. Antlerless and/or doe deer, antelope or elk hunting permits may be issued by the landowner, or by the person in charge of the land, to hunters to take antlerless deer, antelope or elk only upon the particular tract covered by the landowner's agreement. For the purposes of this Section, the Parks and Wildlife Commission may, when conditions warrant, permit the taking of antlerless deer, antelope or elk without the requirement of an antlerless and/or doe deer, antelope or elk hunting permit, but in such cases the Commission's proclamation shall be specific as to the counties or portions of counties in which antlerless deer, antelope or elk may be taken without the special hunting permit. In areas not covered by the above provision, no person shall hunt or kill any antlerless deer, antelope or elk without first having procured an antlerless deer, antelope or elk permit issued by the Parks and Wildlife Department. Such permit shall be issued in such form and under such rules as may be prescribed by the Parks and Wildlife Commission, but no permit shall be issued later than ten (10) days before the opening date of the hunting season.

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Public hearing on proposed rule, regulation or order; notice

Sec. 7. There shall be a public hearing held in the county to be affected by any proposed rule, regulation or order dealing with hunting or fishing as provided for in this Act before such proposed rule, regulation or order is adopted by the Commission. Notice of this public hearing must be given in a newspaper published in such county at least ten (10) days prior to the date of the hearing. If no newspaper is published in the county, notice of such hearing must be given in a newspaper published in an adjoining county, which is widely circulated in the county in which the proposed rule, regulation or order is to be in effect. The hearing may be conducted by a designated employee of the Parks and Wildlife Department, or by any member of the Commission, provided it is not necessary for the Commission or some member of the Commission to be present at the said hearing.

Adoption of orders, proclamations, rules and regulations; quorum

Sec. 8. Orders, proclamations, rules and regulations proposed under the provisions of this Act shall be adopted by a quorum of the Commission at any regular or special Commission meeting or meetings, the date and time to be designated by the Commission and such meeting or meetings for such purpose shall only be held in the Commission's office in Austin, Texas. For the purpose of the provisions of this Act any person interested shall be entitled to be heard at such meetings, and to introduce evidence as to imminence of waste or depletion, as defined in this Act. Two (2) members, or the chairman and one (1) member of said Commission shall constitute a quorum. No order, rule or regulation, general or local, shall be adopted at any regular or special meeting of the Commission unless a quorum is present.

Effective date of orders, rules and regulations; expiration; revocation or modification

Sec. 9. Orders, rules and regulations adopted by the Commission shall become effective at a time fixed by the Commission but not earlier than fifteen (15) days after their adoption, except in the case of emergency as provided in this Act, and shall continue in full force and effect until they shall expire by their own terms, or are revoked, modified or amended by said Commission.

Filing copies of orders, rules and regulations

Sec. 10. Immediately after its adoption, a copy of each order, rule or regulation adopted by said Commission shall be numbered and filed in its office in Austin, Texas; and a copy thereof shall be filed in the office of the Secretary of State, and the office of the county clerk and the county attorney in the county affected by the order, rule or regulation and a mimeographed copy shall be furnished to each employee of the Parks and Wildlife Department.

Construing particular regulatory powers of Commission

Sec. 11. The particular regulatory powers herein granted to said Commission shall not be construed to limit other and general powers conferred upon it by law.

Review of orders; actions to test validity of orders, rules and regulations

Sec. 12. The Parks and Wildlife Commission is hereby expressly given the power and authority to review its own orders and to modify, amend or revise the same as it shall find the facts to warrant. Any action that may be filed to test the validity of any proclamation, order, rule or regula-

tion of the Commission, passed pursuant to and under the provisions of this Act, must be brought in Travis County. Such suit shall be advanced by trial and determined as quickly as possible. In all such trials the burden of proof shall be upon the party complaining of such order, proclamation, rule or regulation to show it is invalid.

Special Provisions

Sec. 13.

a. The Commission's regulations relating to Lake Towakoni shall be uniform for the entire lake.

b. In Bandera, Coke, Crockett, Edwards, Hays, Kerr, Kimble, Kinney, Lampasas, Medina, Menard, Reagan, Real, Schleicher, Sutton, and Val Verde Counties, orders, rules and regulations adopted in accordance with Section 8 of this Act shall not be effective as provided in Section 9 unless and until they have been approved by the Commissioners Court of each of such counties. The Commissioners Court in each county named in this subsection shall approve or disapprove the Commission's rule, regulation or order or in Lampasas and any order or part of order, at its next regular meeting occurring more than five (5) days after adoption by the Commission. If approved, the rule, regulation or order becomes effective at the time specified in the proclamation by the Commission. If disapproved, for any of the above named counties, no public hearing on a similar proposal for the county may be held for a period of six (6) months unless a majority of said Commissioners Court certifies to the Commission that there has been some material change in the surrounding circumstances which necessitates the holding of a public hearing within the six month period. If the Commissioners Court disapproves the rules, regulations or orders promulgated by the Commission, then the taking of the wildlife resources of the county is regulated by the General Law until such time as the Commissioners Court approves rules, regulations, or orders subsequently promulgated by the Commission.

c. Notwithstanding the powers and duties herein vested in the Parks and Wildlife Commission, there is hereby established in Aransas County a net-free zone in which it shall be unlawful to set or drag any kind of net or seine except a minnow seine not exceeding twenty (20) feet in length for taking bait. Such net-free zone shall be all of Little Bay and the water area of Aransas Bay within one-half ($\frac{1}{2}$) mile of the following line: From Hail Point on the Lamar Peninsula, then direct to the eastern end of Goose Island, then along the southern shore of Goose Island, then along the causeway between Lamar Peninsula and Live Oak Peninsula, then along the eastern shoreline of the Live Oak Peninsula past the town of Fulton, past Nine-Mile Point, past the town of Rockport to a point at the east end of Talley Island. Such net-free zone shall additionally include that part of Copano Bay within one thousand (1,000) feet of the causeway between Lamar Peninsula and Live Oak Peninsula. Any person using a net or seine (except a minnow seine not exceeding twenty (20) feet in length for taking bait only) in said net-free zone shall be punished as herein provided for a violation of this Act.

d. No person may place or set a trotline or crab trap in the net-free zone in Aransas County.

e. The Commission shall make reasonable rules to regulate the use of trotlines and crab traps in the waters outside the net-free zone in Aransas County, in order to provide for the safety of persons engaged in fishing, boating, and other water sports. The rules may provide for spacing and marking of trotlines and crab traps and for seizure of abandoned trotlines and crab traps. The rules shall be made and promulgated in the same manner as other rules are made and promulgated under this Act.

f. In Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, Pecos, Presidio, Reeves, and Terrell Counties any open seasons or harvest limits

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proclaimed by the Commission for the wildlife resources listed below shall be subject to the following limitations:

(1) Black bear. Any open season shall be within the period November 1st to December 31st, and no person shall be permitted to kill or possess more than one black bear during any one season.

(2) Wild gray or cat and fox squirrels. Any open season shall be within the period of May 1st to December 31st; bag limit not to exceed ten (10) to be taken or killed by any person in one day nor to exceed twenty (20) in possession by any person at any time.

(3) Wild turkeys. Any open season shall be within the period November 1st to December 31st, and no person shall be permitted to kill or possess more than three (3) wild turkeys during any one open season.

(4) Wild mourning doves. Any open season shall be within the period September 1st to January 15th. A bag limit may be provided of not to exceed fifteen (15) mourning doves to be killed in any one day, nor more than thirty (30) to be possessed by any person at one time.

(5) Chachalaca. Any open season shall not be longer than ten (10) days within the period December 1st to December 31st, and no person shall be permitted to kill more than five (5) chachalaca in any one day or to possess more than one days kill at any time.

(6) Rails and gallinules. Any open season shall be within the period September 1st to October 31st, and no person shall be permitted to kill more than fifteen (15) rails or more than fifteen (15) gallinules or an aggregate of more than fifteen (15) of both rails and gallinules in any one day or to possess at any time more than two days kill of such birds.

(7) Wild plover. Any open season shall be within the period September 1st to October 31st, and no person shall be permitted to kill more than twelve (12) plover in any one day or to have more than one days kill in his possession at any time.

(8) Prairie chicken. Any open season shall be not longer than ten (10) successive days within the period September 1st to October 31st. No person shall be permitted to kill more than ten (10) prairie chicken during any open season or to have in his possession at any time more than ten (10) prairie chickens.

(9) Fur-bearing animals—beaver, otter, fox, opossum, racoon, mink, polecat or skunk, badger, muskrat, civet cat or ringtail. Any open season to permit trapping or the taking of pelts and sale of same of any of the fur-bearing animals named in this Section of this Act shall be within the period of December 1st and March 1st.

g. In Dimmit, Uvalde and Zavala Counties, the Commission shall endeavor to maintain a deer herd of productive excellence and breeding stock that will assure harvest of buck deer of the size and quality for which this area is noted. And when its investigations and findings of fact disclose that there is danger of losing this type of deer from excessive population or serious depletion of breeding stock or other controllable factors, they shall, by proclamation, rule or regulation, prescribe the length of season and/or determine proper harvest of buck or doe deer and/or prescribe type and size of legal buck deer to be harvested to adjust for this depletion of quality and to maintain and recover this standard of excellence.

h. In Lampasas County the regulatory authority herein granted to the Commission shall extend to and include regulation of the nature and extent of the records to be kept and maintained by every bailee for hire accepting deer for processing and/or for storage; provided that no rule, regulation or order may be promulgated by the Commission in respect of any such processing or storage business, or the conduct thereof, or the records to be kept and maintained in reference to the processing and/or storage of deer by any such person, firm or corporation in Lampasas County, Texas, that is more onerous on any such business, or that may

otherwise conflict with any of the provisions hereof that are hereby adopted for application to any and all such matters in Lampasas County, Texas, from and after the opening day of the 1967 deer season. Each such bailee for hire shall enter in his usual and customary books of account, or in a simple journal if no other records are maintained by said bailee, in the ordinary course of his business, the name and address of each bailor and the date of each bailment of such deer, as well as the name and address of the person removing such deer from storage, if same has not been processed by such bailee, and the date of such removal. Such record shall be retained for a period of at least four (4) calendar months after entry thereof. With respect to every deer delivered to such bailee for processing, said bailee shall also, at the time of processing, remove and retain for a period of four (4) calendar months following the bailment all hunting license tags, if any, that are attached to the carcass of the deer at the time same was delivered to such bailee. Authorized representatives of the Commission may, during ordinary business hours and without undue interference with the business of the bailee inspect deer held for storage by any such bailee, as well as all hunting license tags held by such bailee. Upon the request of an authorized representative of the Commission, made within four (4) months after the date of any such bailment, and the delivery of a proper receipt therefor, any such bailee shall deliver to such authorized representative any of the hunting license tags held by the bailee as aforesaid that may be requested by such authorized representative of the Commission, and such bailee shall, without any liability to any person, firm or corporation furnish the name and address of any person delivering a deer to bailee for storage only, and the date thereof, as well as the name and address of the person removing same from storage and the date thereof if and when requested by an authorized representative of the Commission within four (4) months after the date of any such bailment for storage only, all without incurring any liability to any person, firm or corporation by reason of such storage and/or the disclosure of such information as authorized above. All such records and hunting license tags remaining in the hands of the bailee after expiration of four (4) calendar months following the date of the bailment may be destroyed by such bailee.

i. Except as provided in this Section, in Panola County it is lawful during the open season to use dogs for the purpose of hunting and trailing buck deer as defined by General Law. The Commission may prohibit or regulate hunting deer with dogs on any tract of 10,000 or more contiguous acres of land in Panola County which is owned by one or more persons and which is designated as a preserve for restocking deer under the federal and state laws and the rules, regulations, and proclamations of the Parks and Wildlife Commission and the United States Department of Interior.

j. In Foard County a seine or net of any kind or length may be used for taking minnows for bait purposes only.

k. In Hardeman County the quail open season shall be from December 1 through January 31, both dates inclusive.

Violations; penalties

Sec. 14. Any person who shall violate any provision of this Act, or any person who shall violate any proclamation, order, rule or regulation issued by the Parks and Wildlife Commission under the provisions of this Act, shall be deemed guilty of a misdemeanor and upon conviction therefor shall be fined a sum not less than Twenty-five Dollars (\$25) nor more than Two Hundred Dollars (\$200). Each game bird, game animal, fur-bearing animal, or fish taken or possessed in violation of this Act or of any proclamation, order, rule or regulation issued by said Parks and Wildlife Commission shall constitute a separate offense.

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Violations concerning hunting by use of artificial lights; penalties

Sec. 14A. Any person who violates any proclamation, order, rule, or regulation of the Commission concerning hunting by the use of artificial lights in Hardin, Jasper, Newton, Orange or Tyler Counties is guilty of a misdemeanor, and upon conviction is punishable by a fine of not less than Fifty Dollars (\$50) nor more than Two Hundred Dollars (\$200), or by imprisonment in the county jail for not less than 3 days nor more than 90 days, or by both.

Repealer

Sec. 15.¹ It being the intent of the Legislature in this Act to "codify" all previous Acts of the Legislature of a similar nature into a single Act and thereby reduce the bulk of such legislation and to produce a greater degree of uniformity, the following Acts are hereby specifically repealed: Chapter 23, Acts of the 42nd Legislature, Second Called Session, 1931, codified as Article 4026a, Vernon's Civil Statutes and Article 978i Vernon's Penal Code; Chapter 25, Special Laws, Acts of the 44th Legislature, Regular Session, 1935; Chapters 209 and 213, Acts of the 48th Legislature, Regular Session, 1943; Chapter 25, Acts of the 49th Legislature, Regular Session, 1945; Chapter 36, Acts of the First Called Session of the 51st Legislature, 1950; Chapter 125, Acts of the 52nd Legislature, Regular Session, 1951; Chapters 11, 96, and 499, Acts of the 54th Legislature, Regular Session, 1955; Chapters 50, 115 and 181, Acts of the 55th Legislature, Regular Session, 1957; Chapter 40, Acts of the 55th Legislature, First Called Session, 1957; Chapter 19, Acts of the 55th Legislature, Second Called Session, 1957; Chapters 12, 109, 121, 125, 246, 276, and 278, Acts of the 56th Legislature, Regular Session, 1959; Chapters 9 and 20, Acts of the 56th Legislature, Third Called Session, 1959; Chapters 40, 47, 59, 86, 99, 106, 176, 241, 245, 250, 340, 354, 360, 492, 510, 521 and 534, Acts of the 57th Legislature, Regular Session, 1961; Chapters 7, 44, 48, and 55, Acts of the 57th Legislature, First Called Session, 1961; Chapter 76, Acts of the 57th Legislature, Third Called Session, 1962; Chapters 18, 141, 252, 271, 287, 376, 408, and 421, Acts of the 58th Legislature, Regular Session, 1963, except that Sec. 15 of Chapter 252 protecting alligators in Refugio County is not repealed; and Chapters 156, 166, 169, 228, 244, 374, 393, 395, 411, 421, 422, 424, 499, 508, 566, 574, 590, and 636, Acts of the 59th Legislature, Regular Session, 1965, except that Section 4 of Chapter 228 regulating sale of fish from Lake Towakoni is not repealed; provided further that: (a) Sections 15A, and 14(a), 16 and 20 of Chapter 508 relating to shrimping and penalty in Matagorda County shall not be repealed but shall remain in full force and effect; and, (b) that Chapter 428, Acts of the 59th Legislature, Regular Session, 1965, shall not be affected or repealed; and, (c) in Borden County the provisions of Chapter 265, Acts of the 56th Legislature, Regular Session, 1959, shall not be repealed; (d) in Calhoun and Victoria Counties Chapter 321, Acts of the 54th Legislature, Regular Session, 1955; Chapter 197, Acts of the 55th Legislature, Regular Session, 1957; Chapter 447, Acts of the 57th Legislature, Regular Session, 1961; and Chapter 230, Acts of the 58th Legislature, Regular Session, 1963, and any other laws relating to netting for fish in Calhoun or Victoria Counties shall not be altered or affected; and (e) in Cameron County Chapter 80, Acts of the 54th Legislature, Regular Session, 1955 and Chapter 187, Acts of the 56th Legislature, Regular Session, 1959 commonly known as the Texas Shrimp Conservation Act insofar as it relates to any shrimping activities in outside waters of the Gulf of Mexico, shall not be repealed, altered or affected; and (f) in Colorado County the provisions of Article 888, Penal Code of Texas, 1925, shall not be affected; and (g) in Webb County Articles 901, 902, and 924a of the Penal Code of the State of Texas

shall not be affected; and (h) in Bowie County the provisions of Chapter 336, Acts of the 58th Legislature, Regular Session, 1963, as amended, shall not be repealed; and (i) in Falls and Limestone Counties the provisions of Chapter 70, Acts of the 55th Legislature, Regular Session, 1957, shall not be repealed; and, (j) in Hardin, Jasper, Newton, Orange, Polk and Tyler Counties the provisions of Chapter 510, Acts of the 58th Legislature, Regular Session, 1963, are not repealed; and (k) in Harrison and Rusk Counties the provisions of Chapter 493, Acts of the 52nd Legislature, Regular Session, 1951, as amended, are not repealed; and (l) in Hidalgo County the provisions of Chapter 327, Acts of the 54th Legislature, Regular Session, 1955, as amended, are not repealed; and (m) in Liberty County, the provisions of Chapter 574, Acts of the 59th Legislature, Regular Session, 1965, are not repealed; and (n) in Limestone County the provisions of Chapter 429, Acts of the 59th Legislature, Regular Session, 1965, are not repealed; and (o) in Jefferson and Orange Counties the provisions of Chapter 339, Acts of the 58th Legislature, Regular Session, 1963, are not repealed; and (p) in Rusk County the provisions of Chapter 415, Acts of the 59th Legislature, Regular Session, 1965, shall not be repealed. Sections 1 and 3 of House Bill 50, Sections 1, 2 and 4 of House Bill 289, all of House Bill 429, Sections 2 and 3 of House Bill 944, all of House Bills 1261, 1274 and 1335, which bills of the present session would affect counties concerned in this Act are hereby specifically saved from repeal. However it is the intent of the Legislature to incorporate within this Act applicable provisions of the following bills of the 60th Legislature: House Bills 4, 50, 277, 289, 432, 500, 519, 522, 529, 560, 583, 590, 597, 645, 679, 725, 817, 912, 918, 944, 962, 964, 983, 1001, 1053, 1311, 1327, and Senate Bill 595². Any and all laws, General and Special, and not specifically saved from repeal in this Section, but in conflict with the provisions of this Act are repealed to the extent of such conflict only. In the event any county now regulated by this Act is hereafter removed by any Act of the Legislature, the general game laws of this state in effect at the time of such removal shall apply to such county.

¹ For allocation of laws affected by this section see Tables Volume, Vernon's Ann.Civ. Statutes.

² See articles 978j notes, 978i—2 note and 978n—1 note.

Severability

Sec. 16. It is hereby declared to be the legislative intent to enact each separate provision of this Act independent of all other provisions, and the fact that any Section, word, clause, sentence, or part of this Act may be declared unconstitutional shall in no event affect any other Section, word, clause, sentence, or part thereof. It is further declared to be the intention of the Legislature to have passed each sentence, Section, clause, or part of this Act irrespective of the fact that any other Section, sentence, clause or part thereof may be declared invalid.

Effective date

Sec. 17. This Act shall become effective on the 1st day of September 1967.

Promulgation of orders, rules and regulations; existing laws and proclamations

Sec. 18. The Parks and Wildlife Commission may thereafter within a reasonable period promulgate its proclamations, rules, regulations and orders for the purpose and under the provisions of this Act. Until such rules, regulations, orders and proclamations of the Parks and Wildlife Commission are adopted in accordance with the provisions of this Act, all General and Special Laws and existing proclamations relating to the taking of any of the wildlife resources within this state or county shall remain in full force and effect. All game laws, General and Special,

1357 OFFENSES AGAINST PUBLIC PROPERTY **Art. 978l—7**

For Annotations and Historical Notes, see V.A.T.S.

presently in force or enacted during the 60th Legislature, pertaining to the State of Texas or any county or counties therein, shall be in full force and effect until the Parks and Wildlife Commission shall, in accordance with this Act issue a proclamation, rule or regulation dealing with the subject matter of the county affected by such presently existing game law. Acts 1967, 60th Leg., p. 1959, ch. 730, emerg. eff. Sept. 1, 1967.

Title of Act:

An Act to be referred to for all purposes as "The Uniform Wildlife Regulatory Act" conferring on the Parks and Wildlife Commission of Texas the authority, power and duty of protecting and regulating the harvest of wildlife resources in various counties; defining such resources; prescribing

certain limitations; prescribing the manner of adoption and publication of regulations; providing a penalty for violation; providing for repeal of certain Acts; declaring provisions to be severable and providing a savings clause; and declaring an emergency. Acts 1967, 60th Leg., p. 1959, ch. 730.

Art. 978l—2. Repealed. Acts 1967, 60th Leg., p. 1799, ch. 688, § 2, eff. Aug. 28, 1967; Acts 1967, 60th Leg., p. 1967, ch. 730, § 15. Eff. Sept. 1, 1967

Acts 1967, 60th Leg., p. 1959, ch. 730, The Uniform Wildlife Regulatory Act, codified as article 978j—1, conferring upon the Parks and Wildlife Commission the power and duty of protecting and regulating the harvest of wildlife resources in various counties and repealing various acts of a similar nature, provides in section 15, inter alia, that it is the intent of the legislature to incorporate within the Uniform Wildlife Regulatory Act applicable provisions of Acts 1967, 60th Leg., p. 1799, ch. 688 (House Bill No. 522). See art. 978j—1, § 15.

Amendment

Acts 1967, 60th Leg., p. 1799, ch. 688, § 1 (H.B.No. 522) amended section 4 of article 978l—2, as last amended by Acts 1963, 58th Leg., p. 24, ch. 18, § 1, to read as follows: "Section 4. The Parks and Wildlife Commission shall have full power and discretion to regulate the taking of wild deer, collared peccary, wild quail, and white-winged doves under sound wildlife management practices. The Commission is authorized to adopt any and all reasonable rules, regulations, or orders which it finds necessary and proper to effectuate the provisions and purposes of this Act, including the authority to determine the period of time in which it shall be lawful to take or kill any wild deer, collared peccary, wild quail, and white-winged doves, to determine the number and sex of a species to be taken by any one person, and to determine the means and methods that shall be lawful for the taking or killing of

wild deer, collared peccary, wild quail, and white-winged doves. It is provided, however, that the Commission's proclamation, rule, or regulation permitting the hunting or taking of antlerless deer shall not be valid unless the owner or person in charge of the land upon which antlerless deer are to be taken shall have agreed in writing to the removal by hunting of such antlerless deer from his tract under supervision and regulation of the Commission, and to the number of antlerless deer which may be removed therefrom."

Acts 1959, 56th Leg., p. 196, ch. 109, which repealed sections 16 and 17 of article 978l—2 and which amended section 19 thereof, was also repealed by Acts 1967, 60th Leg., p. 1959, ch. 730, § 15, eff. Sept. 1, 1967.

Acts 1963, 58th Leg., p. 24, ch. 18, which amended section 4 of article 978l—2, was also repealed by Acts 1967, 60th Leg., p. 1959, ch. 730, § 15, eff. Sept. 1, 1967.

See, now, art. 978j—1.

Art. 978l—3. Repealed. Acts 1967, 60th Leg., p. 1967, ch. 730, § 15. Eff. Sept. 1, 1967

See, now, art. 978j—1.

Art. 978l—4. Repealed. Acts 1967, 60th Leg., p. 1967, ch. 730, § 15. Eff. Sept. 1, 1967

See, now, art. 978j—1.

Art. 978l—7. Repealed. Acts 1967, 60th Leg., p. 1967, ch. 730, § 15. Eff. Sept. 1, 1967

See, now, art. 978j—1.

Art. 978l—8. Lower Colorado River Authority; hunting; archery range

Section 1. (a) Except as provided in Subsection (b), it shall be unlawful for a person to carry, transport, shoot, discharge, or hunt with a bow, crossbow, slingshot, gun, firearms or any other type of weapon in, on, over, across or upon the lands of the Lower Colorado River Authority, an agency of the State of Texas.

(b) The Board of Directors of the Lower Colorado River Authority may lease land owned by the authority to be used exclusively for an archery range which must be open to the public and operated by the lessee on a nonprofit basis, provided that no hunting shall be allowed on any of such ranges.

Sec. 1 amended by Acts 1967, 60th Leg., p. 113, ch. 57, § 1, eff. Aug. 28, 1967.

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Art. 978n—1. Repealed. Acts 1967, 60th Leg., p. 1967, ch. 730, § 15. Eff. Sept. 1, 1967

Acts 1967, 60th Leg., p. 1959, ch. 730, The Uniform Wildlife Regulatory Act, codified as article 978j—1, conferring upon the Parks and Wildlife Commission the power and duty of protecting and regulating the harvest of wildlife resources in various counties and repealing various acts of a similar nature, provides in section 15, inter alia, that it is the intent of the legislature to incorporate within the Uniform Wildlife Regulatory Act applicable provisions of Acts 1967, 60th Leg., p. 847, ch. 356 (House Bill No. 50). See article 978j—1.

Amendment

Acts 1967, 60th Leg., p. 847, ch. 356, § 2 (H.B.No. 50) amended section 15 of article 978n—1 to read as follows: "Sec. 15. For the purpose of this Act, the wildlife resources of the counties enumerated in Section 1 hereof are defined to be all the game birds, and game animals, fur-bearing animals of all kinds, collared Peccary, commonly called Javelina, and fresh water fish of all kinds; however, wild quail in Lamb

County are not included in the definition of 'wildlife resources.' "

Acts 1959, 56th Leg., p. 215, ch. 125, § 1 and Acts 1961, 57th Leg., p. 330, ch. 178, § 1, which amended section 1 of article 978n—1, were also repealed by Acts 1967, 60th Leg., p. 1959, ch. 730, § 15. See, now, art. 978j—1.

Section 1 of Acts 1967, 60th Leg., p. 847, ch. 356 (H.B.No. 50) established the hunting season for wild quail in Lamb County and is codified as a note under article 978j.

TITLE 14—TRADE AND COMMERCE

CHAPTER FOUR—WAREHOUSES AND COTTON

Arts. 1018-1025. Repealed. Acts 1967, 60th Leg., vol. 2, p. 2619, ch. 785, § 4. Eff. Sept. 1, 1967

See, now, V.A.T.C. Bus. & C. §§ 35.28 to 35.33.

Acts 1967, 60th Leg., vol. 2, p. 2343, ch. 785, adopting the Business & Commerce Code, repealed articles 1018-1025 effective September 1, 1967.

For text of the Business and Commerce Code, with Tables and Index, see page 1485.

CHAPTER FIVE—WEIGHTS AND MEASURES

Art. 1037. False weights and measures; definitions

* * * * *

Section E. It shall be unlawful for any person to keep for the purpose of sale, offer or expose for sale, or sell, except for immediate consumption on the premises, any cheese, meat, or meat food products otherwise than by standard net weight. Provided, however, that any cheese, meat, or meat food products, in package form, shall comply with the requirements of Section C of this Article. For the purposes of this Section the following shall be deemed to be meat and meat food products: All fresh, cured, or salt meats, fish, poultry, sausage, chile, head cheese, souse meat, loaf meat, boneless meat, shredded meat, Hamburger meat, or any other manufactured, prepared, or processed meat or meat food products. This Section shall be construed to require that all poultry sold by live weight shall be weighed alive at the time of sale, and that any poultry dressed or killed prior to time of sale, whether cooked or uncooked, shall be sold by net weight at time of sale and not by live weight or by the piece; provided, however, that fresh-cooked poultry may be sold by the piece or by the head.

The word "poultry" as used in this Section shall be construed to include turkeys, chickens, ducks, geese, guineas, squabs, and all other domesticated fowls.

Sec. E amended by Acts 1967, 60th Leg., p. 569, ch. 257, § 1, emerg. eff. May 23, 1967.

* * * * *

Section J. The Commissioner of Agriculture shall have the power to issue and enforce a written or printed "stop-sale" order to the owner or custodian of any commodity, thing or item covered by the provisions of this Act, which the Commissioner of Agriculture has reason to believe is in violation of any of the provisions of this Act, prohibiting further sale of such commodity, item or thing until the Commissioner of Agriculture has evidence that the law has been complied with. Provided, however, in respect to the commodity, thing or item which has been denied sale as provided for in this Section, the owner or custodian of such commodity, thing or item shall have the right to appeal from such order to a court of competent jurisdiction where the commodity, thing or item is found, praying for a judgment as to the justification of said order and the discharge of such commodity, thing or item from the order prohibiting the sale in accordance with the findings of the court; and provided further, that the provisions of this Section shall not be construed as limiting the right of the Commissioner of Agriculture to proceed as authorized by other Sections of this Act.

Sec. J added by Acts 1967, 60th Leg., p. 1014, ch. 444, § 1, emerg. eff. June 12, 1967.

Section K. The Commissioner of Agriculture is hereby authorized to promulgate rules and regulations for the purpose of carrying out the provisions of this Act and for the purpose of bringing about uniformity between the standards required pursuant to the provisions of this Act and those standards required pursuant to rules, regulations or statutes of the Federal Government.

Sec. K added by Acts 1967, 60th Leg., p. 1015, ch. 444, § 2, emerg. eff. June 12, 1967.

Acts 1967, 60th Leg., p. 569, ch. 257, § 2.
repealed all conflicting laws and parts of laws.

Art. 1057b. License for testers

That it shall be unlawful for any person to operate a milk or cream testing apparatus to determine the percentage of butterfat in milk or cream for the purpose of purchasing same, either for himself or another, or to collect milk from raw milk storage tanks and take samples for the purpose of milk or cream testing, without first securing a license from the State Commissioner of Agriculture. The Commissioner of Agriculture shall issue such license upon a form prepared by him and upon payment of a fee of Ten Dollars (\$10) for a period of twelve (12) months for each tester, and One Dollar (\$1) for a period of twelve (12) months for each contract milk hauler and said Commissioner or his agents are hereby authorized to make such investigations as he may deem necessary to determine whether the applicant for the position of tester or contract milk hauler is a reliable person and competent and qualified to operate and use such apparatus for either the purpose of making an accurate test, or for taking the sample. If the applicant is not found to be reliable, competent and qualified, the Commissioner of Agriculture may refuse to license him, and said Commissioner is hereby authorized and empowered to revoke the license of any person licensed to make the Babcock Test of milk or cream under the laws of the State of Texas, or to revoke the license of any person licensed to collect raw milk and take raw milk samples, who shall fail to fully comply with the provisions of said laws, or with any of the rules and regulations of the Department of Agriculture relating to said Babcock Test. Said money for licenses shall be turned in by the Commissioner of Agriculture to the general revenue fund of the state. The testing of each lot of milk or cream or the collecting of said raw milk and securing sample of raw milk by any unlicensed person shall constitute a separate offense under this Act; provided that any licensed person or his employer may for a valid reason, which must in every instance be reported to the Commissioner of Agriculture, appoint a substitute for a period not to exceed fifteen (15) days, and provided further that such appointment may for a valid reason satisfactory to said Commissioner and subject to his approval, be extended for an additional ten (10) days. Any person violating the requirements of this Article shall be guilty of a misdemeanor and, upon conviction, shall be punished as provided in Subsection (b), Article 5736c (Article 1057c, Vernon's Texas Penal Code). Amended by Acts 1967, 60th Leg., p. 766, ch. 320, § 1, emerg. eff. May 27, 1967.

Section 1 of the act of 1967 also amended and is set out as a note under Vernon's
Vernon's Ann.Civ.St. arts. 5728 and 5736d; Ann.Civ.St. art. 5728.
section 2 of the act is a severability clause

CHAPTER SIX—OFFENSES AGAINST LABELS,
TRADE MARKS, ETC.

Arts. 1058–1060. Repealed. Acts 1967, 60th Leg., vol. 2, pp. 2619, 2620, ch. 785, § 4. Eff. Sept. 1, 1967

Prior to repeal, article 1058 was amended by Acts 1962, 57th Leg., 3rd C.S., p. 62, ch. 24, § 17. See, now, V.A.T.C.Bus. & C. § 17.29.

Acts 1967, 60th Leg., vol. 2, p. 2343, ch. 785, adopting the Business & Commerce Code, repealed articles 1058–1060 effective September 1, 1967.

For text of the Business and Commerce Code, with Tables and Index, see page 1485.

Arts. 1063–1065. Repealed. Acts 1967, 60th Leg., vol. 2, p. 2620, ch. 785, § 4. Eff. Sept. 1, 1967

See, now, V.A.T.C.Bus. & C. § 17.30.

Acts 1967, 60th Leg., vol. 2, p. 2343, ch. 785, adopting the Business & Commerce Code, repealed articles 1063–1065 effective September 1, 1967.

For text of the Business and Commerce Code, with Tables and Index, see page 1485.

Art. 1066a. Repealed. Acts 1967, 60th Leg., vol. 2, p. 2620, ch. 785, § 4. Eff. Sept. 1, 1967

See, now, V.A.T.C.Bus. & C. § 17.10.

Acts 1967, 60th Leg., vol. 2, p. 2343, ch. 785, adopting the Business & Commerce Code, repealed article 1066a effective September 1, 1967.

For text of the Business and Commerce Code, with Tables and Index, see page 1485.

CHAPTER TWELVE—MISCELLANEOUS OFFENSES

Art. 1137l—10. Secondhand metal dealers; records and reports of purchases and sales of copper and brass materials [New].	Art. 1137q. Going out of business sales [New].
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Arts. 1113–1115. Repealed. Acts 1967, 60th Leg., vol. 2, p. 2620, ch. 785, § 4. Eff. Sept. 1, 1967

See, now, V.A.T.C. Bus. & C. §§ 17.09 and 17.28.

Acts 1967, 60th Leg., vol. 2, p. 2343, ch. 785, adopting the Business & Commerce Code, repealed articles 1113–1115 effective September 1, 1967.

For text of the Business and Commerce Code, with Tables and Index, see page 1485.

Art. 1126. Repealed. Acts 1967, 60th Leg., p. 659, ch. 274, § 5. Eff. Oct. 1, 1967

See, now, Vernon's Ann.Civ.St. art. 5069—1.01 et seq.

1 Tex.St.Supp. 1968—86

Art. 1130. Repealed. Acts 1967, 60th Leg., vol. 2, p. 2620, ch. 785, § 4. Eff. Sept. 1, 1967

See, now, Business & Commerce Code, § 35.40.

Acts 1967, 60th Leg., vol. 2, p. 2343, ch. 785, adopting the Business & Commerce Code, repealed article 1130 effective September 1, 1967.

For text of the Business and Commerce Code, with Tables and Index, see page 1485.

Arts. 1137l to 1137l—6. Repealed. Acts 1967, 60th Leg., vol. 2, p. 2620, ch. 785, § 4. Eff. Sept. 1, 1967

See, now, V.A.T.C. Bus. & C. §§ 17.18 to 17.22.

Acts 1967, 60th Leg., vol. 2, p. 2343, ch. 785, adopting the Business & Commerce Code, repealed articles 1137l to 1137l—6 effective September 1, 1967.

For text of the Business and Commerce Code, with Tables and Index, see page 1485.

Art. 1137l—10. Secondhand metal dealers; records and reports of purchases and sales of copper and brass materials

Definitions

Section 1. As used in this Act,

(1) "copper or brass material" means either hard-drawn or soft-drawn copper wire or cable of the type used by public utilities or common carriers, or copper or brass pipe or fittings, or any combination of these;

(2) "secondhand metal dealer" means junk dealer, auto wrecker, scrap metal processor, or any other person purchasing, gathering, collecting, soliciting or traveling about from place to place procuring scrap metal or junk, or any person operating, carrying on, conducting or maintaining a scrap metal or junk yard or place where scrap metal or junk is gathered together or kept for shipment, sale, or transfer.

Duty to maintain record; exhibition; form and contents

Sec. 2. (a) Every secondhand metal dealer in this state shall keep a written record of all sales to and purchases from any individual or private person of copper or brass material in excess of 50 pounds made in the course of his business. The record shall be exhibited on demand to any peace officer of this state or the United States.

(b) The record shall be in the English language in written form and shall include:

(1) the place and date of each sale to or purchase from an individual or private person of copper or brass material in excess of 50 pounds made in the conduct of his business;

(2) the name and address of each individual or private person from whom copper or brass material in excess of 50 pounds is purchased or obtained, and the license number of any motor vehicle used in transporting such copper or brass material to the secondhand metal dealer's place of business;

(3) a description of the article or articles of copper or brass material sold or purchased and the quantity thereof.

Preservation of records

Sec. 3. Every secondhand metal dealer shall preserve the records required by Section 2 of this Act for a period of at least two years after making the entry of any purchase or sale of copper or brass material in excess of 50 pounds.

Reports; mailing

Sec. 4. Every secondhand metal dealer shall, within seven days after the purchase or other acquisition of any copper or brass material in excess of 50 pounds, mail to or file with the Department of Public Safety a report containing the information required to be recorded in Section 2 of this Act.

Violations; penalties

Sec. 5. A secondhand metal dealer who violates any provision of this Act or who fails to comply with any provision of this Act is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$1,000, or by confinement in the county jail for not more than 60 days, or by both.

Exempt purchases and sales

Sec. 6. All purchases made from any person or firm which sells or disposes of copper or brass material as an ordinary and usual part of its business, or from any person or firm which is engaged in business as a secondhand metal dealer, shall be exempt from Section 3 hereof, provided the purchaser obtains a bill of sale from the seller at the time of the purchase.

Acts 1967, 60th Leg., p. 1049, ch. 460, emerg. eff. June 12, 1967.

Sections 7 and 8 of the act of 1967 provided:

"Sec. 7. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

"Sec. 8. All laws and parts of laws in conflict with the provisions of this Act are hereby repealed to the extent of such conflict only."

Title of Act:

An Act requiring secondhand metal dealers to maintain certain records and make certain reports with respect to certain purchases and sales of copper and brass materials; prescribing a penalty; exempting certain purchases from the provisions of Section 3 of this Act under certain conditions; providing for severability; repealing laws in conflict; and declaring an emergency. Acts 1967, 60th Leg. p. 1049, ch. 460.

Art. 1137p. Repealed. Acts 1967, 60th Leg., p. 659, ch. 274, § 5. Eff. Oct. 1, 1967

Article 1137p, derived from Acts 1965, 59th Leg., p. 409, ch. 199, prohibited debt pooling. See, now, Vernon's Ann.Civ.St. art. 5069—2.01 et seq.

Art. 1137q. Going out of business sales

Section 1. That the term "going out of business sale" shall mean any offer to sell to the public or sale to the public of goods, wares and merchandise on the implied or direct representation by word of mouth or written or oral advertising that such sale is in anticipation of the termination of a business at its present location.

Sec. 2. It shall be unlawful for any person, firm, or corporation, to fraudulently represent that he is conducting a "going out of business sale."

Sec. 3. To conduct a "going out of business sale," any person, firm, or corporation shall file a sworn itemized inventory with the assessor and collector of taxes of the city or county, which has jurisdiction of his location, together with a filing fee of \$2. Said sworn inventory shall include the following:

(1) Name and address of the owner of the goods, wares or merchandise to be sold.

(2) The name and address of the owner of the defunct business, the former stock in trade of which is to be offered for sale, and the full name of such defunct business.

(3) A description of the place where the liquidation sale is to be held.

(4) The commencement and termination date of the liquidation sale.

(5) A complete and detailed inventory of the goods, wares, and merchandise to be offered at the liquidation sale if the owner is conducting said sale in his own name, or such information in the form of a copy of an itemized and descriptive bill of sale from the owner of the defunct business sold to any other person conducting the liquidation sale to be sold at such sale. Upon receipt thereof by the assessor and collector of taxes of the city or county, the applicant should be issued a permit for "going out of business sale" for 120 days. If at the expiration of the 120 days of the original permit the applicant has not terminated his business, he shall file with the assessor and collector of taxes of the city or county an inventory reflecting the remaining merchandise which shall include the information as stated in the original application and the assessor and collector of taxes of the city or county shall upon the receipt thereof and a renewal fee of \$2 issue a renewal permit for 120 days; provided, however, that at the expiration of the first permit and any subsequent renewal an amended inventory stating any additional items, not included in the original inventory initially filed, which have been offered for sale shall be filed with the authority which received the initial inventory.

Sec. 4. The provisions of this Act shall not apply to any sale conducted by a public officer as part of his official duties, to any sale, an accounting of which must be made to a court of law, or to any sale conducted pursuant to an order of a court of law. Any sale under a foreclosure pursuant to a deed of trust or other lien shall not be included in this Act.

Sec. 5. Any person violating any provisions of this Act shall, upon conviction, be fined in the sum of not less than \$200, and each separate day's violation shall constitute a separate offense.

Acts 1967, 60th Leg., p. 1003, ch. 434, eff. Aug. 28, 1967.

Section 6 of the act of 1967 provided:
"If any part of this Act is for any reason declared void, such partial invalidity shall not affect the validity of the remaining portions of this Act."

Title of Act:

An Act regulating the "Going Out of Business"; providing a penalty for violation; providing for severability; and declaring an emergency. Acts 1967, 60th Leg., p. 1003, ch. 434.

TITLE 17—OFFENSES AGAINST PROPERTY

CHAPTER TWO—OTHER WILFUL BURNING

Art. 1321b. Negligent burning of woods, forest, cutover, brush, range or grassland; notice and promise to appear in court

Section 1. It shall be unlawful for any person negligently to set on fire, or cause to be set on fire any woods, forest, cutover, brush, range, or grassland belonging to another, or to set on fire any woods, forest, cutover, brush, range, or grassland belonging to himself and allowing such fire to spread to the property of another.

Sec. 2. Failure to prevent such fire from spreading to the property of another shall be prima facie evidence of negligence.

Sec. 3. Any person who shall violate any provision of this Act shall be guilty of a misdemeanor, and upon conviction shall be fined not less than Fifteen (\$15.00) Dollars nor more than Two Hundred (\$200.00) Dollars.

Sec. 4. (a) Whenever a person is arrested for any violation of this Act and such person is not immediately taken before a magistrate if he so demands, the arresting officer shall prepare in duplicate, written notice to appear in court, such notice to contain the name and address of such person, the offense charged, and the time and place when and where such person shall appear in court.

(b) The time specified in said notice to appear must be at least ten (10) days after such arrest unless the person arrested shall demand an earlier hearing.

(c) The place specified in said notice to appear must be before a magistrate within the county in which the offense charged is alleged to have been committed and who has jurisdiction of such offense.

(d) The arrested person in order to secure his release, must give his written promise to appear in court by signing in duplicate the written notice prepared by the arresting officer; otherwise, he shall be immediately taken before the nearest magistrate as specified in Subsection (c). The original of said notice shall be retained by said officer and the copy thereof delivered to the person arrested. Thereupon, said officer shall forthwith release the person arrested from custody.

(e) Any officer violating any of the provisions of this section shall be guilty of misconduct in office and shall be subject to removal from office.

Section 5. (a) Any person wilfully violating his written promise to appear in court, given as provided in this Act, is guilty of a misdemeanor regardless of the disposition of the charge upon which he was originally arrested.

(b) A written promise to appear in court may be complied with by an appearance by counsel.

Amended by Acts 1967, 60th Leg., p. 388, ch. 162, § 1, emerg. eff. May 12, 1967.

CHAPTER THREE—MALICIOUS MISCHIEF

Art.
1350a. Defacing or damaging caves or caverns [New].

Art. 1350a. Defacing or damaging caves or caverns

Section 1. (a) It shall be unlawful for any person, without the prior permission of the owner, to willfully or knowingly break, break off, crack, carve upon, write or otherwise mark upon, or in any manner destroy, muti-

late, injure, deface, remove, displace, mar or harm any natural material found in any cave or cavern, such as stalactites, stalagmites, helictites, anthodites, gypsum flowers or needles, flowstone, draperies, columns, or other similar crystalline mineral formations or otherwise; to kill, harm or disturb plant or animal life found therein; to otherwise disturb or alter the natural condition of such cave or cavern; or to break, force, tamper with, remove, or otherwise disturb a lock, gate, door, or other structure or obstruction designed to prevent entrance to a cave or cavern, without the permission of the owner thereof, whether or not entrance is gained.

(b) Any violation of this section shall be punished by a fine not exceeding five hundred dollars or confinement in jail not exceeding twelve months.

Acts 1967, 60th Leg., p. 1111, ch. 491, eff. Aug. 28, 1967.

Title of Act:

An Act relating to the defacing or damaging of caves or caverns; providing a penalty; and declaring an emergency. Acts 1967, 60th Leg., p. 1111, ch. 491.

CHAPTER FIVE—BURGLARY

Art. 1389. [1303] [838] [704] "Burglary"

The offense of burglary is constituted by entering a house by force, threats or fraud, at night, or in any manner by entering a house at any time, either day or night, and remaining concealed therein, with the intent in either case of committing a felony or the crime of theft.

Amended by Acts 1967, 60th Leg., p. 1141, ch. 505, § 1, eff. Aug. 28, 1967.

CHAPTER SIX—OFFENSES ON VESSELS, BOATS, STEAMBOATS, MOTOR VEHICLES AND RAILROAD CARS

Art.

1407a. Entry upon boat, vessel, ship or other watercraft without consent of owner [New].

Art. 1407a. Entry upon boat, vessel, ship or other watercraft without consent of owner

Section 1. It shall be unlawful for any person, without the consent of the owner or other person in charge thereof, to enter upon the boat, vessel, ship, or other watercraft of another, whether or not such watercraft is documented or required to be numbered or registered by or under the laws of the United States or of the State of Texas or of any other state, nation, country, or political entity whatsoever, while such boat, vessel, ship, or other watercraft is on any of the Coastal Waters of the State of Texas, as such term "coastal waters" is defined in Section 3(a), Chapter 340, Acts of the 58th Legislature, 1963,¹ or on any bay, inlet, pass, lake, river, stream, canal, channel, turning basin, or other body of water whatsoever in the State of Texas, and whether or not such boat, vessel, ship, or other watercraft be docked, in passage, or otherwise.

Sec. 2. Any violation of Section 1 of this Act shall constitute a misdemeanor, and for the first conviction of such a violation the punishment shall be by a fine of not more than \$200, but for a second or subsequent conviction the punishment shall be by fine of not less than \$50 or more than \$500, or by confinement in the county jail for not more than three months, or by both such fine and imprisonment.

Sec. 3. Any person found upon the boat, vessel, ship, or other watercraft of any kind or character of another under circumstances which reasonably indicate that he entered upon it without the consent of the owner or other person in charge thereof shall be subject to arrest by any city

For Annotations and Historical Notes, see V.A.T.S.

policeman, constable, sheriff, highway patrolman, ranger, game warden, or any other peace officer in the State of Texas, or by the deputy of any of them, without a warrant, and any such peace officer is hereby empowered to make such an arrest.

Acts 1967, 60th Leg., p. 1811, ch. 694, eff. Aug. 28, 1967.

¹ See Vernon's Ann.Civ.St. art. 4075b.

Sections 4 and 5 of the act of 1967 provided:

"Sec. 4. Any and all other laws of the State of Texas, general and special, in conflict with any of the provisions of this Act are hereby expressly repealed but to the extent of such conflict only.

"Sec. 5. It is hereby declared to be the legislative intent to enact each separate provision of this Act independent of all other provisions, and the fact that any section, word, clause, sentence, or part of this Act shall be declared unconstitutional shall in no event affect any other section, word, clause, sentence, or part thereof; and it is hereby declared to be the intent of the Legislature to have passed each sentence, section, part, or clause hereof

irrespective of the fact that any other section, sentence, clause, or part thereof may be declared invalid."

Title of Act:

An Act making it unlawful for a person to enter upon a boat, vessel, ship, or other watercraft of another without the consent of the owner or other person in charge thereof; providing a penalty; empowering peace officers to arrest without a warrant a person found on a boat, vessel, ship, or other watercraft of another under circumstances which reasonably indicate that he entered upon it without the consent of the owner or other person in charge thereof; and declaring an emergency. Acts 1967, 60th Leg., p. 1811, ch. 694.

CHAPTER EIGHT—THEFT IN GENERAL

Art.

1436g. Theft and illegal transportation of copper wire or copper cable [New].

Art. 1436—1. Motor vehicles; Certificate of Title Act

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Vehicles brought into state; examination; sale of vehicles;
Lien or encumbrances

Sec. 30. (a) Before any motor vehicle which was last registered and titled, or registered in some other state or country may be registered and titled in Texas, the applicant shall furnish to the designated agent a certificate from a duly constituted peace officer in the form prescribed by the Department, certifying that such officer has made a physical examination of the motor number and serial number, or the permanent identification number of the motor vehicle. The said peace officer will certify that he has made a physical examination of the motor number and serial number, or permanent identification number, and note the correct numbers on said form. No designated agent shall accept any application for registration and a certificate of title until the provisions of this Section have been complied with; and further, no designated agent shall accept an application for registration and a certificate of title if the said numbers on the peace officer's certification do not agree with the motor number and serial number, or permanent identification number, shown on the evidence of ownership papers presented by the applicant for registration and a certificate of title. The certificate of examination of the said motor and serial numbers, or permanent identification numbers, issued by the duly constituted peace officer shall become a part of the evidence of ownership to accompany the owner's application for a certificate of title and the Department may not issue a certificate of title unless and until these provisions have been complied with.

(b) Before any motor vehicle brought into this State by any person, other than a manufacturer or importer, and which is required to be registered or licensed within this State, can be bargained, sold, transferred, or delivered with intent to pass any interest therein or encumber by any lien,

application on form to be prescribed by the Department must be made to the designated agent of the county wherein the transaction is to take place for a certificate of title, and no such designated agent shall issue a receipt until and unless the applicant shall deliver to him such evidence of title as shall satisfy the designated agent that the applicant is the owner of such motor vehicle, and that the same is free of liens except such as may be disclosed on an affidavit in form to be prescribed by the Department.

No designated agent of the department shall be liable for civil damages arising out of his failure to reflect liens or encumbrances on such motor vehicle unless such failure constitutes willful or wanton negligence.

Sec. 30 amended by Acts 1955, 54th Leg., p. 1147, § 432, § 1, eff. June 14, 1955; Acts 1967, 60th Leg., p. 2011, ch. 744, § 1, eff. Aug. 28, 1967.

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Sec. 52. Repealed. Acts 1967, 60th Leg., p. 1035, ch. 454, § 1. Eff. Aug. 28, 1967.

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Art. 1436b. Theft and illegal possession of mercury

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Sec. 3. Any person who may be found in any county in this state with more than one (1) pound of mercury in his possession and who has not in his possession a bill of sale, or other written evidence of title to said mercury and is unable to produce such evidence without unnecessary delay, shall be guilty of a felony, and upon conviction thereof, shall be confined in the penitentiary for a term of not less than one (1) year nor more than five (5) years, or shall be confined in the county jail for not less than ninety (90) days nor more than two hundred (200) days, or shall be fined not less than One Hundred Dollars (\$100) nor more than Five Hundred Dollars (\$500), or both such fine and jail imprisonment.

Sec. 3 amended by Acts 1963, 58th Leg., p. 1100, ch. 426, § 1, eff. Aug. 23, 1963; Acts 1967, 60th Leg., p. 595, ch. 269, § 1, emerg. eff. May 23, 1967.

Sec. 3 (a). It shall be prima facie evidence that a person is illegally in possession of mercury in excess of one (1) pound if at such time he does not have in his possession a bill of sale or other written evidence of title to such mercury and is unable to produce such evidence without unnecessary delay.

Sec. 3(a) added by Acts 1963, 58th Leg., p. 1100, ch. 426, § 1; eff. Aug. 23, 1963; amended by Acts 1967, 60th Leg., p. 595, ch. 269, § 1, emerg. eff. May 23, 1967.

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Art. 1436g. Theft and illegal transportation of copper wire or copper cable

Section 1. Any person who shall enter upon any premises or public utility right-of-way with intent to steal or carry away without the consent of the owner, or with intent to aid or assist in stealing or so carrying away, any copper wire or copper cable from and off of any appurtenance on such premises or public utility right-of-way by, through, or with the aid of which electricity or communication flows or is transmitted, or which is capable of being used for such purpose, shall be guilty of a felony and upon conviction shall be punished by a confinement in the penitentiary for not less than one year nor more than five years, or by confinement in the county jail for not less than 90 days nor more than 200 days, or shall be fined not less than \$100 nor more than \$500, or by both such fine and imprisonment.

For Annotations and Historical Notes, see V.A.T.S.

Sec. 2. Any person who shall illegally transport in this state more than 10 pounds of copper wire or copper cable shall be guilty of a felony and upon conviction thereof, shall be confined in the penitentiary for a term of not less than one year nor more than five years, or shall be confined in the county jail for not less than 90 days nor more than 200 days, or shall be fined not less than \$100 nor more than \$500, or both such fine and imprisonment.

Sec. 3. It shall be a defense to any charge under Section 2 of this Act that (A) the person so charged is (1) a regulated common carrier of persons or property or, (2) a public utility engaged in the business of transmitting or distributing electrical energy or, (3) a public utility in the business of transmitting communications or, (4) an employee, agent or contractor while engaged in any activity connected with the furtherance of the business of any concern or person specified in (1), (2) and (3) above or, (5) is in the business of selling or installing copper wire or copper cable in an unused condition, or (B) that the copper wire or copper cable being transported by the person so charged is appurtenant to or an integral part of a mechanical apparatus.

Sec. 4. This Act shall be cumulative of all laws of the state and any violation hereof may be prosecuted, irrespective of whether or not the acts complained of may constitute some of the essential elements of other or different offenses against the penal laws of this state; and for the purposes of this Act the word "steal" shall mean to take wrongfully and without just claim of authority any copper wire or copper cable and the word "steal" need not be defined in any indictment for the prosecution of any offense hereunder.

Acts 1967, 60th Leg., p. 1045, ch. 457, emerg. eff. June 12, 1967.

Section 5 of the act of 1967 provided: "If any section, paragraph, sentence, clause, or word of the Act is held to be unconstitutional, the remaining portions of the same nevertheless shall be valid and the Legislature declares that the Act would have been enacted without such unconstitutional portion."

Title of Act:

An Act making it unlawful and a felony for any person who shall enter upon any premises or public utility right-of-way with intent to steal or carry away without con-

sent of the owner or assist in stealing or so carrying away any copper wire or copper cable; providing that any person illegally transporting more than a certain amount of copper wire or copper cable shall be guilty of a felony; providing penalties for violations of the terms of the Act; providing certain defenses; providing that the Act shall be cumulative; providing a severability clause; and declaring an emergency. Acts 1967, 60th Leg., p. 1045, ch. 457.

CHAPTER FOURTEEN—DISEASES OF ANIMALS AND BEES

Art. 1516. Repealed. Acts 1967, 60th Leg., p. 120, ch. 64, § 3. Eff. Aug. 28, 1967

For provisions relating to the importation of sheep, see, now, art. 1525a, §§ 22, 23.

Art. 1525a. Regulations as to scabies, quarantine, dipping, and penalties

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Importations

Sec. 22. From and after the passage of this Act importation of sheep into this State by rail or other mode of movement shall not be made except under the following restrictions:

(a) The importer must apply to and receive from the Texas Animal Health Commission permission to import any sheep into the State.

(b) Such importations shall be accompanied by a certificate of a regularly and duly authorized sheep scabies inspector of the State of

origin or a duly appointed and acting sheep scabies inspector of the Animal Health Division, United States Department of Agriculture, certifying that said sheep are free from scabies infection and exposure there- to, or that said sheep have been dipped in a dipping fluid recognized by the Animal Health Division, United States Department of Agriculture, for eradication of sheep scabies and in a manner calculated to have eradicated infection or exposure as the case may be within ten days next preceding the date of such importation, provided, however, that sheep dipped for infection at point of origin shall be held under quarantine at point of destination for a period of one hundred and eighty days. By "point of destination" as used herein is meant the range upon which the said sheep are placed in this State.

(c) The Commission shall have the authority to promulgate regula- tions designating areas as being infected or free and shall set the dipping requirements for importation of sheep into the State of Texas.

(d) The importer of show sheep shall be given a reasonable length of time to display his sheep at County Fairs or Livestock Exhibits, but in no instance shall this time be extended for a longer perior than sixty days from date of importation and all such sheep shall be kept separate from all other than show sheep, and shall be dipped at least once before being distributed to the range.

(e) Any person, company or corporation importing any sheep into this State in violation of this section of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined any sum not less than \$25.00 nor more than \$100.00 for each head of sheep so unlaw- fully imported, and the venue of such prosecution shall be in any County through or into which such importation is carried. Provided that each County into or through which said sheep are moved shall constitute a separate offense.

Sec. 22 amended by Acts 1967, 60th Leg., p. 119, ch. 64, § 1, eff. Aug. 28, 1967.

Carriers; imported sheep; permit

Sec. 23. No common carrier by rail in this State shall receive from any shipper or connecting carrier for importation into this State any ship- ment of sheep unless the bill of lading covering said shipment is accom- panied by a written permit from the Texas Animal Health Commission permitting such sheep to be imported into this State.

Sec. 23 amended by Acts 1967, 60th Leg., p. 120, ch. 64, § 2, eff. Aug. 28, 1967.

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Section 3 of the amendatory act of 1967 repealed article 1516.

Art. 1525c. Tick Eradication Law

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Transportation of animals from quarantined areas; penalties

Sec. 21. Any person, firm or corporation or transportation company who shall ship or drive or drift or lead or haul or truck or otherwise move any cattle, horses, mules, jacks, or jennets from any premises, pasture, pen, lot, yard, stock yard farm, ranch, land or enclosure, or from any county or part of county or territory which is under quarantine by virtue of this Act or by any order of the Live Stock Sanitary Commission or by a proclamation of the Governor of the State of Texas because of tick in- festation or exposure as provided for in this Act, in violation of said quar- antine, without a written permit or certificate of an inspector of the Live Stock Sanitary Commission of Texas or an inspector of the Bureau of Ani-

For Annotations and Historical Notes, see V.A.T.S.

mal Industry, United States Department of Agriculture, or who shall so move into the State of Texas from any state, nation, territory or area under quarantine for tick infestation or exposure by the said Commission, or by the United States Bureau of Animal Industry or by the Live Stock Sanitary authorities of the state or nation or territory from which they are moved, without a certificate from an inspector of said United States Bureau of Animal Industry, or that having such permit or certificate from an inspector of said Commission shall ship or drive or drift or lead or haul or truck or otherwise move said live stock from said quarantined premises, pasture, pen, lot, yard, stock yard, farm, ranch, land or enclosure, territory, county or part of county to any other place than the place designated by said inspector in said written certificates or permit shall be fined not less than \$25 per head nor more than \$200 per head for each head of such live stock so shipped or drifted or driven or hauled or led or otherwise moved in violation of said quarantine. Any owner, part owner or caretaker of such live stock who shall permit or allow such live stock to drift or to be drifted, shipped, led, hauled or otherwise moved in violation hereof without said permit or certificate shall be deemed guilty of violating this provision the same as if he had personally drifted or driven or shipped or led or hauled or trucked or otherwise moved said live stock. Any person in charge of any movement of live stock upon which said certificate or permit is required, or who is in charge of the vehicle, truck, boat or other conveyance which hauls said live stock, who fails to have in his possession said certificate or permit from point of origin to destination, or to exhibit to an inspector of said Commission, when demanded, a certificate or permit from an inspector, as provided herein, or any railroad company, express company or other transportation company that fails to attach and keep attached said permit or certificate to the shipping papers accompanying said movement from point of origin to destination, or to exhibit to an inspector of said Commission, when demanded, a certificate or permit from an inspector, as provided herein, shall be punished as herein provided for violating the quarantine. Railroads and other transportation companies shall also be deemed as having violated this provision, subject to said penalty for each head of cattle, horses, mules, jacks or jennets which they permit to enter any stock pens under their control in the Tick Eradication Area without a written certificate or permit from an inspector of the Live Stock Sanitary Commission or of the Bureau of Animal Industry, United States Department of Agriculture.

Sec. 21 amended by Acts 1967, 60th Leg., p. 517, ch. 222, § 1, eff. Aug. 28, 1967.

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 Acts 1967, 60th Leg., p. 517, ch. 222, section 21 of this article, amended in section 2 which, in section 1 thereof, amended section 21 thereof article 1525g, § 4.

Art. 1525g. Transportation of animals and products under quarantine because of fever tick and screwworm infestation; treatment and certification

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Penalty

Sec. 4. Any person, firm or corporation who violates any provision of this Act shall be guilty of a misdemeanor and shall, upon conviction, be fined not less than \$50 nor more than \$200, and the movement of each animal, each animal product or each shipment of hay, straw or other article enumerated herein shall constitute a separate offense.

Acts 1961, 57th Leg., p. 230, ch. 118, eff. May 15, 1961. Sec. 4, amended by Acts 1967, 60th Leg., p. 518, ch. 222, § 2, eff. Aug. 28, 1967.

Acts 1967, 60th Leg., p. 518, ch. 222, § 1 amended article 1525c, § 21.

CHAPTER SIXTEEN—SWINDLING AND CHEATING

Art.

1553a. Obtaining lodging by trick or fraud:

failure and refusal to pay [New].

1554a. Repealed.

Art. 1553a. Obtaining lodging by trick or fraud: failure and refusal to pay

Section 1. Every person who shall obtain occupancy of any house, duplex, or apartment by means of fraud, trick, deception, false or fraudulent representations, statement or pretense or who shall gain occupancy without permission of the owner or his agent, or who shall give in payment for rental a worthless check or who shall stop payment on a check for rent then due and not in controversy shall be guilty of a misdemeanor and shall be fined not exceeding \$200.00, or be imprisoned in the county jail not exceeding 30 days, or both.

Sec. 2. Every landlord, his agent, servant or employee who shall grant occupancy of any house, duplex, or apartment by means of fraud, trick, deception, false or fraudulent representations, statement or pretense or who shall grant occupancy without permission of the tenant or his agent, or who shall give in refund for any sum due such tenant a worthless check or who shall stop payment on a check for refund then due and not in controversy shall be guilty of a misdemeanor and shall be fined not exceeding \$200.00, or be imprisoned in the county jail not exceeding 30 days, or both.

Added by Acts 1967, 60th Leg., p. 772, ch. 324, § 1, eff. Aug. 28, 1967.

Art. 1554. Repealed. Acts 1967, 60th Leg., vol. 2, p. 2620, ch. 785, § 4. Eff. Sept. 1, 1967

Acts 1967, 60th Leg., vol. 2, p. 2343, ch. 785, adopting the Business & Commerce Code, repealed article 1554 effective September 1, 1967.

For text of the Business and Commerce Code, with Tables and Index, see page 1485.

See, now, V.A.T.C. Bus. & C. § 17.12.

Art. 1554a. Repealed. Acts 1967, 60th Leg., vol. 2, p. 2620, ch. 785, § 4. Eff. Sept. 1, 1967

Acts 1967, 60th Leg., vol. 2, p. 2343, ch. 785, adopting the Business & Commerce Code, repealed article 1554a effective September 1, 1967.

For text of the Business and Commerce Code, with Tables and Index, see page 1485.

The repealed article, derived from Acts 1959, 56th Leg., p. 530, ch. 234, §§ 1, 2, prohibited false wholesale advertisement. See, now, V.A.T.C. Bus. & C., § 17.11.

CHAPTER SEVENTEEN—PROPERTY UNDER LIEN

Arts. 1557, 1558. Repealed. Acts 1967, 60th Leg., vol. 2, p. 2620, ch. 785, § 4. Eff. Sept. 1, 1967

Acts 1967, 60th Leg., vol. 2, p. 2343, ch. 785, adopting the Business & Commerce Code, repealed articles 1557, 1558 effective September 1, 1967.

For text of the Business and Commerce Code, with Tables and Index, see page 1485.

See, now, V.A.T.C. Bus. & C. §§ 25.01 to 25.03.

For Annotations and Historical Notes, see V.A.T.S.

TITLE 18—LABOR

CHAPTER TEN—INTERFERENCE WITH LABOR OR VOCATION

Art. 1621b. Preventing others from engaging in lawful vocation; attempts; labor dispute, unlawful assemblage near place of

Section 1. It shall be unlawful for any person by the use of force or violence, or threat of the use of force or violence, to prevent or to attempt to prevent any person from engaging in any lawful vocation within this State or from engaging in peaceful and lawful picketing within this State. Any person guilty of violating this Section shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by confinement in the county jail for a period of not less than thirty (30) days nor more than two (2) years, or by a fine of not less than Twenty-five Dollars (\$25) nor more than Two Thousand Dollars (\$2,000).

Sec. 1 amended by Acts 1967, 60th Leg., p. 1169, ch. 521, § 1, emerg. eff. June 14, 1967.

Sec. 2. It shall be unlawful for any person acting in concert with one or more other persons to assemble at or near any place where a "labor dispute" exists and by force or violence prevent or attempt to prevent any person from engaging in any lawful vocation or from engaging in peaceful and lawful picketing within this State, or for any person, acting either by himself, or as a member of any group or organization, or acting in concert with one or more other persons, to promote, encourage, or aid any such unlawful assemblage. Any person guilty of violating this Section shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by confinement in the county jail for a period of not less than thirty (30) days nor more than two (2) years, or by a fine of not less than Twenty-five Dollars (\$25) nor more than Two Thousand Dollars (\$2,000).

Sec. 2 amended by Acts 1967, 60th Leg., p. 1169, ch. 521, § 2, emerg. eff. June 14, 1967.

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TITLE 19—MISCELLANEOUS OFFENSES

CHAPTER THREE—TRUSTS AND CONSPIRACIES AGAINST
TRADE

Arts. 1632–1644. Repealed. Acts 1967, 60th Leg., vol. 2, p. 2620, ch. 785, § 4. Eff. Sept. 1, 1967

Acts 1967, 60th Leg., vol. 2, p. 2343, ch. 785, adopting the Business & Commerce Code, repealed articles 1632–1644 effective September 1, 1967.

For text of the Business and Commerce Code, with Tables and Index, see page 1485.

See, now, V.A.T.C. Bus. & C. §§ 15.01 to 15.03, 15.14 and 15.33.

CHAPTER SIX—FREE PASSES, TRANSPORTATION AND FRANKS

Arts. 1659, 1660. Repealed. Acts 1967, 60th Leg., p. 849, ch. 358, § 1. Eff. Aug. 28, 1967

Art. 1661.1. Repealed. Acts 1967, 60th Leg., p. 849, ch. 358, § 1. Eff. Aug. 28, 1967

CHAPTER EIGHT—BILLS OF LADING

Arts. 1674–1683. Repealed. Acts 1967, 60th Leg., vol. 2, p. 2620, ch. 785, § 4. Eff. Sept. 1, 1967

Acts 1967, 60th Leg., vol. 2, p. 2343, ch. 785, adopting the Business & Commerce Code, repealed articles 1674–1683 effective September 1, 1967.

For text of the Business and Commerce Code, with Tables and Index, see page 1485.

See, now, V.A.T.C. Bus. & C. § 7.301 et seq.

CHAPTER NINE—RAILROAD COMMISSION

Art.
1690f. Transporting by motor vehicle for hire without permit [New].

Art. 1690f. Transporting by motor vehicle for hire without permit

Any person, firm, corporation, organization, officer, agent, servant, or employee required by statute to have a permit or certificate from the Railroad Commission of Texas authorizing transportation by motor vehicle for compensation or hire who engages in transportation by motor vehicle for compensation or hire without first having obtained such certificate or permit from the Railroad Commission of Texas, or who aids or abets any such operation, shall be guilty of a misdemeanor, and, upon conviction therefor, shall be punished by a fine of not less than \$50 nor

For Annotations and Historical Notes, see V.A.T.S.

more than \$200, and the violations occurring on each day shall each constitute a separate offense.

Acts 1967, 60th Leg., p. 168, ch. 88, § 1, eff. Aug. 28, 1967.

Acts 1967, 60th Leg., p. 168, ch. 88, § 2
repealed conflicting laws.

Title of Act:

An Act fixing the penalty for transporting by motor vehicle for compensation or hire without first having obtained a certificate or permit from the Texas Railroad

Commission when said certificate or permit from the Texas Railroad Commission is required by statute, or for aiding or abetting such operation; repealing laws in conflict to the extent of such conflict; and declaring an emergency. Acts 1967, 60th Leg., p. 168, ch. 88.

CHAPTER FIFTEEN A—WATER SAFETY ACT [NEW]

Art. 1722a. Texas Water Safety Act

Declaration of policy

Section 1. This Act shall be referred to as the "Water Safety Act." It is the policy of this state to promote safety for persons and property in and connected with the use, operation, and equipment of vessels and to promote uniformity of laws relating thereto.

Sec. 1 amended by Acts 1967, 60th Leg., p. 1564, ch. 628, § 1, eff. Aug. 28, 1967.

Definitions

Section 2. As used in this Act, unless the context clearly requires a different meaning:

(1) "Vessel" means every description of watercraft, other than a seaplane on water, used or capable of being used as transportation on water.

(2) "Motorboat" means any vessel propelled by machinery, whether or not such machinery is the principal source of propulsion.

(3) "Owner" means the person who claims lawful possession of a vessel by virtue of legal title or equitable interest therein which entitles him to such possession.

(4) "Waters of this state" means any public waters within the territorial limits of this state; provided, however, privately-owned waters shall be excluded from the provisions of this Act.

(5) "Person" means an individual, partnership, firm, corporation, association, or other entity.

(6) "Operate" means to navigate or otherwise use a motorboat or a vessel.

(7) "Department" means the State Highway Department.

(8) "Dealer" means a person, firm, or corporation engaged in the business of selling motorboats.

(9) "Boat Livery" means a business establishment engaged in renting or hiring out motorboats for profit.

(10) "Undocumented motorboat" means any vessel which is not required to have, and does not have, a valid marine document issued by the Bureau of Customs of the United States government, or federal agency successor thereto.

(11) The certificate of number or facsimile thereof required by this Act shall be carried on board the vessel at all times.

Sec. 2 amended by Acts 1967, 60th Leg., p. 1564, ch. 628, § 1, eff. Aug. 28, 1967.

Operation of unnumbered motorboats

Sec. 3. Every undocumented motorboat on the waters of this state shall be numbered, except as provided by exemptions in this Act. No person shall operate or give permission for the operation of any motorboat on such waters unless the motorboat is numbered as required by this

Act which numbering system shall be in accord with the Federal Boating Act of 1958 and subsequent amendments thereto, and unless (1) the certificate of number awarded to such motorboat is in full force and effect, and (2) the identifying number set forth in the certificate is properly displayed on each side of the bow of such motorboat.

Sec. 3 amended by Acts 1967, 60th Leg., p. 1564, ch. 628, § 1, eff. Aug. 28, 1967.

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Boat ramps and comfort stations

Sec. 28. The State Highway Department is authorized to construct and maintain boat ramps, access roads, and comfort stations by the use of existing or additional services or facilities of said department. Upon the completion of such work, said department is authorized to prepare and transmit vouchers to the Comptroller of Public Accounts payable to the State Highway Department or to any person, firm, or corporation for reimbursement for such work and the Comptroller of Public Accounts is hereby authorized and directed to issue warrants on the Special Boat Fund to reimburse the Highway Department or any person, firm, or corporation for the work performed. The use of a rotating blue beacon is hereby authorized for Texas Parks and Wildlife and police vessels and none other.

Sec. 28 amended by Acts 1967, 60th Leg., p. 1564, ch. 628, § 1, eff. Aug. 28, 1967.

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CHAPTER SEVENTEEN—FALSE ALARMS AND REPORTS [NEW]

Art. 1724. False alarms or reports which cause emergency vehicles to respond

Section 1. Any person who knowingly and maliciously in writing or orally, or by the use of any telephone, telegraph, radio, or mechanical device or contrivance whatsoever, either directly or indirectly shall make, give, send, report, or communicate any false alarm, or falsely report any act or fact situation which causes an Authorized Emergency Vehicle as defined in Article 6701d of Vernon's Texas Civil Statutes to respond to said report or alarm shall be guilty of a felony and shall be fined not less than One Hundred Dollars (\$100) nor more than Five Thousand Dollars (\$5,000) or imprisoned in the state penitentiary for a period of not more than five (5) years or by both such fine and imprisonment.

Sec. 2. On a trial of this offense, evidence shall be admitted that in responding to a false alarm or false report on a purported emergency call, any Authorized Emergency Vehicle, as defined in and operated under the provisions of Vernon's Texas Civil Statutes, Article 6701d, Uniform Act Regulating Traffic on Highways, suffered or caused, while so operated, damage to any property or injury to any person, including its occupants.

Acts 1957, 55th Leg., p. 342, ch. 156, eff. May 6, 1957, amended by Acts 1967, 60th Leg., p. 1798, ch. 687, § 1, emerg. eff. June 17, 1967.

Section 2 of the act of 1967 provided: "If any part or parts of this Act shall be held to be unconstitutional, such unconstitutionality shall not affect the validity of the remaining parts of this Act. The Legislature hereby declares that it would have passed the remaining parts of this Act if it had known that such part or parts thereof would be declared unconstitutional."

PART I
CODE OF CRIMINAL PROCEDURE OF 1965

INTRODUCTORY

CHAPTER ONE—GENERAL PROVISIONS

Art. 1.14 [11] [22] [23] Waiver of rights

The defendant in a criminal prosecution for any offense may waive any rights secured him by law except the right of trial by jury in a capital felony case in which the state has made known in open court in writing at least 15 days prior to trial that it will seek the death penalty. No case in which the state seeks the death penalty shall be tried until 15 days after such notice is given. When the state makes known to the court in writing in open court that it will not seek the death penalty in a capital case, the defendant may enter a plea of guilty, nolo contendere, or not guilty before the court and waive trial by jury as provided in Article 1.13, and in such case under no circumstances may the death penalty be imposed.

Amended by Acts 1967, 60th Leg., p. 1733, ch. 659, § 1, eff. Aug. 28, 1967.

Acts 1967, 60th Leg., p. 1752, ch. 659 amended various articles of the Code of Criminal Procedure, 1965, and repealed Vernon's Ann.P.C. art. 82; sections 41 and 42 of the 1967 act provided:

"Sec. 41. Saving Clause. Any confession admissible at the time it was made shall be admissible at any trial subsequent to the effective date of this Act. The provisions of this Act shall not affect the admissibility of confessions made prior to the effective date of the Act.

"Sec. 42. Severability Clause. If any provision, section or clause of this Act or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications hereof which can be given effect without the invalid provision, section or clause, and to this end the provisions of this Act are declared to be severable."

Art. 1.15 [12] [21] [22] Jury in felony

No person can be convicted of a felony except upon the verdict of a jury duly rendered and recorded, unless in felony cases less than capital, or in capital cases where the state has waived the death penalty the defendant, upon entering a plea, has in open court in person waived his right of trial by jury in writing; provided, however, that it shall be necessary for the state to introduce evidence into the record showing the guilt of the defendant and said evidence shall be accepted by the court as the basis for its judgment and in no event shall a person charged be convicted upon his plea without sufficient evidence to support the same. The evidence may be stipulated if the defendant, in such case consents in writing, in open court, to waive the appearance, confrontation, and cross-examination of witnesses, and further consents to the introduction of testimony by affidavits, written statements of witnesses, and any other documentary evidence in support of the judgment of the court. Such waiver and consent must be approved by the court in writing, and be filed, with all of such evidence, in the file of the papers of the cause.

Amended by Acts 1967, 60th Leg., p. 1733, ch. 659, § 2, eff. Aug. 28, 1967.

Acts 1967, 60th Leg., p. 1732, ch. 659, amended various articles of the Code of Criminal Procedure, 1965, and repealed Vernon's Ann.P.C. art. 82; sections 41 and

42 of the act of 1967, savings and severability clauses, are set out as notes under article 1.14.

CHAPTER TWO—GENERAL DUTIES OF OFFICERS

Art. 2.24 Identification of witnesses [New].

Art. 2.03 [27] [33] [34] Neglect of duty

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(b) It is the duty of the trial court, the attorney representing the accused, the attorney representing the state and all peace officers to so conduct themselves as to insure a fair trial for both the state and the defendant, not impair the presumption of innocence, and at the same time afford the public the benefits of a free press.

Subsec. (b) amended by Acts 1967, 60th Leg., p. 1733, ch. 659, § 3, eff. Aug. 28, 1967.

Acts 1967, 60th Leg., p. 1732, ch. 659, amended various articles of the Code of Criminal Procedure, 1965, and repealed Vernon's Ann.P.C. art. 82; sections 41 and 42 of the act of 1967, savings and severability clauses, are set out as notes under article 1.14.

Art. 2.07 [31] [38] [39] Attorney pro tem

(a) Whenever any district or county attorney is disqualified in any case the judge of the court in which it is pending may appoint any district attorney or county attorney or other competent attorney to perform the duties of the prosecuting attorney in such case. If such appointed attorney is another district or county attorney no oath or other act of qualification shall be required of him, but the prosecution of such case shall be deemed as additional to his normal duties. If the appointed attorney is not a district or county attorney, he will be required only to file an oath of office for that particular case with the clerk of the court.

(b) Any attorney so appointed (other than a district attorney or county attorney) shall be paid the same amount and in the same manner as an attorney appointed to represent an indigent person.

Amended by Acts 1967, 60 Leg., p. 1733, ch. 659, § 4, eff. Aug. 28, 1967.

Acts 1967, 60th Leg., p. 1732, ch. 659, amended various articles of the Code of Criminal Procedure, 1965, and repealed Vernon's Ann.P.C. art. 82; sections 41 and 42 of the act of 1967, savings and severability clauses, are set out as notes under article 1.14.

Art. 2.12 [36] [43] [44] Who are peace officers

The following are peace officers: The sheriff and his deputies, constables and deputy constables, marshal or police officers of an incorporated city, town or village, rangers and officers commissioned by the Public Safety Commission and the Director of the Department of Public Safety, investigators of the district attorneys', criminal district attorneys' and county attorneys' offices, each member of an arson investigating unit of a city, county or the state, law enforcement agents of the Texas Liquor Control Board, and any private person specially appointed to execute criminal process.

Amended by Acts 1967, 60th Leg., p. 1734, ch. 659, § 5, eff. Aug. 28, 1967.

Acts 1967, 60th Leg., p. 1732, ch. 659, amended various articles of the Code of Criminal Procedure, 1965, and repealed Vernon's Ann.P.C. art. 82; sections 41 and 42 of the act of 1967, savings and severability clauses, are set out as notes under article 1.14.

Art. 2.24 Identification of witnesses

Whenever a peace officer has reasonable grounds to believe that a crime has been committed, he may stop any person whom he reasonably believes was present and may demand of him his name and address. If such person fails or refuses to identify himself to the satisfaction of

the officer, he may take the person forthwith before a magistrate. If the person fails to identify himself to the satisfaction of the magistrate, the latter may require him to furnish bond or may commit him to jail until he so identifies himself.

Added by Acts 1967, 60th Leg., p. 1734, ch. 659, § 6, eff. Aug. 28, 1967.

Acts 1967, 60th Leg., p. 1732, ch. 659, amended various articles of the Code of Criminal Procedure, 1965, and repealed Vernon's Ann.P.C. art. 82; sections 41 and 42 of the act of 1967, savings and severability clauses, are set out as notes under article 1.14.

HABEAS CORPUS

CHAPTER ELEVEN—HABEAS CORPUS

Art. 11.07 [119] [167] [157] Return to certain county; procedure after conviction

After indictment found in any felony case, and before conviction, the writ must be made returnable in the county where the offense has been committed.

After final conviction in any felony case, the writ must be made returnable to the Court of Criminal Appeals of Texas at Austin, Texas. The writ may issue upon the order of any district judge, and said judge may upon presentation to him of a petition for said writ, set the same down for a hearing as to whether the writ should issue, and ascertain the facts, which facts shall be transmitted to the Court of Criminal Appeals with the return of the writ if same is issued after such hearing. Provided further, that should such writ be returned to the Court of Criminal Appeals without all the facts deemed necessary by the Court of Criminal Appeals, said court may designate and direct any district judge or judges of this state to ascertain the facts necessary for proper consideration of the issues involved. When a petition for writ of habeas corpus presented to the judge of the convicting court contains sworn allegations of fact, which, if true, would render petitioner's confinement under the felony conviction illegal, the attorney representing the state in said court and the Attorney General of Texas shall be afforded an opportunity to answer such allegations, and if it appears that there are issues of fact which are material on the question of whether the petitioner is illegally restrained which have not been resolved, the petitioner may be granted a hearing on such issues of fact and the judge conducting such hearing shall make and file his findings of fact and conclusions of law. It shall be the duty of the official court reporter of the district judge or judges so designated to forthwith prepare a narration of the facts adduced in evidence upon any such hearing and transmit the same, together with the judge's findings of fact and conclusions of law, to the clerk of the Court of Criminal Appeals within ten days of the date of such hearing. And it shall be the duty of the district clerk of the county wherein the writ is issued to make up a transcript of all pleadings in such case and to transmit the same within thirty days to the clerk of the Court of Criminal Appeals. Provided, that upon good cause shown, the time may be extended by the Court of Criminal Appeals for filing of such narration of facts or transcript.

The Court of Criminal Appeals may deny relief upon the findings and conclusions of the hearing judge without docketing the cause, or may direct that the cause be docketed and heard as though originally presented to said court or as an appeal. Upon reviewing the record the court shall enter its judgment remanding the petitioner to custody or ordering his release, as the law and facts may justify. The mandate of the court shall issue to the court issuing the writ, as in other criminal

cases. After conviction the procedure outlined in this Act shall be exclusive and any other proceeding shall be void and of no force and effect in discharging the prisoner.

Upon any hearing by a district judge by virtue of this Act, the attorney for petitioner, and the state, shall be given at least three full day's notice before such hearing is held.

Amended by Acts 1967, 60th Leg., p. 1734, ch. 659, § 7, eff. Aug. 28, 1967.

Acts 1967, 60th Leg., p. 1732, ch. 659, amended various articles of the Code of Criminal Procedure, 1965, and repealed Vernon's Ann.P.C. art. 82; sections 41 and 42 of the act of 1967, savings and severability clauses, are set out as notes under article 1.14.

ARREST, COMMITMENT AND BAIL

CHAPTER FOURTEEN—ARREST WITHOUT WARRANT

Art. 14.01 [212] [259] [247] Offense within view

(a) A peace officer or any other person, may, without a warrant, arrest an offender when the offense is committed in his presence or within his view, if the offense is one classed as a felony or as an offense against the public peace.

(b) A peace officer may arrest an offender without a warrant for any offense committed in his presence or within his view.

Amended by Acts 1967, 60th Leg., p. 1735, ch. 659, § 8, eff. Aug. 28, 1967.

Acts 1967, 60th Leg., p. 1732, ch. 659, amended various articles of the Code of Criminal Procedure, 1965, and repealed Vernon's Ann.P.C. art. 82; sections 41 and 42 of the act of 1967, savings and severability clauses, are set out as notes under article 1.14.

Art. 14.03 [214] [261] [249] Authority of peace officers

Any peace officer may arrest, without warrant, persons found in suspicious places and under circumstances which reasonably show that such persons have been guilty of some felony or breach of the peace, or threaten, or are about to commit some offense against the laws.

Amended by Acts 1967, 60th Leg., p. 1735, ch. 659, § 9, eff. Aug. 28, 1967.

Acts 1967, 60th Leg., p. 1732, ch. 659, amended various articles of the Code of Criminal Procedure, 1965, and repealed Vernon's Ann.P.C. art. 82; sections 41 and 42 of the act of 1967, savings and severability clauses, are set out as notes under article 1.14.

Art. 14.06 [217] [264] [252] Must take offender before magistrate

In each case enumerated in this Code, the person making the arrest shall take the person arrested or have him taken without unnecessary delay before the magistrate who may have ordered the arrest or before some magistrate of the county where the arrest was made without an order. The magistrate shall immediately perform the duties described in Article 15.17 of this Code.

Amended by Acts 1967, 60th Leg., p. 1735, ch. 659, § 10, eff. Aug. 28, 1967.

Acts 1967, 60th Leg., p. 1732, ch. 659, amended various articles of the Code of Criminal Procedure, 1965, and repealed Vernon's Ann.P.C. art. 82; sections 41 and 42 of the act of 1967, savings and severability clauses, are set out as notes under article 1.14.

CHAPTER FIFTEEN—ARREST UNDER WARRANT

Art. 15.16 [233] [280] [268] How warrant is executed

The officer or person executing a warrant of arrest shall without unnecessary delay take the person or have him taken before the magis-

For Annotations and Historical Notes, see V.A.T.S.

trate who issued the warrant or before the magistrate named in the warrant, if the magistrate is in the same county where the person is arrested. If the issuing or named magistrate is in another county, the person arrested shall without unnecessary delay be taken before some magistrate in the county in which he was arrested.

Amended by Acts 1967, 60th Leg., p. 1736, ch. 659, § 11, eff. Aug. 28, 1967.

Acts 1967, 60th Leg., p. 1732, ch. 659, and 42 of the act of 1967, savings and amended various articles of the Code of severability clauses, are set out as notes Criminal Procedure, 1965, and repealed under article 1.14.
Vernon's Ann.P.C. art. 82; sections 41

Art. 15.17 Duties of arresting officer and magistrate

In each case enumerated in this Code, the person making the arrest shall without unnecessary delay take the person arrested or have him taken before some magistrate of the county where the accused was arrested. The magistrate shall inform in clear language the person arrested of the accusation against him and of any affidavit filed therewith, of his right to retain counsel, of his right to remain silent, of his right to have an attorney present during any interview with peace officers or attorneys representing the state, of his right to terminate the interview at any time, of his right to request the appointment of counsel if he is indigent and cannot afford counsel, and of his right to have an examining trial. He shall also inform the person arrested that he is not required to make a statement and that any statement made by him may be used against him. The magistrate shall allow the person arrested reasonable time and opportunity to consult counsel and shall admit the person arrested to bail if allowed by law.

Amended by Acts 1967, 60th Leg., p. 1736, ch. 659, § 12, eff. Aug. 28, 1967.

Acts 1967, 60th Leg., p. 1732, ch. 659, and 42 of the act of 1967, savings and amended various articles of the Code of severability clauses, are set out as notes Criminal Procedure, 1965, and repealed under article 1.14.
Vernon's Ann.P.C. art. 82; sections 41

Art. 15.26 [243] [290] [278] Authority to arrest must be made known

In executing a warrant of arrest, it shall always be made known to the accused under what authority the arrest is made. The warrant shall be executed by the arrest of the defendant. The officer need not have the warrant in his possession at the time of the arrest, provided the warrant was issued under the provisions of this Code, but upon request he shall show the warrant to the defendant as soon as possible. If the officer does not have the warrant in his possession at the time of arrest he shall then inform the defendant of the offense charged and of the fact that a warrant has been issued.

Amended by Acts 1967, 60th Leg., p. 1736, ch. 659, § 13, eff. Aug. 28, 1967.

Acts 1967, 60th Leg., p. 1732, ch. 659, and 42 of the act of 1967, savings and amended various articles of the Code of severability clauses, are set out as notes Criminal Procedure, 1965, and repealed under article 1.14.
Vernon's Ann.P.C. art. 82; sections 41

CHAPTER SEVENTEEN—BAIL

Art. 17.11 [277] [325] [313] How bail bond is taken

Section 1. Every court, judge, magistrate or other officer taking a bail bond shall require evidence of the sufficiency of the security offered; but in every case, one surety shall be sufficient, if it be made to appear that such surety is worth at least double the amount of the sum for which he is bound, exclusive of all property exempted by law from execution, and of debts or other encumbrances; and that he is a resi-

dent of this state, and has property therein liable to execution worth the sum for which he is bound.

Sec. 2. Provided, however, any person who has signed as a surety on a bail bond and is in default thereon shall thereafter be disqualified to sign as a surety so long as he is in default on said bond. It shall be the duty of the clerk of the court wherein such surety is in default on a bail bond, to notify in writing the sheriff, chief of police, or other peace officer, of such default. A surety shall be deemed in default from the time the trial court enters its final judgment on the scire facias until such judgment is satisfied or set aside.

Amended by Acts 1967, 60th Leg., p. 1736, ch. 659, § 14, eff. Aug. 28, 1967.

Acts 1967, 60th Leg., p. 1732, ch. 659, and 42 of the act of 1967, savings and amended various articles of the Code of Criminal Procedure, 1965, and repealed under article 1.14. severability clauses, are set out as notes under article 1.14.
Vernon's Ann.P.C. art. 32; sections 41

SEARCH WARRANTS

CHAPTER EIGHTEEN—SEARCH WARRANTS

Art. 18.30 [332a] Disposition of abandoned or unclaimed property

(a) All unclaimed or abandoned personal property of every kind, except whiskey, wine and beer, seized by any state or county peace officer in the State of Texas which is not held as evidence to be used in any pending case and has not been ordered destroyed or returned to the person entitled to possession of the same by a magistrate, which shall remain unclaimed for a period of 30 days shall be delivered for sale to the purchasing agent of the county in which the property was seized. If the county has no purchasing agent then such property shall be sold by the sheriff of the county.

(b) The purchasing agent or sheriff of the county, as the case may be, shall mail a notice to the last known address of the owner of such property by certified mail. Such notice shall describe the property being held, give the name and address of the officer holding such property, and shall state that if the owner does not claim such property within six months from the date of the notice such property will be sold and the proceeds of such sale, after deducting the reasonable expense of keeping such property and the costs of the sale, placed in the county treasury.

(c) If the owner of such property is unknown or if the address of the owner is unknown, then the purchasing agent or the sheriff, as the case may be, shall cause to be published once in a paper of general circulation in the county a notice containing a description of the property held, the name of the owner if known, the name and address of the officer holding such property, and a statement that if the owner does not claim such property within six months from the date of the publication such property will be sold and the proceeds of such sale after deducting the reasonable expense of keeping such property and the costs of sale, placed in the county treasury.

(d) The sale of any property hereunder shall be preceded by a notice published once at least three weeks prior to the date of such sale in a newspaper of general circulation in the county where the sale is to take place, stating the description of the property, the names of the owners if known and the date and place that such sale will occur. If the purchasing agent or sheriff, as the case may be, shall consider any bid as insufficient he need not sell such property but may decline such bid and reoffer such property for sale.

(e) The real owner of any property sold shall have the right to file a claim to the proceeds of such sale with the commissioners court of

For Annotations and Historical Notes, see V.A.T.S.

the county in which the sale took place. If the claim is allowed by the commissioners court, the county treasurer shall pay the owner such funds as were paid into the treasury of the county as proceeds of the sale. If the claim is denied by the commissioners court or if said court fails to act upon such claim within 90 days, the claimant may sue the county treasurer in a court of competent jurisdiction in the county, and upon sufficient proof of ownership, recover judgment against such county for the recovery of the proceeds of the sale.

Amended by Acts 1967, 60th Leg., p. 1737, ch. 659, § 15, eff. Aug. 28, 1967.

Acts 1967, 60th Leg., p. 1732, ch. 659, and 42 of the act of 1967, savings and amended various articles of the Code of severability clauses, are set out as notes Criminal Procedure, 1965, and repealed under article 1.14.
Vernon's Ann.P.C. art. 82; sections 41

AFTER COMMITMENT OR BAIL AND BEFORE THE TRIAL

CHAPTER NINETEEN—ORGANIZATION OF THE GRAND JURY

Art. 19.06 [338] [389] [377] Shall select grand jurors

The jury commissioners shall select not less than 15 nor more than 20 persons from the citizens of different portions of the county to be summoned as grand jurors for the next term of court, or the term of court for which said commissioners were selected to serve, as directed in the order of the court selecting the commissioners.

Amended by Acts 1967, 60th Leg., p. 1158, ch. 515, § 1, eff. Aug. 28, 1967.

CHAPTER TWENTY-ONE—INDICTMENT AND INFORMATION

Art. 21.08 [402] [457] [445] Allegation of ownership

Where one person owns the property, and another person has the possession of the same, the ownership thereof may be alleged to be in either. Where property is owned in common, or jointly, by two or more persons, the ownership may be alleged to be in all or either of them. When the property belongs to the estate of a deceased person, the ownership may be alleged to be in the executor, administrator or heirs of such deceased person, or in any one of such heirs. Where the ownership of the property is unknown to the grand jury, it shall be sufficient to allege that fact.

Amended by Acts 1967, 60th Leg., p. 1738, ch. 659, § 16, eff. Aug. 28, 1967.

Acts 1967, 60th Leg., p. 1732, ch. 659, and 42 of the act of 1967, savings and amended various articles of the Code of severability clauses, are set out as notes Criminal Procedure, 1965, and repealed under article 1.14.
Vernon's Ann.P.C. art. 82; sections 41

CHAPTER TWENTY-TWO—FORFEITURE OF BAIL

Art.
22.01a Failure to appear; violation of bail
bond [New].

Art. 22.01a Failure to appear; violation of bail bond

1. Whoever, having been admitted to bail for appearance before any court of record of this state, incurs a forfeiture of the bail and knowingly and willfully fails to surrender himself within 30 days following the date of such forfeiture, shall, if the bail was given in connection with a charge of felony or pending appeal after conviction of any offense, be fined not

more than \$2,000.00 or imprisoned in the penitentiary not more than two years, or both; or, if the bail was given in connection with a charge of committing a misdemeanor, or for appearance as a witness, be fined not more than \$500.00 or imprisoned in the county jail not more than one year, or both.

2. Nothing in this Article shall interfere with or prevent the exercise by any court of its power to punish for contempt.

Added by Acts 1967, 60th Leg., p. 804, ch. 339, § 1, eff. Aug. 28, 1967.

Sections 2 and 3 of the act of 1967 provided:

"Sec. 2. All laws and parts of laws in conflict herewith are hereby repealed.

"Sec. 3. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity

shall not affect other provisions or applications of this Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable."

Art. 26.05—1 Contribution from state in certain counties

Section 1. A county in which a state training school for delinquent children is located shall pay from its general fund the first \$250 of fees awarded for court-appointed counsel under Article 26.05 toward defending a child committed to the school from another county who is being prosecuted for a felony or misdemeanor in the county where the training school is located.

Sec. 2. If the fees awarded for counsel compensation are in excess of \$250, the court shall certify the amount in excess of \$250 to the Comptroller of Public Accounts of the State of Texas. The Comptroller shall issue a warrant to the court-appointed counsel in the amount certified to the comptroller by the court.

Added by Acts 1967, 60th Leg., p. 733, ch. 307, § 1, eff. Aug. 28, 1967.

CHAPTER TWENTY-SEVEN—THE PLEADING IN CRIMINAL ACTIONS

Art. 27.02 [505] [569] [558] Defendant's pleadings

On the part of the defendant, the following are the only pleadings:

1. The motion to set aside the indictment or information;
2. A special plea setting forth one or more facts as cause why the defendant ought not to be tried upon the accusation presented against him;
3. An exception to the indictment or information for some matter of form or substance;
4. A plea of guilty;
5. A plea of not guilty;
6. A plea of nolo contendere. The legal effect of such plea shall be the same as that of a plea of guilty, but the plea may not be used against the defendant as an admission in any civil suit based upon or growing out of the act upon which the criminal prosecution is based;
7. Defendant's application for probation, if any; and
8. Defendant's election, if any, to have the jury assess the punishment if he is found guilty.

Amended by Acts 1967, 60th Leg., p. 1738, ch. 659, § 17, eff. Aug. 28, 1967.

Acts 1967, 60th Leg., p. 1732, ch. 659, amended various articles of the Code of Criminal Procedure, 1965, and repealed Vernon's Ann.P.C. art. 82; sections 41 and

42 of the act of 1967, savings and severability clauses, are set out as notes under article 1.14.

Art. 27.14 [518] [582] [571] Plea of guilty or nolo contendere in misdemeanor

A plea of "guilty" or a plea of "nolo contendere" in a misdemeanor case may be made either by the defendant or his counsel in open court; in such case, the defendant or his counsel may waive a jury, and the punishment may be assessed by the court either upon or without evidence, at the discretion of the court. In a misdemeanor case arising out of a moving traffic violation for which the maximum possible punishment is by fine only, payment of a fine, or an amount accepted by the court constitutes a finding of guilty in open court, as though a plea of nolo contendere had been entered by the defendant.

Amended by Acts 1967, 60th Leg., p. 1738, ch. 659, § 18, eff. Aug. 28, 1967.

Acts 1967, 60th Leg., p. 1732, ch. 659, 42 of the act of 1967, savings and severability clauses, are set out as notes under article 1.14.
amended various articles of the Code of Criminal Procedure, 1965, and repealed
Vernon's Ann.P.C. art. 82; sections 41 and

CHAPTER TWENTY-EIGHT—MOTIONS, PLEADINGS AND EXCEPTIONS

Art. 28.01 [522] [587] [576] Pre-trial

* * * * *

Sec. 3. The notice mentioned in Section 2 above shall be sufficient if given in any one of the following ways:

(1) By announcement made by the court in open court in the presence of the defendant or his attorney of record;

(2) By personal service upon the defendant or his attorney of record;

(3) By mail to either the defendant or his attorney of record deposited by the clerk in the mail at least six days prior to the date set for hearing. If the defendant has no attorney of record such notice shall be addressed to defendant at the address shown on his bond, if the bond shows such an address, and if not, it may be addressed to one of the sureties on his bond. If the envelope containing the notice is properly addressed, stamped and mailed, the state will not be required to show that it was received.

Sec. 3 added by Acts 1967, 60th Leg., p. 1738, ch. 659, § 19, eff. Aug. 28, 1967.

Acts 1967, 60th Leg., p. 1732, ch. 659, and 42 of the act of 1967, savings and amended various articles of the Code of severability clauses, are set out as notes under article 1.14.
Criminal Procedure, 1965, and repealed
Vernon's Ann.P.C. art. 82; sections 41

TRIAL AND ITS INCIDENTS

CHAPTER THIRTY-FIVE—FORMATION OF THE JURY

Art. 35.13 [613] [688-689] Passing juror for challenge

A juror in a capital case in which the state has made it known it will seek the death penalty, held to be qualified, shall be passed for acceptance or challenge first to the state and then to the defendant. Challenges to jurors are either peremptory or for cause.

Amended by Acts 1967, 60th Leg., p. 1739, ch. 659, § 20, eff. Aug. 28, 1967.

Acts 1967, 60th Leg., p. 1732, ch. 659, 42 of the act of 1967, savings and severability clauses, are set out as notes under article 1.14.
amended various articles of the Code of Criminal Procedure, 1965, and repealed
Vernon's Ann.P.C. art. 82; sections 41 and

CHAPTER THIRTY-SIX—THE TRIAL BEFORE THE JURY

Art. 36.09 [650] [726] [706] Severance on separate indictments

Two or more defendants who are jointly or separately indicted or complained against for the same offense or any offense growing out of the same transaction may be, in the discretion of the court, tried jointly or separately as to one or more defendants; provided that in any event either defendant may testify for the other or on behalf of the state; and provided further, that in cases in which, upon timely motion to sever, and evidence introduced thereon, it is made known to the court that there is a previous admissible conviction against one defendant or that a joint trial would be prejudicial to any defendant, the court shall order a severance as to the defendant whose joint trial would prejudice the other defendant or defendants.

Amended by Acts 1967, 60th Leg., p. 1739, ch. 659, § 21, eff. Aug. 28, 1967.

Acts 1967, 60th Leg., p. 1732, ch. 659, and 42 of the act of 1967, savings and amended various articles of the Code of Criminal Procedure, 1965, and repealed under article 1.14.
Vernon's Ann.P.C. art. 82; sections 41

CHAPTER THIRTY-SEVEN—THE VERDICT

Art. 37.07 [693] [770] [750] Verdict must be general; separate hearing on proper punishment

1. The verdict in every criminal action must be general. When there are special pleas on which a jury is to find they must say in their verdict that the allegations in such pleas are true or untrue. If the plea is not guilty, they must find that the defendant is either guilty or not guilty, and, except as provided in Section 2, they shall assess the punishment in all cases where the same is not absolutely fixed by law to some particular penalty.

2. Alternate procedure

(a) In all criminal cases, other than misdemeanor cases of which the justice court or corporation court has jurisdiction, which are tried before a jury on a plea of not guilty, the judge shall, before argument begins, first submit to the jury the issue of guilt or innocence of the defendant of the offense or offenses charged, without authorizing the jury to pass upon the punishment to be imposed.

(b) If a finding of guilty is returned, it shall then be the responsibility of the judge to assess the punishment applicable to the offense; provided, however, that (1) in capital cases where the state has made it known in writing prior to trial that it will seek the death penalty, (2) in any criminal action where the jury may recommend probation and the defendant filed his sworn motion for probation before the trial began, and (3) in other cases where the defendant so elects in writing at the time he enters his plea in open court, the punishment shall be assessed by the same jury. If a finding of guilty is returned, the defendant may, with the consent of the attorney for the state, change his election of one who assesses the punishment.

3. Evidence of prior criminal record in all criminal cases after a finding of guilty

(a) Regardless of the plea and whether the punishment be assessed by the judge or the jury, evidence may be offered by the state and the defendant as to the prior criminal record of the defendant, his general reputation and his character. The term prior criminal record means a final conviction in a court of record, or a probated or suspended sentence that has occurred prior to trial, or any final conviction material to the offense charged.

(b) After the introduction of such evidence has been concluded, and if the jury has the responsibility of assessing the punishment, the court shall give such additional written instructions as may be necessary and the order of procedure and the rules governing the conduct of the trial shall be the same as are applicable on the issue of guilt or innocence.

(c) In cases where the matter of punishment is referred to the jury, the verdict shall not be complete until the jury has rendered a verdict both on the guilt or innocence of the defendant and the amount of punishment, where the jury finds the defendant guilty. In the event the jury shall fail to agree, a mistrial shall be declared, the jury shall be discharged, and no jeopardy shall attach.

(d) When the judge assesses the punishment, and after the hearing of the evidence hereinabove provided for, he shall forthwith announce his decision in open court as to the punishment to be assessed.

(e) Nothing herein contained shall be construed as affecting the admissibility of extraneous offenses on the question of guilt or innocence." Amended by Acts 1967, 60th Leg., p. 1739, ch. 659, § 22, eff. Aug. 28, 1967.

Acts 1967, 60th Leg., p. 1732, ch. 659, amended various articles of the Code of Criminal Procedure, 1965, and repealed Vernon's Ann.P.C. art. 82; sections 41 and 42 of the act of 1967, savings and severability clauses, are set out as notes under article 1.14.

CHAPTER THIRTY-EIGHT—EVIDENCE IN CRIMINAL ACTIONS

Art. 38.22 [727] [810] [790] When oral and written confessions shall be used

1. The oral or written confession of a defendant made while the defendant was in jail or other place of confinement or in the custody of an officer shall be admissible if:

(a) it be shown to be the voluntary statement of the accused taken in the presence of an examining court in accordance with law; or

(b) it be made in writing and signed by the accused, and show that the accused has at some time prior to the making thereof received from the person to whom the statement is made the warning set out in Subsection (c)(1), (2) and (3) below or received from the magistrate the warning provided in Article 15.17, and shows the time, date, and place of the warning and the name of the person or magistrate who administered the warning; or

(c) it be made in writing to some person who has warned the defendant from whom the statement is taken that

(1) he has the right to have a lawyer present to advise him either prior to any questioning or during any questioning,

(2) if he is unable to employ a lawyer, he has the right to have a lawyer appointed to counsel with him prior to or during any questioning, and

(3) he has the right to remain silent and not make any statement at all and that any statement he makes may be used in evidence against him at his trial.

The defendant must knowingly, intelligently, and voluntarily waive these rights prior to and during the making of the statement.

(d) If a written statement is taken and if the defendant is unable to write his name and signs the statement by making his mark, such statement shall not be admitted in evidence, unless it be witnessed by some person other than a peace officer, who shall sign the same as witness.

(e) It be made orally and the defendant makes a statement of facts or circumstances that are found to be true, which conduce to establish his guilt, such as the finding of secreted or stolen property, or the instrument with which he states the offense was committed.

(f) Nothing contained herein shall preclude the admissibility of any statement made by the defendant in open court at his trial or at his ex-

aming trial in compliance with Articles 16.03 and 16.04 or of any statement that is the res gestae of the arrest or of the offense.

2. In all cases where a question is raised as to the voluntariness of a confession or statement, the court must make an independent finding in the absence of the jury as to whether the confession or statement was made under voluntary conditions. If the confession or statement has been found to have been voluntarily made and held admissible as a matter of law and fact by the court in a hearing in the absence of the jury, the court must enter an order stating its findings, which order shall be filed among the papers of the cause. Such order shall not be exhibited to the jury nor the finding thereof made known to the jury in any manner. Upon the finding by the judge as a matter of law and fact that the confession or statement was voluntarily made, evidence pertaining to such matter may be submitted to the jury and it shall be instructed that unless the jury believes beyond a reasonable doubt that the confession or statement was voluntarily made, the jury shall not consider such statement or confession for any purpose nor any evidence obtained as a result thereof. In any case where a motion to suppress the statement or confession has been filed and evidence has been submitted to the court on this issue, the court within its discretion may reconsider such evidence in his finding that the statement or confession was voluntarily made and the same evidence submitted to the court at the hearing on the motion to suppress shall be made a part of the record the same as if it were being presented at the time of trial. However, the state or the defendant shall be entitled to present any new evidence on the issue of the voluntariness of the statement or confession prior to the court's final ruling and order stating its findings.

3. When the issue is raised by the evidence, the trial judge shall appropriately instruct the jury, generally, on the law pertaining to such statement or confession.

Amended by Acts 1967, 60th Leg., p. 1740, ch. 659, § 23, eff. Aug. 28, 1967.

Acts 1967, 60th Leg., p. 1732, ch. 659, 42 of the act of 1967, savings and sever-
amended various articles of the Code of ability clauses, are set out as notes under
Criminal Procedure, 1965, and repealed article 1.14.
Vernon's Ann.P.C. art. 82; sections 41 and

Art. 38.31 [733a] Interpreters for deaf or deaf-mute persons

* * * * *

(e) Interpreters appointed under the terms of this Article will receive for their services a sum not to exceed \$50 a day, as follows: interpreters shall be paid not less than \$15 nor more than \$50 a day, at the discretion of the judge presiding. When travel of the interpreter is involved all the actual expenses of travel, lodging, and meals incurred by the interpreter pertaining to the case he is appointed to serve shall be paid at the same rate applicable to state employees.

Par. (e) amended by Acts 1967, 60th Leg., p. 195, ch. 105, § 2, eff. Aug. 28, 1967.

Acts 1967, 60th Leg., p. 194, ch. 105, § 1
is codified as Vernon's Ann.Civ.St. art.
3712a.

CHAPTER THIRTY-NINE—DEPOSITIONS AND DISCOVERY

Art. 39.02 [735] [818] [798] Depositions for defendant

Depositions of witnesses may be taken by the defendant. When the defendant desires to take the deposition of a witness, he shall, by himself or counsel, file with the clerk of the court in which the case is pending an affidavit stating the facts necessary to constitute a good reason for taking

the same, and an application to take the same. Provided that upon the filing of such application, and after notice to the attorney for the state, the courts shall hear the application and determine if good reason exists for taking the deposition. Such determination shall be based on the facts made known at the hearing and the court, in its judgment, shall grant or deny the application on such facts.

Amended by Acts 1967, 60th Leg., p. 1741, ch. 659, § 24, eff. Aug. 28, 1967.

Art. 39.03 [736, 737, 738] [819, 820, 821] [799, 800, 801] Officers who may take the deposition

Upon the filing of such an affidavit and application, the court shall appoint, order or designate one of the following persons before whom such deposition shall be taken:

1. A district judge.
2. A county judge.
3. A notary public.
4. A district clerk.
5. A county clerk.

Such order shall specifically name such person and the time when and place where such deposition shall be taken. Failure of a witness to respond thereto, shall be punishable by contempt by the court. Such deposition shall be oral or written, as the court shall direct.

Amended by Acts 1967, 60th Leg., p. 1741, ch. 659, § 25, eff. Aug. 28, 1967.

Acts 1967, 60th Leg., p. 1732, ch. 659, of the act of 1967, savings and severability amended various articles of the Code of Criminal Procedure, 1965, and repealed Vernon's Ann.P.C. art. 82; sections 41 and 42 clauses, are set out as notes under article 1.14.

Art. 39.07 [743] [826] [806] Certificate

Where depositions are taken under commission in criminal actions, the officer or officers taking the same shall certify that the person deposing is the identical person named in the commission; or, if they cannot certify to the identity of the witness, there shall be an affidavit of some person attached to the deposition proving the identity of such witness, and the officer or officers shall certify that the person making the affidavit is known to them.

Amended by Acts 1967, 60th Leg., p. 1742, ch. 659, § 26, eff. Aug. 28, 1967.

Acts 1967, 60th Leg., p. 1732, ch. 659, of the act of 1967, savings and severability amended various articles of the Code of Criminal Procedure, 1965, and repealed Vernon's Ann.P.C. art. 82; sections 41 and 42 clauses, are set out as notes under article 1.14.

PROCEEDINGS AFTER VERDICT

CHAPTER FORTY—NEW TRIALS

Art. 40.09 The record on appeal

* * * * *

5. Responsibility for obtaining transcription of reporter's notes

A party desiring to have included in the record a transcription of notes of the reporter shall have the responsibility of obtaining such transcription and furnishing same to the clerk in duplicate in time for inclusion in the record and the defendant shall pay therefor. The court will order the reporter to make such transcription without charge to defendant if the court finds, after hearing in response to affidavit by defendant that he is unable to pay or give security therefor. Upon certificate of the court that this service has been rendered, payment therefor shall be made from

the general funds by the county in which the offense is alleged to have been committed in a sum to be set by the trial judge. The court reporter shall report any portion of the proceedings requested by either party or directed by the court.

Par. 5 amended by Acts 1967, 60th Leg., p. 1742, ch. 659, § 27, eff. Aug. 28, 1967.

6. Bills of exception

(a) A party desiring to have the record disclose some action, testimony, evidence, proceeding, objection, exception or other event or occurrence not otherwise shown by the record may utilize a bill of exception for this purpose. Bills of exception must be filed with the clerk and presented to the trial judge within ninety days after notice of appeal is given, and for good cause shown, the judge trying the cause may further extend the time in which to file the bills of exception and shall have the power, in term-time or in vacation, upon application for good cause to extend for as many times as deemed necessary the time for preparation and filing of bills of exception and the approval for any bill of exception by the judge trying the cause after the expiration of the ninety-day period shall be sufficient proof that the time for filing was properly extended, and any bill of exception so filed shall be construed to have been filed within the time required by law. The clerk shall notify the court of each bill immediately upon its being filed. The court shall either approve the bill without qualification or shall approve it subject to qualification or refuse it, setting forth in the qualification or refusal any reasons that may seem proper to the judge. Notice of the court's action in qualifying or refusing a bill shall be immediately given by the clerk to the party filing the bill or to his counsel, and such party, if unwilling to accept the court's qualification or refusal may not later than fifteen days after receipt of such notice, file a by-stander's bill of exception, and the clerk shall include same in the record. A bill of exception will be deemed approved without qualification if it be not acted upon by the trial judge within a period of 100 days after notice of appeal is given and no extension of time for filing has been granted; provided, however, if an extension of time for filing has been granted, a bill of exception will be deemed approved without qualification if it be not acted upon by the trial judge within a period of 10 days after the actual filing of the bill.

Par. 6(a) amended by Acts 1967, 60th Leg., p. 1742, ch. 659, § 27, eff. Aug. 28, 1967.

* * * * *

7. Approval of the record

Notice of completion of the record shall be made by the clerk by certified mail to the parties or their respective counsel. If neither files and presents to the court in writing any objection to the record, within fifteen days after the mailing of such notice and if the court has no objection to the record, he shall approve the same. If such objection be made, or if the court fails to approve the record within five days after the expiration of such fifteen-day period, the court shall set the matter down for hearing, and, after hearing, shall enter such orders as may be appropriate to cause the record to speak the truth and the findings and adjudications in such orders, if supported by evidence, shall be final. In its discretion, the court may require the attendance of the defendant at such hearing. Such proceeding shall be included in the record, and the entire record approved by the court.

Par. 7 amended by Acts 1967, 60th Leg., p. 1743, ch. 659, § 27, eff. Aug. 28, 1967.

* * * * *

12. Trial court's duty

It shall be the duty of the trial court to decide from the briefs and oral arguments, if any, whether the defendant should be granted a new trial by the trial court. This duty shall be performed within the period of thirty days immediately after the state's brief is filed, or, if none be filed, then within the period of thirty days immediately after the last day on which the state's brief could be timely filed. Omission of the court to perform this duty within such period shall constitute refusal of the court to grant a new trial to defendant.

Par. 12 amended by Acts 1967, 60th Leg., p. 1743, ch. 659, § 27, eff. Aug. 28, 1967.

* * * * *

Acts 1967, 60th Leg., p. 1732, ch. 659, amended various articles of the Code of Criminal Procedure, 1965, and repealed Vernon's Ann.P.C. art. 82; sections 41 and 42 of the act of 1967, savings and severability clauses, are set out as notes under article 1.14.

CHAPTER FORTY-TWO—JUDGMENT AND SENTENCE

Art 42.03 [768] [855] [833] Pronouncing sentence; time; credit for time spent in jail between arrest and sentence or pending appeal

If a new trial is not granted, nor judgment arrested in felony and misdemeanor cases, the sentence shall be pronounced in the presence of the defendant except when his presence is not required by Article 42.02 at any time after the expiration of the time allowed for making the motion for a new trial or the motion in arrest of judgment; provided that in all criminal cases the judge of the court in which the defendant was convicted may within his discretion, give the defendant credit on his sentence for the time, or any part thereof, which said defendant has spent in jail in said cause, from the time of his arrest and confinement until his sentence by the trial court; and provided further, that in all cases where the defendant has been tried for any violation of the laws of the State of Texas, and has been convicted and has appealed from said judgment and sentence of conviction, and where said cause has been affirmed by the Court of Criminal Appeals, and after receipt of the mandate by the clerk of the trial court, the judge is authorized to again call said defendant before him; and if pending appeal, the defendant has not made bond and has remained in jail pending the time of such appeal, said trial judge may then in his discretion resentence the defendant, and may subtract from the original sentence pronounced upon the defendant, the length of time the defendant has lain in jail pending such appeal, noting any credit allowed upon the mandate, which credit shall be allowed by the Texas Department of Corrections in all computations affecting the eligibility of the defendant for parole or discharge. Where jail time has been awarded, the trial judge may, when in his discretion the ends of justice would best be served, sentence the defendant to serve his sentence during his off-work hours, or on week-ends. When such a sentence is permitted by the trial judge it must be served on consecutive days or consecutive week-ends. The trial judge may require bail of the defendant to insure the faithful performance of the sentence. The trial judge may attach conditions regarding the employment, travel, and other conduct of the defendant during the performance of such a sentence.

Amended by Acts 1967, 60th Leg., p. 1743, ch. 659, § 28, eff. Aug. 28, 1967.

Acts 1967, 60th Leg., p. 1732, ch. 659, amended various articles of the Code of Criminal Procedure, 1965, and repealed Vernon's Ann.P.C. art. 82; sections 41 and 42 of the act of 1967, savings and severability clauses, are set out as notes under article 1.14.

Art. 42.12 [781d] Adult Probation and Parole Law

B. Probations

* * * * *

Sec. 6a. (a) A court granting probation may fix a fee not exceeding \$10 per month to be paid to the court by the probationer during the probationary period. The court may make payment of the fee a condition of granting or continuing the probation.

(b) The court shall distribute the fees received under Subsection (a) of this section to the county or counties in which the court has jurisdiction for use in administering the probation laws. In instances where a district court has jurisdiction in two or more counties, the court shall distribute the fees received to the counties in proportion to population as prescribed by Paragraph 7, Section 10 of this Article.

Sec. 6a added by Acts 1967, 60th Leg., p. 1744, ch. 659, § 29, eff. Aug. 28, 1967.

* * * * *

Sec. 10. For the purpose of providing adequate probation services, the district judge or district judges having original jurisdiction of criminal actions in the county or counties, if applicable, are authorized, with the advice and consent of the commissioners court as hereinafter provided, to employ and designate the titles and fix the salaries of probation officers, and such administrative, supervisory, stenographic, clerical, and other personnel as may be necessary to conduct presentence investigations, supervise and rehabilitate probationers, and enforce the terms and conditions of probation. Only those persons who have successfully completed education in an accredited college or university and two years full time paid employment in responsible probation or correctional work with juveniles or adults, social welfare work, teaching or personnel work; or persons who are licensed attorneys with experience in criminal law; or persons who are serving in such capacities at the time of the passage of this Article and who are not otherwise disqualified by Section 31 of this Article, shall be eligible for appointments as probation officers; providing that additional experience in any of the above work categories may be substituted year for year for the required college education, with a maximum substitution of two years. Provided, however, that in a county having a population of less than 50,000, according to the last preceding Federal census, any person having completed at least two years education in an accredited college or university will be eligible for appointment.

It is the further intent of this Article that the caseload of each probation officer not substantially exceed seventy-five probationers.

Where more than one probation officer is required, the judge or judges shall appoint a chief adult probation officer or director, who, with their approval, shall appoint a sufficient number of assistants and other employees to carry on the professional, clerical, and other work of the court.

The judge or judges, with the approval of the juvenile board of the county, may authorize the chief probation or chief juvenile officer to establish a separate division of adult probation and appoint adult probation officers and such other personnel as required. It is the further intent of this Act that the same person serving as a probation officer for juveniles shall not be required to serve as a probation officer for adults and vice-versa.

The judge or judges may, with the approval of the director of parole supervision, designate a parole officer or supervisor employed by the Division of Parole Supervision as a probation officer for the county or district.

Probation officers shall be furnished transportation, or alternatively, shall be entitled to an automobile allowance for use of personal auto-

mobile on official business, under the same terms and conditions as is provided for sheriffs.

The salaries of personnel, and other expenses essential to the adequate supervision of probationers; shall be paid from the funds of the county or counties comprising the judicial district or geographical area served by such probation officers. In instances where a district court has jurisdiction in two or more counties, the total expenses of such probation services shall be distributed approximately in the same proportion as the population in each county bears to the total population of all those counties, according to the last preceding or any future Federal Census. In all the instances of the employment of probation officers, the responsible judges and county commissioners are authorized to accept grants or gifts from other political subdivisions of the state or associations and foundations, for the sole purpose of financing adequate and effective probationary programs in the various parts of the state. For the purposes of this Act, the municipalities of this state are specifically authorized to grant and allocate such sums of money as their respective governing bodies may approve to their appropriate county governments for the support and maintenance of effective probationary programs. All grants, gifts, and allocations of the character and purpose described in this section shall be handled and accounted for separately from other public funds of the county.

Sec. 10 amended by Acts 1967, 60th Leg., p. 1744, ch. 659, § 29, eff. Aug. 28, 1967.

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Sec. 12. The provisions of Sections 6a, 10, and 11 of this Article also apply to Article 42.13.

Sec. 12 amended by Acts 1967, 60th Leg., p. 1745, ch. 659, § 29, eff. Aug. 28, 1967.

C. Paroles

* * * * *

Sec. 15. (a) The Board is hereby authorized to release on parole, with the approval of the Governor, any person confined in any penal or correctional institution of this State, except persons under sentence of death, who has served one-third of the maximum sentence imposed, provided that in any case he may be paroled after serving 20 calendar years. Time served on the sentence imposed shall be the total calendar time served and all credits allowed under the laws governing the operation of the Department of Corrections, and executive clemency. All paroles shall issue upon order of the Board, duly adopted and approved by the Governor.

(b) Within one year after a prisoner's admittance to the penal or correctional institution and at such intervals thereafter, as it may determine, the Board shall secure and consider all pertinent information regarding each prisoner, except any under sentence of death, including the circumstances of his offense, his previous social history and criminal record, his conduct, employment and attitude in prison, and the reports of such physical and mental examinations as have been made.

(c) Before ordering the parole of any prisoner, the Board may have the prisoner appear before it and interview him. A parole shall be ordered only for the best interest of society, not as an award of clemency; it shall not be considered to be a reduction of sentence or pardon. A prisoner shall be placed on parole only when arrangements have been made for his proper employment or for his maintenance and care, and when the Board believes that he is able and willing to fulfill the obligations of a law-abiding citizen. Every prisoner while on parole shall remain in the legal custody of the institution from which he was released but shall be amenable to the orders of the Board.

(d) The Board may adopt such other reasonable rules not inconsistent with law as it may deem proper or necessary with respect to the eligibility

of prisoners for parole, the conduct of parole hearings, or conditions to be imposed upon parolees. Whenever an order for parole is issued it shall recite the conditions thereof in clear and intelligible language.

(e) It shall be the duty of the Board at least ten days before ordering the parole of any prisoner or upon the granting of executive clemency by the Governor to notify the sheriff, the district attorney and the district judge in the county where such person was convicted that such parole or clemency is being considered by the Board or by the Governor.

(f) If no parole officer has been assigned to the locality where a person is to be released on parole or executive clemency the Board shall notify the chairman of the Voluntary Parole Board of such county prior to the release of such person. The Board shall request such Voluntary Parole Board, in the absence of a parole office, for information which would herein be required of such duly appointed parole officer. This shall not, however, preclude the Board from requesting information from any public agency in such locality.

Sec. 15 amended by Acts 1967, 60th Leg., p. 1745, ch. 659, § 29, eff. Aug. 28, 1967.

Sec. 16. It shall be the duty of any judge, district attorney, county attorney, police officer or other public official of the state, having information with reference to any prisoner eligible for parole, to send in writing such information as may be in his possession or under his control to the Board, upon request of any member or employee thereof.

Amended by Acts 1967, 60th Leg., p. 1746, ch. 659, § 29, eff. Aug. 28, 1967.

* * * * *

Sec. 18. The Board shall formulate rules as to the submission and presentation of information and arguments to the Board for and in behalf of any person within the jurisdiction of the Board.

All persons presenting information or arguments to the Board shall submit therewith an affidavit stating whether any fee has been paid or is to be paid for their services in the case, the amount of such fee, if any, and by whom such fee is paid or to be paid.

Sec. 18 amended by Acts 1967, 60th Leg., p. 1746, ch. 659, § 29, eff. Aug. 28, 1967.

* * * * *

D. Supervision of Parolees

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Sec. 27. All information obtained in connection with inmates of the Texas Department of Corrections subject to parole or executive clemency or individuals who may be on parole and under the supervision of the division, or persons directly identified in any proposed plan of release for a parolee, shall be privileged information and shall not be subject to public inspection; provided, however, that all such information shall be available to the Governor and the Board of Pardons and Paroles upon request. It is further provided, that statistical and general information respecting the parole program and system, including the names of paroled prisoners and data recorded in connection with parole services, shall be subject to public inspection at any reasonable time.

Sec. 27 amended by Acts 1967, 60th Leg., p. 1746, ch. 659, § 29, eff. Aug. 28, 1967.

* * * * *

Acts 1967, 60th Leg., p. 1732, ch. 659, amended various articles of the Code of Criminal Procedure, 1965, and repealed Vernon's Ann.P.C. art. 82; sections 41 and 42 of the act of 1967, savings and severability clauses, are set out as notes under article 1.14.

Art. 42.13 Misdemeanor Probation Law

* * * * * * * * * *

Probation authorized in misdemeanor cases

Sec. 3. (a) A defendant who has been found guilty of a misdemeanor wherein the maximum permissible punishment is by confinement in jail or by a fine in excess of \$200.00 or by both such fine and imprisonment may be granted probation if:

(1) he applies by written motion under oath to the court for probation before trial;

(2) he has not been granted probation nor been under probation under this Act or any other Act in the preceding 5 years;

(3) he has paid all costs of his trial and so much of any fine imposed as the court directs; and

(4) the court believes that the ends of justice and the best interests of society and of the defendant will be served by granting him probation.

(b) If a defendant satisfies all the requirements of Section 3(a) (1), (2), (3) and (4) of this Article, and the jury hearing his case recommends probation in its verdict, the court must grant the defendant probation. The court may grant the defendant probation regardless of the recommendation of the jury or the prior conviction of the defendant. The court may, however, extend the term of the probationary period to any length of time not exceeding the maximum time of confinement allowed by law. In the event probation is revoked in accordance with Section 6, the judgment of the court shall not prescribe any penalty in excess of that imposed by the jury.

(c) A defendant's application for probation must be made under oath and must also contain statements (1) either that he has never before been convicted in this or another jurisdiction of a felony or of a misdemeanor for which the maximum permissible punishment is by confinement in jail or by a fine in excess of \$200 or by both such fine and imprisonment, or, if he has been so convicted, setting forth such fact and specifying the time and place of such conviction, the nature of the offense for which he was convicted, and the final punishment assessed therein; and (2) that he has not been granted probation nor been under probation under this Article or any other Article in the preceding five years. The application may contain what other information the court directs.

(d) When a defendant has applied for probation, the court during the trial of his case must receive competent evidence concerning the defendant's entitlement to probation.

Sec. 3 amended by Acts 1967, 60th Leg., p. 1746, ch. 659, § 30, eff. Aug. 28, 1967.

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Terms and supervision of probation

Sec. 5. (a) The period and terms of probation shall be determined by the court granting it. Except as provided in Subsection (d) of this section, a probationer is under the supervision of the court granting him probation.

(b) The period and terms of probation shall be designed to prevent recidivism and promote rehabilitation of the probationer. The terms must include, but are not limited to, the requirement that a probationer:

(1) commit no offense against the laws of this or any other state or the United States;

(2) avoid injurious or vicious habits;

(3) avoid persons or places of disreputable or harmful character;

(4) report to the probation officer as directed;

(5) permit the probation officer to visit him at his home or elsewhere;

(6) work faithfully at suitable employment as far as possible;

(7) remain within a specified place;

(8) pay his fine, if the court so orders and, if one be assessed, in one or several sums, and make restitution or reparation in any sum that the court shall determine not to exceed One Thousand Dollars (\$1,000);

(9) support his dependents; and

(10) submit a copy of his fingerprints to the sheriff's office of the county in which he was tried.

The clerk shall send such fingerprints to the Texas Department of Public Safety, which shall return a certificate to the court in which the defendant was tried, which certificate shall contain any criminal record of the defendant or record with the Department, or if no record exists, then a certificate from the Texas Department of Public Safety showing the absence of any previous criminal record. The Texas Department of Public Safety shall, in addition to its present responsibilities, keep a record of all misdemeanor arrests within the purview of this section and the deposition of such cases.

(c) The clerk of a court granting probation shall promptly furnish the probationer with a written statement of the period and terms of his probation. If the period or terms are later modified, the clerk of the modifying court shall promptly furnish the probationer with a written statement of the modifications. The clerk in either case shall take a receipt from the probationer for delivery of the statement.

(d) After probation has been granted, jurisdiction of the probationer's case may be transferred to another court which can more conveniently supervise the probation. If the other court accepts the transfer, the transferring court shall forward to it all pertinent records in the case. The court accepting the transfer is vested with jurisdiction of the case and may exercise any power conferred by this Act upon the court initially granting probation.

Sec. 5 amended by Acts 1967, 60th Leg., p. 1747, ch. 659, § 30, eff. Aug. 28, 1967.

* * * * *

Acts 1967, 60th Leg., p. 1732, ch. 659, amended various articles of the Code of Criminal Procedure, 1965, and repealed Vernon's Ann.P.C. art. 82; sections 41 and 42 of the act of 1967, savings and severability clauses, are set out as notes under article 1.14.

APPEAL AND WRIT OF ERROR

CHAPTER FORTY-FOUR—APPEAL AND WRIT OF ERROR

Art. 44.11 [828] [916] [884] Effect of appeal

Upon the appellate record being filed in the Court of Criminal Appeals, all further proceedings in the trial court, except as to bond as provided in Article 44.04 and the proceedings in Article 40.09, shall be suspended and arrested until the judgment of the Court of Criminal Appeals is received by the trial court. In cases where the record or any portion thereof is lost or destroyed it may be substituted in the trial court and when so substituted the record may be prepared and transmitted to the Court of Criminal Appeals as in other cases.

Amended by Acts 1967, 60th Leg., p. 1748, ch. 659, § 31, eff. Aug. 28, 1967.

Acts 1967, 60th Leg., p. 1732, ch. 659, amended various articles of the Code of Criminal Procedure, 1965, and repealed Vernon's Ann.P.C. art. 82; sections 41 and 42 of the act of 1967, savings and severability clauses, are set out as notes under article 1.14.

Art. 44.23 [846] [937, 903] Appeals, when determined

The Court of Criminal Appeals shall hear and determine appeals in criminal actions at the earliest time it may be done, with due regard to the

For Annotations and Historical Notes, see V.A.T.S.

rights of parties and proper administration of justice, and no affirmance or reversal of a case shall be determined on mere technicalities or on technical errors in the preparation and filing of the record on appeal.

Amended by Acts 1967, 60th Leg., p. 1748, ch. 659, § 32, eff. Aug. 28, 1967.

Acts 1967, 60th Leg., p. 1732, ch. 659, 42 of the act of 1967, savings and sever-
amended various articles of the Code of ability clauses, are set out as notes under
Criminal Procedure, 1965, and repealed article 1.14.
Vernon's Ann.P.C. art. 82; sections 41 and

JUSTICE AND CORPORATION COURTS

CHAPTER FORTY-FIVE—JUSTICE AND CORPORATION COURTS

Art. 45.04 [870] Service of process

Section 1. All process issuing out of a corporation court may be served and shall be served when directed by the court, by a policeman or marshal of the city, town or village within which it is situated, under the same rules as are provided by law for the service by sheriffs and constables of process issuing out of the justice court, so far as applicable.

Sec. 2. The policeman or marshal may serve all process issuing out of a corporation court anywhere in the county in which the city, town or village is situated. If the city, town or village is situated in more than one county, the policeman or marshal may serve the process throughout those counties.

Sec. 3. A defendant is entitled to at least one day's notice of any complaint against him, if such time is demanded.

Amended by Acts 1967, 60th Leg., p. 1171, ch. 523, § 1, eff. Aug. 28, 1967.

Acts 1967, 60th Leg., p. 1171, ch. 523, §§
2, 3 amended Vernon's Ann.Civ.St. arts.
998 and 999.

MISCELLANEOUS PROCEEDINGS

CHAPTER FORTY-SIX—INSANITY AS DEFENSE

Art. 46.01 [932-1] Mental illness after conviction

* * * * *

Transfer from department of corrections to mental hospital

Sec. 2. (a) The Director of the Department of Corrections may transfer a prisoner not under death sentence who is confined in an institution operated by the Department of Corrections to a State mental hospital, or to an agency of the United States operating a mental hospital or to a Veterans' Administration hospital, if a prison physician is of the opinion that the prisoner is mentally ill and would benefit from treatment in a mental hospital and if he is advised by the head of the mental hospital that facilities are available and the prisoner is eligible for treatment.

(b) A prisoner so transferred remains under the jurisdiction of the Department of Corrections.

(c) The Director of the Department of Corrections shall transport the prisoner to and from the mental hospital.

Sec. 2 amended by Acts 1967, 60th Leg., p. 717, ch. 299, § 2, eff. Aug. 28, 1967.

Transfer from county jail to mental hospital

Sec. 3. (a) The county judge may transfer a prisoner who is serving sentence in a county jail to a State mental hospital, or to an agency of the United States operating a mental hospital or to a Veterans' Administration

hospital, if the county health officer certifies that the prisoner is mentally ill and would benefit from treatment in a mental hospital and if the judge is advised by the head of the mental hospital that facilities are available and the prisoner is eligible for treatment.

(b) A prisoner so transferred remains under the jurisdiction of the sheriff of the county.

(c) The county from which a prisoner is so transferred shall transport the prisoner to and from the mental hospital, and shall pay the costs of his support, treatment and maintenance while in a State mental hospital as a prisoner.

Sec. 3 amended by Acts 1967, 60th Leg., p. 717, ch. 299, § 2, eff. Aug. 28, 1967.

Confinement in mental hospital

Sec. 4. The head of the mental hospital in which a prisoner is being treated shall take reasonable precaution to prevent the escape of the prisoner and shall not discharge or furlough the prisoner or transfer him to any mental hospital other than a State mental hospital or an agency of the United States operating a mental hospital or a Veterans' Administration hospital during the term of his sentence.

Sec. 4 amended by Acts 1967, 60th Leg., p. 718, ch. 299, § 2, eff. Aug. 28, 1967.

Escape from mental hospital

Sec. 5. The Director of the Department of Corrections or the sheriff from whose custody the prisoner was transferred is responsible for regaining custody of a prisoner who escapes from a mental hospital.

Sec. 5 amended by Acts 1967, 60th Leg., p. 718, ch. 299, § 2, eff. Aug. 28, 1967.

Recovery before expiration of sentence

Sec. 6. When the head of a mental hospital determines that a prisoner whose sentence has not expired no longer requires hospitalization for mental illness or will not benefit from continued hospitalization, he shall so notify the Director of the Department of Corrections or the county judge who transferred the prisoner to the mental hospital. Upon receiving this notice the Director of the Department of Corrections or the county judge shall immediately transport the prisoner from the mental hospital to the Department of Corrections or county jail to serve the unexpired portion of his sentence.

Sec. 6 amended by Acts 1967, 60th Leg., p. 718, ch. 299, § 2, eff. Aug. 28, 1967.

Examination prior to expiration of sentence

Sec. 7. Prior to the date of the expiration of the sentence of a prisoner who is being treated in a mental hospital, the head of the mental hospital shall have the prisoner examined and shall determine whether he requires further hospitalization as a mentally ill person and whether because of his mental illness he is likely to cause injury to himself or others if not restrained.

(a) The head of the mental hospital shall release the prisoner upon receiving notice of his discharge from the Department of Corrections or from jail, unless he determines that the prisoner requires further hospitalization as a mentally ill person and because of his mental illness is likely to cause injury to himself or others if not restrained.

(b) If the head of the hospital determines that the prisoner requires further hospitalization as a mentally ill person and because of his mental illness is likely to cause injury to himself or others if not restrained, he shall cause to be filed in the county court of the county in which the

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hospital is located a Certificate of Examination for Mental Illness and an Application for Temporary Hospitalization or Petition for Indefinite Commitment and may detain the person as a patient after his discharge from prison pending order of the court.

(c) If the head of the hospital determines that the prisoner requires further hospitalization as a mentally ill person, he shall so inform a responsible relative of the patient, and may cause an Application for Temporary Hospitalization or Petition for Indefinite Commitment to be filed in the county court of the proper county.

Sec. 7 amended by Acts 1967, 60th Leg., p. 718, ch. 299, § 2, eff. Aug. 28, 1967.

Time credited

Sec. 8. The time a prisoner is confined in a mental hospital for treatment shall be considered time served and shall be credited to the term of his sentence, but he shall not be entitled to any commutation of sentence for good conduct while he is under treatment in a mental hospital.

Sec. 8 amended by Acts 1967, 60th Leg., p. 718, ch. 299, § 2, eff. Aug. 28, 1967.

Discharge from prison

Sec. 9. Upon the expiration of the sentence of a prisoner who is being treated in a mental hospital, he shall receive a discharge from the Department of Corrections or the county jail as in all other cases.

Sec. 9 amended by Acts 1967, 60th Leg., p. 719, ch. 299, § 2, eff. Aug. 28, 1967.

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Section 1 of the amendatory act of 1967 amended article 46.02.

Art. 46.02 [932b] Insanity in defense or in bar

No prior trial except by agreement

Section 1. No issue of insanity shall be tried in advance of trial on the merits, except upon written application on behalf of the accused with the consent of the state's attorney and the approval of the trial judge.

Sec. 1 amended by Acts 1967, 60th Leg., p. 1748, ch. 659, § 33, eff. Aug. 28, 1967.

Procedure at trial

Sec. 2. (a) At the trial on the merits, the trial court shall hear evidence on the issue of present insanity (1) if prior to the offer thereof there be filed on behalf of the defendant's written motion asking the court to hear evidence on such issue and requesting the court to declare a mistrial because of such insanity in the manner and to the extent provided for in this article; or (2) if the defendant or his counsel otherwise asks for a decision or issue thereon, in which event such act of the defendant shall be treated and considered as if the defendant had filed such a motion for mistrial. For purposes of present insanity, the defendant shall be considered presently insane if he is presently incompetent to make a rational defense.

(b) When the issue of present insanity is tried, the following rules shall apply:

(1) The issue of present insanity shall be submitted to the jury only if supported by competent testimony.

(2) (a) Instructions submitting the issue of present insanity shall be framed so as to require the jury to state in its verdict whether defendant is sane or insane at the time of the trial.

(b) If there has been competent medical or psychiatric testimony to the effect that the defendant is presently insane, instructions submitting

the issue of present insanity shall require the jury, if it finds the defendant presently insane, to state whether the defendant requires hospitalization in a mental hospital for his own welfare and protection or the protection of others.

(3) The charge shall instruct the jury that if it finds defendant is presently insane it will not consider or deliberate upon any other issues except (a) whether the defendant should be committed to a mental hospital; and (b) whether he was sane or insane as of the time of the alleged offense, if such issue be submitted.

(c) When the issue of insanity as of the time of the alleged offense is tried, the following rules shall apply:

(1) The issue of insanity as of the time of the alleged offense shall be submitted to the jury only if supported by competent evidence tending to show that defendant was insane as of the time of the alleged offense.

(2) Instructions submitting the issue of insanity as of the time of the alleged offense shall be framed so as to require the jury to state in its verdict whether defendant was sane or insane as of the time of the alleged offense.

(3) If the jury finds the defendant to have been insane at the time the offense is alleged to have been committed, the defendant shall stand acquitted of the alleged offense.

(d) The following rules shall apply upon defendant's being acquitted by reason of the jury's returning a finding that he was insane as of the time of the alleged offense:

(1) If the jury finds the defendant to be insane at the time of trial, and if it further finds that the defendant should be committed to a mental institution, or if the court so finds on competent medical or psychiatric testimony, the court shall enter an order committing the defendant to a state mental hospital and placing him in the custody of the sheriff for transportation to a state mental hospital to be confined therein until he becomes sane. The court shall further order that a transcript of all medical testimony adduced before the jury shall be forthwith prepared by the court reporter and such transcript shall accompany the patient to the state mental hospital.

(2) If the jury returns a finding that defendant is sane as of the time of the trial, then the defendant shall be finally discharged.

(3) If there be no jury finding on the issue of present insanity, then the court, if the discharge or going at large of defendant be considered by the court manifestly dangerous to the peace and safety of the people, shall order defendant committed to jail or other suitable place pending the prompt initiation and prosecution by the attorney for the state or other person designated by the court of appropriate civil proceedings to determine whether defendant shall be committed to a mental institution, or the court may give defendant into the care of his friends on their giving satisfactory security for his proper care and protection; otherwise, defendant shall be discharged.

Sec. 2, subsec. (d) amended by Acts 1967, 60th Leg., p. 1748, ch. 659, § 33, eff. Aug. 28, 1967.

Amendment of subsection (d) of section 2 of article 46.02 by Acts 1967, 60th Leg., p. 716, ch. 299, § 1, see subsection (d) post.

(d) The following rules shall apply upon defendant's being acquitted by reason of the jury's returning a finding that he was insane as of the time of the alleged offense:

(1) If the jury finds the defendant to be insane at the time of trial, and it further finds that the defendant should be committed to a mental institution, the court shall enter an order committing the defendant to a State mental hospital or to an agency of the United States operating a mental hospital or to a Veterans' Administration hospital, and placing him

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in the custody of the sheriff for transportation to the mental hospital to be confined therein until he becomes sane. The court shall further order that a transcript of all medical testimony adduced before the jury, shall be forthwith prepared by the court reporter and such transcript shall accompany the patient to the mental hospital.

(2) If the jury returns a finding that defendant is sane as of the time of the trial, then the defendant shall be finally discharged.

(3) If there be no jury finding on the issue of present insanity, then the court, if the discharge or going at large of defendant be considered by the court manifestly dangerous to the peace and safety of the people, shall order defendant committed to jail or other suitable place pending the prompt initiation and prosecution by the attorney for the State or other person designated by the court of appropriate civil proceedings to determine whether defendant shall be committed to a mental institution, or the court may give defendant into the care of his friends on their giving satisfactory security for his proper care and protection; otherwise, defendant shall be discharged.

Sec. 2, subsec. (d) amended by Acts 1967, 60th Leg., p. 716, ch. 299, § 1, eff. Aug. 28, 1967.

Amendment of subsection (d) of section 2 of article 46.02 by Acts 1967, 60th Leg., p. 1748, ch. 659, § 33, see subsection (d), ante.

(e) Where the jury finds that the defendant is presently insane, but does not find that he was insane at the time of the offense (either because such issue was not submitted or because the jury failed to find on that issue or because it found that he was not insane at such time), the court shall enter a mistrial as to all issues except the issue of present insanity. If the jury finds that the defendant should be committed to a mental institution, the proper order so committing him shall be entered by the court.

(f) Evidence. (1) The court may, at its discretion appoint disinterested qualified experts to examine the defendant with regard to his present competency to stand trial and as to his sanity, and to testify thereto at any trial or hearing in connection to the accusation against the accused.

(2) Such appointed experts shall be paid out of the General Fund of the county where the indictment was found or information was filed.

(3) If the defendant is free on bail, the court in its discretion may commit him to custody pending such examination.

(4) No statement made by the defendant during examination into his competency shall be admitted in evidence against the accused on the issue of guilt in any criminal proceeding no matter under what circumstances such examination takes place.

(5) Any party may introduce other competent testimony regarding the defendant's competency.

(g) If trial is without a jury. (1) If the trial is before the court without a jury and if, after commencement of a trial on the merits and before the return of a verdict, there arises in the mind of the court from any cause, a reasonable doubt as to the present sanity of the defendant, the court shall suspend the proceedings and shall without unnecessary delay impanel a jury to determine the issue of the present sanity of the defendant.

(2) In such event, the trial before the jury on that issue shall proceed under the same procedure, and the jury shall have the same duties and responsibilities with respect to the hearing on the question of present insanity and on the question of hospitalization and related questions, as are set forth in the other portions of this article where the question is raised in a jury trial.

(3) If the jury so impanelled shall determine that the defendant is sane at present, then in such event the court shall resume without un-

necessary delay, the trial on the merits at the point where the proceedings were suspended. If the jury so impanelled shall determine that the defendant is not sane at present, then in such event the court shall declare a mistrial of the trial on the merits and shall enter such orders with respect to commitment and other matters as are authorized in accordance with the other portions of this article, and as may be appropriate under the jury findings, the facts and the law.

(4) If the jury so impanelled is unable to agree upon a unanimous verdict after a reasonable opportunity to deliberate, the court shall declare a mistrial of the competency trial, discharge the jury so impanelled and impanel another jury to determine the present mental competency of the defendant.

(h) A mistrial under the provisions of this section shall not serve to bar a subsequent trial and conviction for the same offense, and no jeopardy shall be considered as having attached in the event the defendant is found to be presently insane and a mistrial is declared by reason thereof, irrespective of the manner in which the issue is raised.

Sec. 2 amended by Acts 1967, 60th Leg., p. 1748, ch. 659, § 33, eff. Aug. 28, 1967.

Status of patient acquitted

Sec. 3. (a) A person committed to a State mental hospital or to a mental hospital operated by the United States or the Veterans' Administration under this Article upon a jury finding of insanity at the time of trial who has been acquitted of the alleged offense is not by reason of that offense a person charged with a criminal offense. In the event the head of the mental hospital to which he is committed is of the opinion that the person is sane, he shall so notify the court which committed the person to the mental hospital. Upon receiving such notice, the judge of the committing court shall impanel a jury to determine whether the person is sane or insane. If the jury finds the person is sane, he shall be released. If the jury finds the person is insane, the court shall order his return to the mental hospital until he is so adjudged to be sane at a subsequent jury trial in such committing county.

(b) If, after a person has been committed to a State hospital upon a finding of insanity at the time of trial who has been acquitted of the alleged offense, the committing court receives written notice from an agency of the United States operating a mental hospital or from a Veterans' Administration hospital stating that facilities are available and that the patient is eligible for care or treatment therein, the court may order the patient committed or transferred to the agency or Veterans' Administration and may place the patient in the custody of the agency or Veterans' Administration for transportation to the mental hospital.

Sec. 3 amended by Acts 1967, 60th Leg., p. 717, ch. 299, § 1, eff. Aug. 28, 1967.

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Acts 1967, 60th Leg., p. 1732, ch. 659, amended various articles of the Code of Criminal Procedure, 1965, and repealed Vernon's Ann.P.C. art. 82; sections 41 and 42 of the act of 1967, savings and sever-

ability clauses, are set out as notes under article 1.14.

Acts 1967, 60th Leg., p. 717, ch. 299, § 2, amended article 46.01.

CHAPTER FIFTY-TWO—COURT OF INQUIRY

Art. 52.01 Courts of Inquiry conducted by county and district judges

When a judge of any county or district court of this state, acting in his capacity as magistrate, has good cause to believe that an offense has

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been committed against the laws of this state, he may summon and examine any witness in relation thereto in accordance with the rules hereinafter provided, which procedure is defined as a 'Court of Inquiry'.

Amended by Acts 1967, 60th Leg., p. 1751, ch. 659, § 34, eff. Aug. 28, 1967.

Acts 1967, 60th Leg., p. 1732, ch. 659, and 42 of the act of 1967, savings and severability clauses, are set out as notes under article 1.14.
amended various articles of the Code of Criminal Procedure, 1965, and repealed
Vernon's Ann.P.C. art. 82; sections 41

Art. 52.02 Evidence; Deposition; Affidavits

At the hearing at a Court of Inquiry, evidence may be taken orally or by deposition, or, in the discretion of the judge, by affidavit. If affidavits are admitted, any witness against whom they may bear has the right to propound written interrogatories to the affiants or to file answering affidavits. The judge in hearing such evidence, at his discretion, may conclude not to sustain objections to all or to any portion of the evidence taken nor exclude same; but any of the witnesses or attorneys engaged in taking the testimony may have any objections they make recorded with the testimony and reserved for the action of any court in which such evidence is thereafter sought to be admitted, but such court is not confined to objections made at the taking of the testimony at the Court of Inquiry. Without restricting the foregoing, the judge may allow the introduction of any documentary or real evidence which he deems reliable, and the testimony adduced before any grand jury.

Amended by Acts 1967, 60th Leg., p. 1751, ch. 659, § 35, eff. Aug. 28, 1967.

Art. 52.03 Subpoenas

The judge or his clerk has power to issue subpoenas which may be served within the same territorial limits as subpoenas issued in felony prosecutions or to summon witnesses before grand juries in this state.

Amended by Acts 1967, 60th Leg., p. 1751, ch. 659, § 36, eff. Aug. 28, 1967.

Acts 1967, 60th Leg., p. 1732, ch. 659, and 42 of the act of 1967, savings and severability clauses, are set out under article 1.14.
amended various articles of the Code of Criminal Procedure, 1965, and repealed
Vernon's Ann.P.C. art. 82; sections 41 and

Art. 52.04 Rights of Witnesses

All witnesses testifying in any Court of Inquiry have the same rights as to testifying as do defendants in felony prosecutions in this state. Before any witness is sworn to testify in any Court of Inquiry, he shall be instructed by the judge that he is entitled to counsel; that he cannot be forced to testify against himself; and that such testimony may be taken down and used against him in a later trial or trials ensuing from the instant Court of Inquiry. Any witness or his counsel has the right to fully cross-examine any of the witnesses whose testimony bears in any manner against him.

Amended by Acts 1967, 60th Leg., p. 1751, ch. 659, § 37, eff. Aug. 28, 1967.

Acts 1967, 60th Leg., p. 1732, ch. 659, and 42 of the act of 1967, savings and severability clauses, are set out as notes under article 1.14.
amended various articles of the Code of Criminal Procedure, 1965, and repealed
Vernon's Ann.P.C. art. 82; sections 41 and

Art. 52.05 Witness must testify

A person may be compelled to give testimony or produce evidence when legally called upon to do so at any Court of Inquiry; however, if any person refuses or declines to testify or produce evidence on the ground that it may incriminate him under laws of this state, then the judge may, in his discretion, compel such person to testify or produce evidence but the person shall not be prosecuted or subjected to any penalty or forfeiture

for, or on account of, any transaction, matter or thing concerning which he may be compelled to testify or produce evidence at such Court of Inquiry.

Amended by Acts 1967, 60th Leg., p. 1751, ch. 659, § 38, eff. Aug. 28, 1967.

Acts 1967, 60th Leg., p. 1732, ch. 659, 42 of the act of 1967, savings and sever-
amended various articles of the Code of ability clauses, are set out as notes under
Criminal Procedure, 1965, and repealed article 1.14.
Vernon's Ann.P.C. art. 82; sections 41 and

Art. 52.09 Costs

All costs incurred in conducting a Court of Inquiry shall be borne by the county in which said Court of Inquiry is conducted; provided, however, that where the Attorney General of Texas has submitted a request in writing to the judge for the holding of such Court of Inquiry, then and in that event the costs shall be borne by the State of Texas and shall be taxed to the attorney general and paid in the same and from the same funds as other court costs.

Amended by Acts 1967, 60th Leg., p. 1752, ch. 659, § 39, eff. Aug. 28, 1967.

Acts 1967, 60th Leg., p. 1732, ch. 659, 42 of the act of 1967, savings and sever-
amended various articles of the Code of ability clauses, are set out as notes under
Criminal Procedure, 1965, and repealed article 1.14.
Vernon's Ann.P.C. art. 82; sections 41 and

PART II
MISCELLANEOUS PROVISIONS

**CHAPTER ONE HUNDRED FIVE—COSTS TO BE
PAID BY DEFENDANT**

1. IN DISTRICT AND COUNTY COURTS

Art. 1064 1172, 1126 Fees of district and county clerks

(1) The clerks of the county courts, county courts at law and district courts shall be allowed the following fees:

(a) A fee of Fifteen Dollars (\$15.00) in each cause filed in said courts: for filing complaints, information, for docketing and taxing costs for each defendant, for issuing original writs, issuing subpoenas, for swearing and impaneling a jury, receiving and recording verdict, for filing each paper entered in this cause, for swearing witnesses and for all other clerical duties in connection with such cause in county and district courts.

(b) A fee of One Dollar (\$1.00) per page or part of a page, to be paid at the time each order is placed, for issuing each certified copy, transcript or any other paper authorized, permitted, or required, to be issued by said county clerk or clerk of county courts or clerk of district courts.

Amended by Acts 1967, 60th Leg., p. 2010, ch. 743, § 1, eff. Aug. 28, 1967.

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Ins.Code Indicates Insurance Code.
P.C. Indicates Penal Code.
Prob.Code Indicates Probate Code
Tax-Gen. Indicates Taxation-General.

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ABBREVIATIONS

Bus Corp	Business Corporation Act.
CCP	Code of Criminal Procedure.
Const	Constitution.
Elec Code	Election Code.
Ins Code	Insurance Code.
PC	Penal Code.
Prob Code	Probate Code.
RCP	Rules of Civil Procedure
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BUSINESS AND COMMERCE CODE

CHAPTER 785

H. B. No. 293

Effective September 1, 1967

An Act adopting the Business & Commerce Code; formally revising and reenacting certain statutes of a commercial nature, including the Uniform Commercial Code and statutes relating to competition and trade practices, insolvency, fraudulent transfers, and fraud, and miscellaneous commercial subjects; repealing the statutes disposed of by the code; and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. ADOPTION OF CODE. The Business & Commerce Code is adopted to read as follows:

BUSINESS & COMMERCE CODE

Chapter Table of Contents

TITLE 1. UNIFORM COMMERCIAL CODE

Chapter

1. General Provisions.
2. Sales.
3. Commercial Paper.
4. Bank Deposits and Collections.
5. Letters of Credit.
6. Bulk Transfers.
7. Warehouse Receipts, Bills of Lading and Other Documents of Title.
8. Investment Securities.
9. Secured Transactions; Sales of Accounts, Contract Rights and Chattel Paper.
[Chapters 10-14 reserved for expansion]

TITLE 2. COMPETITION AND TRADE PRACTICES

15. Monopolies, Trusts, and Conspiracies in Restraint of Trade.
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[Chapters 18-22 reserved for expansion]

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**TITLE 3. INSOLVENCY, FRAUDULENT TRANSFERS,
AND FRAUD**

Chapter

- 23. Assignments for the Benefit of Creditors.**
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- 26. Statute of Frauds.**
- 27. Fraud.**

[Chapters 28–32 reserved for expansion]

TITLE 4. MISCELLANEOUS COMMERCIAL PROVISIONS

- 33. Fiduciary Security Transfers.**
- 34. Principal and Surety.**
- 35. Miscellaneous.**

TITLE 1. UNIFORM COMMERCIAL CODE

CHAPTER 1. GENERAL PROVISIONS

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Section

- 1.101. Short Title.
- 1.102. Purposes; Rules of Construction; Variation by Agreement.
- 1.103. Supplementary General Principles of Law Applicable.
- 1.104. Construction Against Implicit Repeal.
- 1.105. Territorial Application of the Title; Parties' Power to Choose Applicable Law.
- 1.106. Remedies to be Liberally Administered.
- 1.107. Waiver or Renunciation of Claim or Right After Breach.
- 1.108. Severability.
- 1.109. Section Captions.

SUBCHAPTER B. GENERAL DEFINITIONS AND PRINCIPLES OF INTERPRETATION

- 1.201. General Definitions.
- 1.202. Prima Facie Evidence by Third Party Documents.
- 1.203. Obligation of Good Faith.
- 1.204. Time; Reasonable Time; "Seasonably".
- 1.205. Course of Dealing and Usage of Trade.
- 1.206. Statute of Frauds for Kinds of Personal Property Not Otherwise Covered.
- 1.207. Performance or Acceptance Under Reservation of Rights.
- 1.208. Option to Accelerate at Will.

SUBCHAPTER A. SHORT TITLE, CONSTRUCTION, APPLICATION AND SUBJECT MATTER OF THE TITLE

Section 1.101. Short Title

This title may be cited as Uniform Commercial Code. (59th Legis., Ch. 721, Sec. 1—101.)

§ 1.102. Purposes; Rules of Construction; Variation by Agreement

(a) This title shall be liberally construed and applied to promote its underlying purposes and policies.

(b) Underlying purposes and policies of this title are

(1) to simplify, clarify and modernize the law governing commercial transactions;

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(2) to permit the continued expansion of commercial practices through custom, usage and agreement of the parties;

(3) to make uniform the law among the various jurisdictions.

(c) The effect of provisions of this title may be varied by agreement, except as otherwise provided in this title and except that the obligations of good faith, diligence, reasonableness and care prescribed by this title may not be disclaimed by agreement but the parties may by agreement determine the standards by which the performance of such obligations is to be measured if such standards are not manifestly unreasonable.

(d) The presence in certain provisions of this title of the words "unless otherwise agreed" or words of similar import does not imply that the effect of other provisions may not be varied by agreement under Subsection (c).

(e) In this title unless the context otherwise requires

(1) words in the singular number include the plural, and in the plural include the singular;

(2) words of the masculine gender include the feminine and the neuter, and when the sense so indicates words of the neuter gender may refer to any gender.

(59th Legis., Ch. 721, Sec. 1—102.)

§ 1.103. Supplementary General Principles of Law Applicable

Unless displaced by the particular provisions of this title, the principles of law and equity, including the law merchant and the law relative to capacity to contract, principal and agent, estoppel, fraud, misrepresentation, duress, coercion, mistake, bankruptcy, or other validating or invalidating cause shall supplement its provisions. (59th Legis., Ch. 721, Sec. 1—103.)

§ 1.104. Construction Against Implicit Repeal

This title being a general body of law intended as a unified coverage of its subject matter, no part of it shall be deemed to be impliedly repealed by subsequent legislation if such construction can reasonably be avoided. (59th Legis., Ch. 721, Sec. 1—104.)

§ 1.105. Territorial Application of the Title; Parties' Power to Choose Applicable Law

(a) Except as provided hereafter in this section, when a transaction bears a reasonable relation to this state and also to another state or nation the parties may agree that the law either of this state or of such other state or nation shall govern their rights and duties. Failing

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such agreement this title applies to transactions bearing an appropriate relation to this state.

(b) Where one of the following provisions of this title specifies the applicable law, that provision governs and a contrary agreement is effective only to the extent permitted by the law (including the conflict of laws rules) so specified:

Rights of creditors against sold goods. Section 2.402.

Applicability of the chapter on Bank Deposits and Collections. Section 4.102.

Bulk transfers subject to the chapter on Bulk Transfers. Section 6.102.

Applicability of the chapter on Investment Securities. Section 8.106.

Policy and scope of the chapter on Secured Transactions. Sections 9.102 and 9.103.

(59th Legis., Ch. 721, Sec. 1—105.)

§ 1.106. Remedies to be Liberally Administered

(a) The remedies provided by this title shall be liberally administered to the end that the aggrieved party may be put in as good a position as if the other party had fully performed but neither consequential or special nor penal damages may be had except as specifically provided in this title or by other rule of law.

(b) Any right or obligation declared by this title is enforceable by action unless the provision declaring it specifies a different and limited effect. (59th Legis., Ch. 721, Sec. 1—106.)

§ 1.107. Waiver or Renunciation of Claim or Right After Breach

Any claim or right arising out of an alleged breach can be discharged in whole or in part without consideration by a written waiver or renunciation signed and delivered by the aggrieved party. (59th Legis., Ch. 721, Sec. 1—107.)

§ 1.108. Severability

If any provision or clause of this title or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the title which can be given effect without the invalid provision or application, and to this end the provisions of this title are declared to be severable. (59th Legis., Ch. 721, Sec. 1—108.)

§ 1.109. Section Captions

Section captions are parts of this title. (59th Legis., Ch. 721, Sec. 1—109.)

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**SUBCHAPTER B. GENERAL DEFINITIONS AND
PRINCIPLES OF INTERPRETATION**

§ 1.201. General Definitions

Subject to additional definitions contained in the subsequent chapters of this title which are applicable to specific chapters or subchapters thereof, and unless the context otherwise requires, in this title:

(1) "Action" in the sense of a judicial proceeding includes recoupment, counterclaim, set-off, suit in equity and any other proceedings in which rights are determined.

(2) "Aggrieved party" means a party entitled to resort to a remedy.

(3) "Agreement" means the bargain of the parties in fact as found in their language or by implication from other circumstances including course of dealing or usage of trade or course of performance as provided in this title (Sections 1.205 and 2.208). Whether an agreement has legal consequences is determined by the provisions of this title, if applicable; otherwise by the law of contracts (Section 1.103). (Compare "Contract").

(4) "Bank" means any person engaged in the business of banking.

(5) "Bearer" means the person in possession of an instrument, document of title, or security payable to bearer or indorsed in blank.

(6) "Bill of lading" means a document evidencing the receipt of goods for shipment issued by a person engaged in the business of transporting or forwarding goods, and includes an airbill. "Airbill" means a document serving for air transportation as a bill of lading does for marine or rail transportation, and includes an air consignment note or air waybill.

(7) "Branch" includes a separately incorporated foreign branch of a bank.

(8) "Burden of establishing" a fact means the burden of persuading the triers of fact that the existence of the fact is more probable than its non-existence.

(9) "Buyer in ordinary course of business" means a person who in good faith and without knowledge that the sale to him is in violation of the ownership rights or security interest of a third party in the goods buys in ordinary course from a person in the business of selling goods of that kind but does not include a pawnbroker. "Buying" may be for cash or by exchange of other property or on secured or unsecured credit and includes receiving goods or documents of title under a pre-existing contract for sale but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt.

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For Annotations and Historical Notes, see V.A.T.S.

(10) "Conspicuous": A term or clause is conspicuous when it is so written that a reasonable person against whom it is to operate ought to have noticed it. A printed heading in capitals (as: Non-Negotiable Bill of Lading) is conspicuous. Language in the body of a form is "conspicuous" if it is in larger or other contrasting type or color. But in a telegram any stated term is "conspicuous". Whether a term or clause is "conspicuous" or not is for decision by the court.

(11) "Contract" means the total legal obligation which results from the parties' agreement as affected by this title and any other applicable rules of law. (Compare "Agreement".)

(12) "Creditor" includes a general creditor, a secured creditor, a lien creditor and any representative of creditors, including an assignee for the benefit of creditors, a trustee in bankruptcy, a receiver in equity and an executor or administrator of an insolvent debtor's or assignor's estate.

(13) "Defendant" includes a person in the position of defendant in a cross-action or counterclaim.

(14) "Delivery" with respect to instruments, documents of title, chattel paper or securities means voluntary transfer of possession.

(15) "Document of title" includes bill of lading, dock warrant, dock receipt, warehouse receipt or order for the delivery of goods, and also any other document which in the regular course of business or financing is treated as adequately evidencing that the person in possession of it is entitled to receive, hold and dispose of the document and the goods it covers. To be a document of title a document must purport to be issued by or addressed to a bailee and purport to cover goods in the bailee's possession which are either identified or are fungible portions of an identified mass.

(16) "Fault" means wrongful act, omission or breach.

(17) "Fungible" with respect to goods or securities means goods or securities of which any unit is, by nature or usage of trade, the equivalent of any other like unit. Goods which are not fungible shall be deemed fungible for the purposes of this title to the extent that under a particular agreement or document unlike units are treated as equivalents.

(18) "Genuine" means free of forgery or counterfeiting.

(19) "Good faith" means honesty in fact in the conduct or transaction concerned.

(20) "Holder" means a person who is in possession of a document of title or an instrument or an investment security drawn, issued or indorsed to him or to his order or to bearer or in blank.

(21) To "honor" is to pay or to accept and pay, or where a credit so engages to purchase or discount a draft complying with the terms of the credit.

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(22) "Insolvency proceedings" includes any assignment for the benefit of creditors or other proceedings intended to liquidate or rehabilitate the estate of the person involved.

(23) A person is "insolvent" who either has ceased to pay his debts in the ordinary course of business or cannot pay his debts as they become due or is insolvent within the meaning of the federal bankruptcy law.

(24) "Money" means a medium of exchange authorized or adopted by a domestic or foreign government as a part of its currency.

(25) A person has "notice" of a fact when

(A) he has actual knowledge of it; or

(B) he has received a notice or notification of it; or

(C) from all the facts and circumstances known to him at the time in question he has reason to know that it exists.

A person "knows" or has "knowledge" of a fact when he has actual knowledge of it. "Discover" or "learn" or a word or phrase of similar import refers to knowledge rather than to reason to know. The time and circumstances under which a notice or notification may cease to be effective are not determined by this title.

(26) A person "notifies" or "gives" a notice or notification to another by taking such steps as may be reasonably required to inform the other in ordinary course whether or not such other actually comes to know of it. A person "receives" a notice or notification when

(A) it comes to his attention; or

(B) it is duly delivered at the place of business through which the contract was made or at any other place held out by him as the place for receipt of such communications.

(27) Notice, knowledge or a notice or notification received by an organization is effective for a particular transaction from the time when it is brought to the attention of the individual conducting that transaction, and in any event from the time when it would have been brought to his attention if the organization had exercised due diligence. An organization exercises due diligence if it maintains reasonable routines for communicating significant information to the person conducting the transaction and there is reasonable compliance with the routines. Due diligence does not require an individual acting for the organization to communicate information unless such communication is part of his regular duties or unless he has reason to know of the transaction and that the transaction would be materially affected by the information.

(28) "Organization" includes a corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, two or more persons having a joint or common interest, or any other legal or commercial entity.

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For Annotations and Historical Notes, see V.A.T.S.

(29) "Party", as distinct from "third party", means a person who has engaged in a transaction or made an agreement within this title.

(30) "Person" includes an individual or an organization (See Section 1.102).

(31) "Presumption" or "presumed" means that the trier of fact must find the existence of the fact presumed unless and until evidence is introduced which would support a finding of its non-existence.

(32) "Purchase" includes taking by sale, discount, negotiation, mortgage, pledge, lien, issue or reissue, gift or any other voluntary transaction creating an interest in property.

(33) "Purchaser" means a person who takes by purchase.

(34) "Remedy" means any remedial right to which an aggrieved party is entitled with or without resort to a tribunal.

(35) "Representative" includes an agent, an officer of a corporation or association, and a trustee, executor or administrator of an estate, or any other person empowered to act for another.

(36) "Rights" includes remedies.

(37) "Security interest" means an interest in personal property or fixtures which secures payment or performance of an obligation. The retention or reservation of title by a seller of goods notwithstanding shipment or delivery to the buyer (Section 2.401) is limited in effect to a reservation of a "security interest". The term also includes any interest of a buyer of accounts, chattel paper, or contract rights which is subject to Chapter 9. The special property interest of a buyer of goods on identification of such goods to a contract for sale under Section 2.401 is not a "security interest", but a buyer may also acquire a "security interest" by complying with Chapter 9. Unless a lease or consignment is intended as security, reservation of title thereunder is not a "security interest" but a consignment is in any event subject to the provisions on consignment sales (Section 2.326). Whether a lease is intended as security is to be determined by the facts of each case; however, (A) the inclusion of an option to purchase does not of itself make the lease one intended for security, and (B) an agreement that upon compliance with the terms of the lease the lessee shall become or has the option to become the owner of the property for no additional consideration or for a nominal consideration does make the lease one intended for security.

(38) "Send" in connection with any writing or notice means to deposit in the mail or deliver for transmission by any other usual means of communication with postage or cost of transmission provided for and properly addressed and in the case of an instrument to an address specified thereon or otherwise agreed, or if there be none to any address reasonable under the circumstances. The receipt of any

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writing or notice within the time at which it would have arrived if properly sent has the effect of a proper sending.

(39) "Signed" includes any symbol executed or adopted by a party with present intention to authenticate a writing.

(40) "Surety" includes guarantor.

(41) "Telegram" includes a message transmitted by radio, teletype, cable, any mechanical method of transmission, or the like.

(42) "Term" means that portion of an agreement which relates to a particular matter.

(43) "Unauthorized" signature or indorsement means one made without actual, implied or apparent authority and includes a forgery.

(44) "Value". Except as otherwise provided with respect to negotiable instruments and bank collections (Sections 3.303, 4.208 and 4.209) a person gives "value" for rights if he acquires them

(A) in return for a binding commitment to extend credit or for the extension of immediately available credit whether or not drawn upon and whether or not a charge-back is provided for in the event of difficulties in collection; or

(B) as security for or in total or partial satisfaction of a pre-existing claim; or

(C) by accepting delivery pursuant to a pre-existing contract for purchase; or

(D) generally, in return for any consideration sufficient to support a simple contract.

(45) "Warehouse receipt" means a receipt issued by a person engaged in the business of storing goods for hire.

(46) "Written" or "writing" includes printing, typewriting or any other intentional reduction to tangible form. (59th Legis., Ch. 721, Sec. 1—201.)

§ 1.202. Prima Facie Evidence by Third Party Documents

A document in due form purporting to be a bill of lading, policy or certificate of insurance, official weigher's or inspector's certificate, consular invoice, or any other document authorized or required by the contract to be issued by a third party shall be prima facie evidence of its own authenticity and genuineness and of the facts stated in the document by the third party. (59th Legis., Ch. 721, Sec. 1—202.)

§ 1.203. Obligation of Good Faith

Every contract or duty within this title imposes an obligation of good faith in its performance or enforcement. (59th Legis., Ch. 721, Sec. 1—203.)

§ 1.204. Time; Reasonable Time; "Seasonably"

(a) Whenever this title requires any action to be taken within a reasonable time, any time which is not manifestly unreasonable may be fixed by agreement.

(b) What is a reasonable time for taking any action depends on the nature, purpose and circumstances of such action.

(c) An action is taken "seasonably" when it is taken at or within the time agreed or if no time is agreed at or within a reasonable time. (59th Legis., Ch. 721, Sec. 1—204.)

§ 1.205. Course of Dealing and Usage of Trade

(a) A course of dealing is a sequence of previous conduct between the parties to a particular transaction which is fairly to be regarded as establishing a common basis of understanding for interpreting their expressions and other conduct.

(b) A usage of trade is any practice or method of dealing having such regularity of observance in a place, vocation or trade as to justify an expectation that it will be observed with respect to the transaction in question. The existence and scope of such a usage are to be proved as facts. If it is established that such a usage is embodied in a written trade code or similar writing the interpretation of the writing is for the court.

(c) A course of dealing between parties and any usage of trade in the vocation or trade in which they are engaged or of which they are or should be aware give particular meaning to and supplement or qualify terms of an agreement.

(d) The express terms of an agreement and an applicable course of dealing or usage of trade shall be construed wherever reasonable as consistent with each other; but when such construction is unreasonable express terms control both course of dealing and usage of trade and course of dealing controls usage of trade.

(e) An applicable usage of trade in the place where any part of performance is to occur shall be used in interpreting the agreement as to that part of the performance.

(f) Evidence of a relevant usage of trade offered by one party is not admissible unless and until he has given the other party such notice as the court finds sufficient to prevent unfair surprise to the latter. (59th Legis., Ch. 721, Sec. 1—205.)

§ 1.206. Statute of Frauds for Kinds of Personal Property Not Otherwise Covered

(a) Except in the cases described in Subsection (b) of this section a contract for the sale of personal property is not enforceable by way of action or defense beyond \$5,000 in amount or value of

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remedy unless there is some writing which indicates that a contract for sale has been made between the parties at a defined or stated price, reasonably identifies the subject matter, and is signed by the party against whom enforcement is sought or by his authorized agent.

(b) Subsection (a) of this section does not apply to contracts for the sale of goods (Section 2.201) nor of securities (Section 8.319) nor to security agreements (Section 9.203). (59th Legis., Ch. 721, Sec. 1—206.)

§ 1.207. Performance or Acceptance Under Reservation of Rights

A party who with explicit reservation of rights performs or promises performance or assents to performance in a manner demanded or offered by the other party does not thereby prejudice the rights reserved. Such words as “without prejudice”, “under protest” or the like are sufficient. (59th Legis., Ch. 721, Sec. 1—207.)

§ 1.208. Option to Accelerate at Will

A term providing that one party or his successor in interest may accelerate payment or performance or require collateral or additional collateral “at will” or “when he deems himself insecure” or in words of similar import shall be construed to mean that he shall have power to do so only if he in good faith believes that the prospect of payment or performance is impaired. The burden of establishing lack of good faith is on the party against whom the power has been exercised. (59th Legis., Ch. 721, Sec. 1—208.)

CHAPTER 2. SALES

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**SUBCHAPTER A. SHORT TITLE, GENERAL CONSTRUCTION
AND SUBJECT MATTER**

Section 2.101. Short Title

This chapter may be cited as Uniform Commercial Code—Sales.
(59th Legis., Ch. 721, Sec. 2—101.)

**§ 2.102. Scope; Certain Security and Other Transactions Ex-
cluded From This Chapter**

Unless the context otherwise requires, this chapter applies to transactions in goods; it does not apply to any transaction which although in the form of an unconditional contract to sell or present sale is intended to operate only as a security transaction nor does this chapter impair or repeal any statute regulating sales to consumers, farmers or other specified classes of buyers. (59th Legis., Ch. 721, Sec. 2—102.)

§ 2.103. Definitions and Index of Definitions

(a) In this chapter unless the context otherwise requires

(1) "Buyer" means a person who buys or contracts to buy goods.

(2) "Good faith" in the case of a merchant means honesty in fact and the observance of reasonable commercial standards of fair dealing in the trade.

(3) "Receipt" of goods means taking physical possession of them.

(4) "Seller" means a person who sells or contracts to sell goods.

(b) Other definitions applying to this chapter or to specified sub-chapters thereof, and the sections in which they appear are:

"Acceptance". Section 2.606.

"Banker's credit". Section 2.325.

"Between merchants". Section 2.104.

"Cancellation". Section 2.106(d).

"Commercial unit". Section 2.105.

"Confirmed credit". Section 2.325.

"Conforming to contract". Section 2.106.

"Contract for sale". Section 2.106.

"Cover". Section 2.712.

"Entrusting". Section 2.403.

"Financing agency". Section 2.104.

"Future goods". Section 2.105.

"Goods". Section 2.105.

"Identification". Section 2.501.

"Installment contract". Section 2.612.

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For Annotations and Historical Notes, see V.A.T.S.

- "Letter of credit". Section 2.325.
- "Lot". Section 2.105.
- "Merchant". Section 2.104.
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- "Person in position of seller". Section 2.707.
- "Present sale". Section 2.106.
- "Sale". Section 2.106.
- "Sale on approval". Section 2.326.
- "Sale or return". Section 2.326.
- "Termination". Section 2.106.

(c) The following definitions in other chapters apply to this chapter:

- "Check". Section 3.104.
- "Consignee". Section 7.102.
- "Consignor". Section 7.102.
- "Consumer goods". Section 9.109.
- "Dishonor". Section 3.507.
- "Draft". Section 3.104.

(d) In addition Chapter 1 contains general definitions and principles of construction and interpretation applicable throughout this chapter. (59th Legis., Ch. 721, Sec. 2—103.)

§ 2.104. Definitions: "Merchant"; "Between Merchants"; "Financing Agency"

(a) "Merchant" means a person who deals in goods of the kind or otherwise by his occupation holds himself out as having knowledge or skill peculiar to the practices or goods involved in the transaction or to whom such knowledge or skill may be attributed by his employment of an agent or broker or other intermediary who by his occupation holds himself out as having such knowledge or skill.

(b) "Financing agency" means a bank, finance company or other person who in the ordinary course of business makes advances against goods or documents of title or who by arrangement with either the seller or the buyer intervenes in ordinary course to make or collect payment due or claimed under the contract for sale, as by purchasing or paying the seller's draft or making advances against it or by merely taking it for collection whether or not documents of title accompany the draft. "Financing agency" includes also a bank or other person who similarly intervenes between persons who are in the position of seller and buyer in respect to the goods (Section 2.707).

(c) "Between merchants" means in any transaction with respect to which both parties are chargeable with the knowledge or skill of merchants. (59th Legis., Ch. 721, Sec. 2—104.)

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§ 2.105. Definitions: Transferability; "Goods"; "Future" Goods; "Lot"; "Commercial Unit"

(a) "Goods" means all things (including specially manufactured goods) which are movable at the time of identification to the contract for sale other than the money in which the price is to be paid, investment securities (Chapter 8) and things in action. "Goods" also includes the unborn young of animals and growing crops and other identified things attached to realty as described in the section on goods to be severed from realty (Section 2.107).

(b) Goods must be both existing and identified before any interest in them can pass. Goods which are not both existing and identified are "future" goods. A purported present sale of future goods or of any interest therein operates as a contract to sell.

(c) There may be a sale of a part interest in existing identified goods.

(d) An undivided share in an identified bulk of fungible goods is sufficiently identified to be sold although the quantity of the bulk is not determined. Any agreed proportion of such a bulk or any quantity thereof agreed upon by number, weight or other measure may to the extent of the seller's interest in the bulk be sold to the buyer who then becomes an owner in common.

(e) "Lot" means a parcel or a single article which is the subject matter of a separate sale or delivery, whether or not it is sufficient to perform the contract.

(f) "Commercial unit" means such a unit of goods as by commercial usage is a single whole for purposes of sale and division of which materially impairs its character or value on the market or in use. A commercial unit may be a single article (as a machine) or a set of articles (as a suite of furniture or an assortment of sizes) or a quantity (as a bale, gross, or carload) or any other unit treated in use or in the relevant market as a single whole. (59th Legis., Ch. 721, Sec. 2—105.)

§ 2.106. Definitions: "Contract"; "Agreement"; "Contract for Sale"; "Sale"; "Present Sale"; "Conforming" to Contract; "Termination"; "Cancellation"

(a) In this chapter unless the context otherwise requires "contract" and "agreement" are limited to those relating to the present or future sale of goods. "Contract for sale" includes both a present sale of goods and a contract to sell goods at a future time. A "sale" consists in the passing of title from the seller to the buyer for a price (Section 2.401). A "present sale" means a sale which is accomplished by the making of the contract.

(b) Goods or conduct including any part of a performance are "conforming" or conform to the contract when they are in accordance with the obligations under the contract.

(c) "Termination" occurs when either party pursuant to a power created by agreement or law puts an end to the contract otherwise than for its breach. On "termination" all obligations which are still executory on both sides are discharged but any right based on prior breach or performance survives.

(d) "Cancellation" occurs when either party puts an end to the contract for breach by the other and its effect is the same as that of "termination" except that the cancelling party also retains any remedy for breach of the whole contract or any unperformed balance. (59th Legis., Ch. 721, Sec. 2—106.)

§ 2.107. Goods to be Severed From Realty: Recording

(a) A contract for the sale of timber, minerals or the like or a structure or its materials to be removed from realty is a contract for the sale of goods within this chapter if they are to be severed by the seller but until severance a purported present sale thereof which is not effective as a transfer of an interest in land is effective only as a contract to sell.

(b) A contract for the sale apart from the land of growing crops or other things attached to realty and capable of severance without material harm thereto but not described in Subsection (a) is a contract for the sale of goods within this chapter whether the subject matter is to be severed by the buyer or by the seller even though it forms part of the realty at the time of contracting, and the parties can by identification effect a present sale before severance.

(c) The provisions of this section are subject to any third party rights provided by the law relating to realty records, and the contract for sale may be executed and recorded as a document transferring an interest in land and shall then constitute notice to third parties of the buyer's rights under the contract for sale. (59th Legis., Ch. 721, Sec. 2—107.)

SUBCHAPTER B. FORM, FORMATION AND READJUSTMENT OF CONTRACT

§ 2.201. Formal Requirements; Statute of Frauds

(a) Except as otherwise provided in this section a contract for the sale of goods for the price of \$500 or more is not enforceable by way of action or defense unless there is some writing sufficient to indicate that a contract for sale has been made between the parties and signed by the party against whom enforcement is sought or by

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his authorized agent or broker. A writing is not insufficient because it omits or incorrectly states a term agreed upon but the contract is not enforceable under this paragraph beyond the quantity of goods shown in such writing.

(b) Between merchants if within a reasonable time a writing in confirmation of the contract and sufficient against the sender is received and the party receiving it has reason to know its contents, it satisfies the requirements of Subsection (a) against such party unless written notice of objection to its contents is given within ten days after it is received.

(c) A contract which does not satisfy the requirements of Subsection (a) but which is valid in other respects is enforceable

- (1) if the goods are to be specially manufactured for the buyer and are not suitable for sale to others in the ordinary course of the seller's business and the seller, before notice of repudiation is received and under circumstances which reasonably indicate that the goods are for the buyer, has made either a substantial beginning of their manufacture or commitments for their procurement; or
- (2) if the party against whom enforcement is sought admits in his pleading, testimony or otherwise in court that a contract for sale was made, but the contract is not enforceable under this provision beyond the quantity of goods admitted; or
- (3) with respect to goods for which payment has been made and accepted or which have been received and accepted (Section 2.606).

(59th Legis., Ch. 721, Sec. 2—201.)

§ 2.202. Final Written Expression: Parol or Extrinsic Evidence

Terms with respect to which the confirmatory memoranda of the parties agree or which are otherwise set forth in a writing intended by the parties as a final expression of their agreement with respect to such terms as are included therein may not be contradicted by evidence of any prior agreement or of a contemporaneous oral agreement but may be explained or supplemented

- (1) by course of dealing or usage of trade (Section 1.205) or by course of performance (Section 2.208); and
- (2) by evidence of consistent additional terms unless the court finds the writing to have been intended also as a complete and exclusive statement of the terms of the agreement.

(59th Legis., Ch. 721, Sec. 2—202.)

§ 2.203. Seals Inoperative

The affixing of a seal to a writing evidencing a contract for sale or an offer to buy or sell goods does not constitute the writing a sealed instrument and the law with respect to sealed instruments does not apply to such a contract or offer. (59th Legis., Ch. 721, Sec. 2—203.)

§ 2.204. Formation in General

(a) A contract for sale of goods may be made in any manner sufficient to show agreement, including conduct by both parties which recognizes the existence of such a contract.

(b) An agreement sufficient to constitute a contract for sale may be found even though the moment of its making is undetermined.

(c) Even though one or more terms are left open a contract for sale does not fail for indefiniteness if the parties have intended to make a contract and there is a reasonably certain basis for giving an appropriate remedy. (59th Legis., Ch. 721, Sec. 2—204.)

§ 2.205. Firm Offers

An offer by a merchant to buy or sell goods in a signed writing which by its terms gives assurance that it will be held open is not revocable, for lack of consideration, during the time stated or if no time is stated for a reasonable time, but in no event may such period of irrevocability exceed three months; but any such term of assurance on a form supplied by the offeree must be separately signed by the offeror. (59th Legis., Ch. 721, Sec. 2—205.)

§ 2.206. Offer and Acceptance in Formation of Contract

(a) Unless otherwise unambiguously indicated by the language or circumstances

(1) an offer to make a contract shall be construed as inviting acceptance in any manner and by any medium reasonable in the circumstances;

(2) an order or other offer to buy goods for prompt or current shipment shall be construed as inviting acceptance either by a prompt promise to ship or by the prompt or current shipment of conforming or non-conforming goods, but such a shipment of non-conforming goods does not constitute an acceptance if the seller seasonably notifies the buyer that the shipment is offered only as an accommodation to the buyer.

(b) Where the beginning of a requested performance is a reasonable mode of acceptance an offeror who is not notified of accept-

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ance within a reasonable time may treat the offer as having lapsed before acceptance. (59th Legis., Ch. 721, Sec. 2—206.)

§ 2.207. Additional Terms in Acceptance or Confirmation

(a) A definite and seasonable expression of acceptance or a written confirmation which is sent within a reasonable time operates as an acceptance even though it states terms additional to or different from those offered or agreed upon, unless acceptance is expressly made conditional on assent to the additional or different terms.

(b) The additional terms are to be construed as proposals for addition to the contract. Between merchants such terms become part of the contract unless:

- (1) the offer expressly limits acceptance to the terms of the offer;
- (2) they materially alter it; or
- (3) notification of objection to them has already been given or is given within a reasonable time after notice of them is received.

(c) Conduct by both parties which recognizes the existence of a contract is sufficient to establish a contract for sale although the writings of the parties do not otherwise establish a contract. In such case the terms of the particular contract consist of those terms on which the writings of the parties agree, together with any supplementary terms incorporated under any other provisions of this title. (59th Legis., Ch. 721, Sec. 2—207.)

§ 2.208. Course of Performance or Practical Construction

(a) Where the contract for sale involves repeated occasions for performance by either party with knowledge of the nature of the performance and opportunity for objection to it by the other, any course of performance accepted or acquiesced in without objection shall be relevant to determine the meaning of the agreement.

(b) The express terms of the agreement and any such course of performance, as well as any course of dealing and usage of trade, shall be construed whenever reasonable as consistent with each other; but when such construction is unreasonable, express terms shall control course of performance and course of performance shall control both course of dealing and usage of trade (Section 1.205).

(c) Subject to the provisions of the next section on modification and waiver, such course of performance shall be relevant to show a waiver or modification of any term inconsistent with such course of performance. (59th Legis., Ch. 721, Sec. 2—208.)

§ 2.209. Modification, Rescission and Waiver

(a) An agreement modifying a contract within this chapter needs no consideration to be binding.

(b) A signed agreement which excludes modification or rescission except by a signed writing cannot be otherwise modified or rescinded, but except as between merchants such a requirement on a form supplied by the merchant must be separately signed by the other party.

(c) The requirements of the statute of frauds section of this chapter (Section 2.201) must be satisfied if the contract as modified is within its provisions.

(d) Although an attempt at modification or rescission does not satisfy the requirements of Subsection (b) or (c) it can operate as a waiver.

(e) A party who has made a waiver affecting an executory portion of the contract may retract the waiver by reasonable notification received by the other party that strict performance will be required of any term waived, unless the retraction would be unjust in view of a material change of position in reliance on the waiver. (59th Legis., Ch. 721, Sec. 2—209.)

§ 2.210. Delegation of Performance; Assignment of Rights

(a) A party may perform his duty through a delegate unless otherwise agreed or unless the other party has a substantial interest in having his original promisor perform or control the acts required by the contract. No delegation of performance relieves the party delegating of any duty to perform or any liability for breach.

(b) Unless otherwise agreed all rights of either seller or buyer can be assigned except where the assignment would materially change the duty of the other party, or increase materially the burden or risk imposed on him by his contract, or impair materially his chance of obtaining return performance. A right to damages for breach of the whole contract or a right arising out of the assignor's due performance of his entire obligation can be assigned despite agreement otherwise.

(c) Unless the circumstances indicate the contrary a prohibition of assignment of "the contract" is to be construed as barring only the delegation to the assignee of the assignor's performance.

(d) An assignment of "the contract" or of "all my rights under the contract" or an assignment in similar general terms is an assignment of rights and unless the language or the circumstances (as in an assignment for security) indicate the contrary, it is a delegation of performance of the duties of the assignor and its acceptance by the

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assignee constitutes a promise by him to perform those duties. This promise is enforceable by either the assignor or the other party to the original contract.

(e) The other party may treat any assignment which delegates performance as creating reasonable grounds for insecurity and may without prejudice to his rights against the assignor demand assurances from the assignee (Section 2.609). (59th Legis., Ch. 721, Sec. 2-210.)

**SUBCHAPTER C. GENERAL OBLIGATION AND
CONSTRUCTION OF CONTRACT**

§ 2.301. General Obligations of Parties

The obligation of the seller is to transfer and deliver and that of the buyer is to accept and pay in accordance with the contract. (59th Legis., Ch. 721, Sec. 2-301.)

§ 2.302. Unconscionable Contract or Clause

(a) If the court as a matter of law finds the contract or any clause of the contract to have been unconscionable at the time it was made the court may refuse to enforce the contract, or it may enforce the remainder of the contract without the unconscionable clause, or it may so limit the application of any unconscionable clause as to avoid any unconscionable result.

(b) When it is claimed or appears to the court that the contract or any clause thereof may be unconscionable the parties shall be afforded a reasonable opportunity to present evidence as to its commercial setting, purpose and effect to aid the court in making the determination. (59th Legis., Ch. 721, Sec. 2-302.)

§ 2.303. Allocation or Division of Risks

Where this chapter allocates a risk or a burden as between the parties "unless otherwise agreed", the agreement may not only shift the allocation but may also divide the risk or burden. (59th Legis., Ch. 721, Sec. 2-303.)

§ 2.304. Price Payable in Money, Goods, Realty, or Otherwise

(a) The price can be made payable in money or otherwise. If it is payable in whole or in part in goods each party is a seller of the goods which he is to transfer.

(b) Even though all or part of the price is payable in an interest in realty the transfer of the goods and the seller's obligations with reference to them are subject to this chapter, but not the transfer

of the interest in realty or the transferor's obligations in connection therewith. (59th Legis., Ch. 721, Sec. 2—304.)

§ 2.305. Open Price Term

(a) The parties if they so intend can conclude a contract for sale even though the price is not settled. In such a case the price is a reasonable price at the time for delivery if

- (1) nothing is said as to price; or
- (2) the price is left to be agreed by the parties and they fail to agree; or
- (3) the price is to be fixed in terms of some agreed market or other standard as set or recorded by a third person or agency and it is not so set or recorded.

(b) A price to be fixed by the seller or by the buyer means a price for him to fix in good faith.

(c) When a price left to be fixed otherwise than by agreement of the parties fails to be fixed through fault of one party the other may at his option treat the contract as cancelled or himself fix a reasonable price.

(d) Where, however, the parties intend not to be bound unless the price be fixed or agreed and it is not fixed or agreed there is no contract. In such a case the buyer must return any goods already received or if unable so to do must pay their reasonable value at the time of delivery and the seller must return any portion of the price paid on account. (59th Legis., Ch. 721, Sec. 2—305.)

§ 2.306. Output, Requirements and Exclusive Dealings

(a) A term which measures the quantity by the output of the seller or the requirements of the buyer means such actual output or requirements as may occur in good faith, except that no quantity unreasonably disproportionate to any stated estimate or in the absence of a stated estimate to any normal or otherwise comparable prior output or requirements may be tendered or demanded.

(b) A lawful agreement by either the seller or the buyer for exclusive dealing in the kind of goods concerned imposes unless otherwise agreed an obligation by the seller to use best efforts to supply the goods and by the buyer to use best efforts to promote their sale. (59th Legis., Ch. 721, Sec. 2—306.)

§ 2.307. Delivery in Single Lot or Several Lots

Unless otherwise agreed all goods called for by a contract for sale must be tendered in a single delivery and payment is due only on such tender but where the circumstances give either party the right

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to make or demand delivery in lots the price if it can be apportioned may be demanded for each lot. (59th Legis., Ch. 721, Sec. 2—307.)

§ 2.308. Absence of Specified Place for Delivery

Unless otherwise agreed

- (1) the place for delivery of goods is the seller's place of business or if he has none his residence; but
- (2) in a contract for sale of identified goods which to the knowledge of the parties at the time of contracting are in some other place, that place is the place for their delivery; and
- (3) documents of title may be delivered through customary banking channels.

(59th Legis., Ch. 721, Sec. 2—308.)

§ 2.309. Absence of Specific Time Provisions; Notice of Termination

(a) The time for shipment or delivery or any other action under a contract if not provided in this chapter or agreed upon shall be a reasonable time.

(b) Where the contract provides for successive performances but is indefinite in duration it is valid for a reasonable time but unless otherwise agreed may be terminated at any time by either party.

(c) Termination of a contract by one party except on the happening of an agreed event requires that reasonable notification be received by the other party and an agreement dispensing with notification is invalid if its operation would be unconscionable. (59th Legis., Ch. 721, Sec. 2—309.)

§ 2.310. Open Time for Payment or Running of Credit; Authority to Ship Under Reservation

Unless otherwise agreed

- (1) payment is due at the time and place at which the buyer is to receive the goods even though the place of shipment is the place of delivery; and
- (2) if the seller is authorized to send the goods he may ship them under reservation, and may tender the documents of title, but the buyer may inspect the goods after their arrival before payment is due unless such inspection is inconsistent with the terms of the contract (Section 2.513); and
- (3) if delivery is authorized and made by way of documents of title otherwise than by Subdivision (2) then payment is due at the time and place at which the buyer is to receive the

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documents regardless of where the goods are to be received;
and

- (4) where the seller is required or authorized to ship the goods on credit the credit period runs from the time of shipment but post-dating the invoice or delaying its dispatch will correspondingly delay the starting of the credit period.

(59th Legis., Ch. 721, Sec. 2—310.)

§ 2.311. Options and Cooperation Respecting Performance

(a) An agreement for sale which is otherwise sufficiently definite (Subsection (c) of Section 2.204) to be a contract is not made invalid by the fact that it leaves particulars of performance to be specified by one of the parties. Any such specification must be made in good faith and within limits set by commercial reasonableness.

(b) Unless otherwise agreed specifications relating to assortment of the goods are at the buyer's option and except as otherwise provided in Subsections (a) (3) and (c) of Section 2.319 specifications or arrangements relating to shipment are at the seller's option.

(c) Where such specification would materially affect the other party's performance but is not seasonably made or where one party's cooperation is necessary to the agreed performance of the other but is not seasonably forthcoming, the other party in addition to all other remedies

- (1) is excused for any resulting delay in his own performance;
and
- (2) may also either proceed to perform in any reasonable manner or after the time for a material part of his own performance treat the failure to specify or to cooperate as a breach by failure to deliver or accept the goods.

(59th Legis., Ch. 721, Sec. 2—311.)

**§ 2.312. Warranty of Title and Against Infringement; Buyer's
Obligation Against Infringement**

(a) Subject to Subsection (b) there is in a contract for sale a warranty by the seller that

- (1) the title conveyed shall be good, and its transfer rightful;
and
- (2) the goods shall be delivered free from any security interest or other lien or encumbrance of which the buyer at the time of contracting has no knowledge.

(b) A warranty under Subsection (a) will be excluded or modified only by specific language or by circumstances which give the

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buyer reason to know that the person selling does not claim title in himself or that he is purporting to sell only such right or title as he or a third person may have.

(c) Unless otherwise agreed a seller who is a merchant regularly dealing in goods of the kind warrants that the goods shall be delivered free of the rightful claim of any third person by way of infringement or the like but a buyer who furnishes specifications to the seller must hold the seller harmless against any such claim which arises out of compliance with the specifications. (59th Legis., Ch. 721, Sec. 2—312.)

§ 2.313. Express Warranties by Affirmation, Promise, Description, Sample

(a) Express warranties by the seller are created as follows:

- (1) Any affirmation of fact or promise made by the seller to the buyer which relates to the goods and becomes part of the basis of the bargain creates an express warranty that the goods shall conform to the affirmation or promise.
- (2) Any description of the goods which is made part of the basis of the bargain creates an express warranty that the goods shall conform to the description.
- (3) Any sample or model which is made part of the basis of the bargain creates an express warranty that the whole of the goods shall conform to the sample or model.

(b) It is not necessary to the creation of an express warranty that the seller use formal words such a "warrant" or "guarantee" or that he have a specific intention to make a warranty, but an affirmation merely of the value of the goods or a statement purporting to be merely the seller's opinion or commendation of the goods does not create a warranty. (59th Legis., Ch. 721, Sec. 2—313.)

§ 2.314. Implied Warranty: Merchantability; Usage of Trade

(a) Unless excluded or modified (Section 2.316), a warranty that the goods shall be merchantable is implied in a contract for their sale if the seller is a merchant with respect to goods of that kind. Under this section the serving for value of food or drink to be consumed either on the premises or elsewhere is a sale.

(b) Goods to be merchantable must be at least such as

- (1) pass without objection in the trade under the contract description; and
- (2) in the case of fungible goods, are of fair average quality within the description; and

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- (3) are fit for the ordinary purposes for which such goods are used; and
- (4) run, within the variations permitted by the agreement, of even kind, quality and quantity within each unit and among all units involved; and
- (5) are adequately contained, packaged, and labeled as the agreement may require; and
- (6) conform to the promises or affirmations of fact made on the container or label if any.

(c) Unless excluded or modified (Section 2.316) other implied warranties may arise from course of dealing or usage of trade. (59th Legis., Ch. 721, Sec. 2—314.)

§ 2.315. Implied Warranty: Fitness for Particular Purpose

Where the seller at the time of contracting has reason to know any particular purpose for which the goods are required and that the buyer is relying on the seller's skill or judgment to select or furnish suitable goods, there is unless excluded or modified under the next section an implied warranty that the goods shall be fit for such purpose. (59th Legis., Ch. 721, Sec. 2—315.)

§ 2.316. Exclusion or Modification of Warranties

(a) Words or conduct relevant to the creation of an express warranty and words or conduct tending to negate or limit warranty shall be construed wherever reasonable as consistent with each other; but subject to the provisions of this chapter on parol or extrinsic evidence (Section 2.202) negation or limitation is inoperative to the extent that such construction is unreasonable.

(b) Subject to Subsection (c), to exclude or modify the implied warranty of merchantability or any part of it the language must mention merchantability and in case of a writing must be conspicuous, and to exclude or modify any implied warranty of fitness the exclusion must be by a writing and conspicuous. Language to exclude all implied warranties of fitness is sufficient if it states, for example, that "There are no warranties which extend beyond the description on the face hereof."

(c) Notwithstanding Subsection (b)

- (1) unless the circumstances indicate otherwise, all implied warranties are excluded by expressions like "as is", "with all faults" or other language which in common understanding calls the buyer's attention to the exclusion of warranties and makes plain that there is no implied warranty; and

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- (2) when the buyer before entering into the contract has examined the goods or the sample or model as fully as he desired or has refused to examine the goods there is no implied warranty with regard to defects which an examination ought in the circumstances to have revealed to him; and
- (3) an implied warrant can also be excluded or modified by course of dealing or course of performance or usage of trade.
- (d) Remedies for breach of warranty can be limited in accordance with the provisions of this chapter on liquidation or limitation of damages and on contractual modification of remedy (Sections 2.718 and 2.719).
- (e) The implied warranties of merchantability and fitness shall not be applicable to the furnishing of human blood, blood plasma, or other human tissue or organs from a blood bank or reservoir of such other tissues or organs. Such blood, blood plasma or tissue or organs shall not for the purpose of this Title be considered commodities subject to sale or barter, but shall be considered as medical services. (59th Legis., Ch. 721, Sec. 2—316.)

§ 2.317. Cumulation and Conflict of Warranties Express or Implied

Warranties whether express or implied shall be construed as consistent with each other and as cumulative, but if such construction is unreasonable the intention of the parties shall determine which warranty is dominant. In ascertaining that intention the following rules apply:

- (1) Exact or technical specifications displace an inconsistent sample or model or general language of description.
- (2) A sample from an existing bulk displaces inconsistent general language of description.
- (3) Express warranties displace inconsistent implied warranties other than an implied warranty of fitness for a particular purpose.

(59th Legis., Ch. 721, Sec. 2—317.)

§ 2.318. Chapter Neutral on Question of Third Party Beneficiaries of Warranties of Quality and on Need for Priv-ity of Contract

This chapter does not provide whether anyone other than a buyer may take advantage of an express or implied warranty of quality made to the buyer or whether the buyer or anyone entitled to take advantage of a warranty made to the buyer may sue a third party other than the immediate seller for deficiencies in the quality of the goods. These

matters are left to the courts for their determination. (59th Legis., Ch. 721, Sec. 2—318.)

§ 2.319. F.O.B. and F.A.S. Terms

(a) Unless otherwise agreed the term F.O.B. (which means “free on board”) at a named place, even though used only in connection with the stated price, is a delivery term under which

- (1) when the term is F.O.B. the place of shipment, the seller must at that place ship the goods in the manner provided in this chapter (Section 2.504) and bear the expense and risk of putting them into the possession of the carrier; or
- (2) when the term is F.O.B. the place of destination, the seller must at his own expense and risk transport the goods to that place and there tender delivery of them in the manner provided in this chapter (Section 2.503);
- (3) when under either Subdivision (1) or (2) the term is also F.O.B. vessel, car or other vehicle, the seller must in addition at his own expense and risk load the goods on board. If the term is F.O.B. vessel the buyer must name the vessel and in an appropriate case the seller must comply with the provisions of this chapter on the form of bill of lading (Section 2.323).

(b) Unless otherwise agreed the term F.A.S. vessel (which means “free alongside”), at a named port, even though used only in connection with the stated price, is a delivery term under which the seller must

- (1) at his own expense and risk deliver the goods alongside the vessel in the manner usual in that port or on a dock designated and provided by the buyer; and
- (2) obtain and tender a receipt for the goods in exchange for which the carrier is under a duty to issue a bill of lading.

(c) Unless otherwise agreed in any case falling within Subsection (a) (1) or (3) or Subsection (b) the buyer must seasonably give any needed instructions for making delivery, including when the term is F.A.S. or F.O.B. the loading berth of the vessel and in an appropriate case its name and sailing date. The seller may treat the failure of needed instructions as a failure of cooperation under this chapter (Section 2.311). He may also at his option move the goods in any reasonable manner preparatory to delivery or shipment.

(d) Under the term F.O.B. vessel or F.A.S. unless otherwise agreed the buyer must make payment against tender of the required documents and the seller may not tender nor the buyer demand delivery of the goods in substitution for the documents. (59th Legis., Ch. 721, Sec. 2—319.)

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§ 2.320. C.I.F. and C. & F. Terms

(a) The term C.I.F. means that the price includes in a lump sum the cost of the goods and the insurance and freight to the named destination. The term C. & F. or C.F. means that the price so includes cost and freight to the named destination.

(b) Unless otherwise agreed and even though used only in connection with the stated price and destination, the term C.I.F. destination or its equivalent requires the seller at his own expense and risk to

- (1) put the goods into the possession of a carrier at the port for shipment and obtain a negotiable bill or bills of lading covering the entire transportation to the named destination; and
- (2) load the goods and obtain a receipt from the carrier (which may be contained in the bill of lading) showing that the freight has been paid or provided for; and
- (3) obtain a policy or certificate of insurance, including any war risk insurance, of a kind and on terms then current at the port of shipment in the usual amount, in the currency of the contract, shown to cover the same goods covered by the bill of lading and providing for payment of loss to the order of the buyer or for the account of whom it may concern; but the seller may add to the price the amount of the premium for any such war risk insurance; and
- (4) prepare an invoice of the goods and procure any other documents required to effect shipment or to comply with the contract; and
- (5) forward and tender with commercial promptness all the documents in due form and with any indorsement necessary to perfect the buyer's rights.

(c) Unless otherwise agreed the term C. & F. or its equivalent has the same effect and imposes upon the seller the same obligations and risks as a C.I.F. term except the obligation as to insurance.

(d) Under the term C.I.F. or C. & F. unless otherwise agreed the buyer must make payment against tender of the required documents and the seller may not tender nor the buyer demand delivery of the goods in substitution for the documents. (59th Legis., Ch. 721, Sec. 2—320.)

§ 2.321. C.I.F. or C. & F.: "Net Landed Weights"; "Payment on Arrival"; Warranty of Condition on Arrival

Under a contract containing a term C.I.F. or C. & F.

(a) Where the price is based on or is to be adjusted according to "net landed weights", "delivered weights", "out turn" quantity or quality or the like, unless otherwise agreed the seller must reasonably

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estimate the price. The payment due on tender of the documents called for by the contract is the amount so estimated, but after final adjustment of the price a settlement must be made with commercial promptness.

(b) An agreement described in Subsection (a) or any warranty of quality or condition of the goods on arrival places upon the seller the risk of ordinary deterioration, shrinkage and the like in transportation but has no effect on the place or time of identification to the contract for sale or delivery or on the passing of the risk of loss.

(c) Unless otherwise agreed where the contract provides for payment on or after arrival of the goods the seller must before payment allow such preliminary inspection as is feasible; but if the goods are lost delivery of the documents and payment are due when the goods should have arrived. (59th Legis., Ch. 721, Sec. 2—321.)

§ 2.322. Delivery “Ex-Ship”

(a) Unless otherwise agreed a term for delivery of goods “ex-ship” (which means from the carrying vessel) or in equivalent language is not restricted to a particular ship and requires delivery from a ship which has reached a place at the named port of destination where goods of the kind are usually discharged.

(b) Under such a term unless otherwise agreed

(1) the seller must discharge all liens arising out of the carriage and furnish the buyer with a direction which puts the carrier under a duty to deliver the goods; and

(2) the risk of loss does not pass to the buyer until the goods leave the ship’s tackle or are otherwise properly unloaded.

(59th Legis., Ch. 721, Sec. 2—322.)

§ 2.323. Form of Bill of Lading Required in Overseas Shipment; “Overseas”

(a) Where the contract contemplates overseas shipment and contains a term C.I.F. or C. & F. or F.O.B. vessel, the seller unless otherwise agreed must obtain a negotiable bill of lading stating that the goods have been loaded on board or, in the case of a term C.I.F. or C. & F., received for shipment.

(b) Where in a case within Subsection (a) a bill of lading has been issued in a set of parts, unless otherwise agreed if the documents are not to be sent from abroad the buyer may demand tender of the full set; otherwise only one part of the bill of lading need be tendered. Even if the agreement expressly requires a full set

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- (1) due tender of a single part is acceptable within the provisions of this chapter on cure of improper delivery (Subsection (a) of Section 2.508); and
 - (2) even though the full set is demanded, if the documents are sent from abroad the person tendering an incomplete set may nevertheless require payment upon furnishing an indemnity which the buyer in good faith deems adequate.
- (c) A shipment by water or by air or a contract contemplating such shipment is "overseas" insofar as by usage of trade or agreement it is subject to the commercial, financing or shipping practices characteristic of international deep water commerce. (59th Legis., Ch. 721, Sec. 2—323.)

§ 2.324. "No Arrival, No Sale" Term

Under a term "no arrival, no sale" or terms of like meaning, unless otherwise agreed,

- (1) the seller must properly ship conforming goods and if they arrive by any means he must tender them on arrival but he assumes no obligation that the goods will arrive unless he has caused the non-arrival; and
- (2) where without fault of the seller the goods are in part lost or have so deteriorated as no longer to conform to the contract or arrive after the contract time, the buyer may proceed as if there had been casualty to identified goods (Section 2.613).

(59th Legis., Ch. 721, Sec. 2—324.)

§ 2.325. "Letter of Credit" Term; "Confirmed Credit"

(a) Failure of the buyer seasonably to furnish an agreed letter of credit is a breach of the contract for sale.

(b) The delivery to seller of a proper letter of credit suspends the buyer's obligation to pay. If the letter of credit is dishonored, the seller may on seasonable notification to the buyer require payment directly from him.

(c) Unless otherwise agreed the term "letter of credit" or "banker's credit" in a contract for sale means an irrevocable credit issued by a financing agency of good repute and, where the shipment is overseas, of good international repute. The term "confirmed credit" means that the credit must also carry the direct obligation of such an agency which does business in the seller's financial market. (59th Legis., Ch. 721, Sec. 2—325.)

§ 2.326. Sale on Approval and Sale or Return; Consignment Sales and Rights of Creditors

(a) Unless otherwise agreed, if delivered goods may be returned by the buyer even though they conform to the contract, the transaction is

- (1) a "sale on approval" if the goods are delivered primarily for use, and
- (2) a "sale or return" if the goods are delivered primarily for resale.

(b) Except as provided in Subsection (c), goods held on approval are not subject to the claims of the buyer's creditors until acceptance; goods held on sale or return are subject to such claims while in the buyer's possession.

(c) Where goods are delivered to a person for sale and such person maintains a place of business at which he deals in goods of the kind involved, under a name other than the name of the person making delivery, then with respect to claims of creditors of the person conducting the business the goods are deemed to be on sale or return. The provisions of this subsection are applicable even though an agreement purports to reserve title to the person making delivery until payment or resale or uses such words as "on consignment" or "on memorandum". However, this subsection is not applicable if the person making delivery

- (1) complies with an applicable law providing for a consignor's interest or the like to be evidenced by a sign, or
- (2) establishes that the person conducting the business is generally known by his creditors to be substantially engaged in selling the goods of others, or
- (3) complies with the filing provisions of the chapter on Secured Transactions (Chapter 9).

(d) Any "or return" term of a contract for sale is to be treated as a separate contract for sale within the statute of frauds section of this chapter (Section 2.201) and as contradicting the sale aspect of the contract within the provisions of this chapter on parol or extrinsic evidence (Section 2.202). (59th Legis., Ch. 721, Sec. 2—326.)

§ 2.327. Special Incidents of Sale on Approval and Sale or Return

- (a) Under a sale on approval unless otherwise agreed
- (1) although the goods are identified to the contract the risk of loss and the title do not pass to the buyer until acceptance; and
 - (2) use of the goods consistent with the purpose of trial is not acceptance but failure seasonably to notify the seller of elec-

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tion to return the goods is acceptance, and if the goods conform to the contract acceptance of any part is acceptance of the whole; and

- (3) after due notification of election to return, the return is at the seller's risk and expense but a merchant buyer must follow any reasonable instructions.
- (b) Under a sale or return unless otherwise agreed
 - (1) the option to return extends to the whole or any commercial unit of the goods while in substantially their original condition, but must be exercised seasonably; and
 - (2) the return is at the buyer's risk and expense.

(59th Legis., Ch. 721, Sec. 2—327.)

§ 2.328. Sale by Auction

(a) In a sale by auction if goods are put up in lots each lot is the subject of a separate sale.

(b) A sale by auction is complete when the auctioneer so announces by the fall of the hammer or in other customary manner. Where a bid is made while the hammer is falling in acceptance of a prior bid the auctioneer may in his discretion reopen the bidding or declare the goods sold under the bid on which the hammer was falling.

(c) Such a sale is with reserve unless the goods are in explicit terms put up without reserve. In an auction with reserve the auctioneer may withdraw the goods at any time until he announces completion of the sale. In an auction without reserve, after the auctioneer calls for bids on an article or lot, that article or lot cannot be withdrawn unless no bid is made within a reasonable time. In either case a bidder may retract his bid until the auctioneer's announcement of completion of the sale, but a bidder's retraction does not revive any previous bid.

(d) If the auctioneer knowingly receives a bid on the seller's behalf or the seller makes or procures such a bid, and notice has not been given that liberty for such bidding is reserved, the buyer may at his option avoid the sale or take the goods at the price of the last good faith bid prior to the completion of the sale. This subsection shall not apply to any bid at a forced sale. (59th Legis., Ch. 721, Sec. 2—328.)

SUBCHAPTER D. TITLE, CREDITORS AND GOOD FAITH
PURCHASERS

§ 2.401. **Passing of Title; Reservation for Security; Limited Application of This Section**

Each provision of this chapter with regard to the rights, obligations and remedies of the seller, the buyer, purchasers or other third parties applies irrespective of title to the goods except where the provision refers to such title. Insofar as situations are not covered by the other provisions of this chapter and matters concerning title become material the following rules apply:

(a) Title to goods cannot pass under a contract for sale prior to their identification to the contract (Section 2.501), and unless otherwise explicitly agreed the buyer acquires by their identification a special property as limited by this title. Any retention or reservation by the seller of the title (property) in goods shipped or delivered to the buyer is limited in effect to a reservation of a security interest. Subject to these provisions and to the provisions of the chapter on Secured Transactions (Chapter 9), title to goods passes from the seller to the buyer in any manner and on any conditions explicitly agreed on by the parties.

(b) Unless otherwise explicitly agreed title passes to the buyer at the time and place at which the seller completes his performance with reference to the physical delivery of the goods, despite any reservation of a security interest and even though a document of title is to be delivered at a different time or place; and in particular and despite any reservation of a security interest by the bill of lading

(1) if the contract requires or authorizes the seller to send the goods to the buyer but does not require him to deliver them at destination, title passes to the buyer at the time and place of shipment; but

(2) if the contract requires delivery at destination, title passes on tender there.

(c) Unless otherwise explicitly agreed where delivery is to be made without moving the goods,

(1) if the seller is to deliver a document of title, title passes at the time when and the place where he delivers such documents;
or

(2) if the goods are at the time of contracting already identified and no documents are to be delivered, title passes at the time and place of contracting.

(d) A rejection or other refusal by the buyer to receive or retain the goods, whether or not justified, or a justified revocation of accept-

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ance reverts title to the goods in the seller. Such reversion occurs by operation of law and is not a "sale". (59th Legis., Ch. 721, Sec. 2—401.)

§ 2.402. Rights of Seller's Creditors Against Sold Goods

(a) Except as provided in Subsections (b) and (c), rights of unsecured creditors of the seller with respect to goods which have been identified to a contract for sale are subject to the buyer's rights to recover the goods under this chapter (Section 2.502 and 2.716).

(b) A creditor of the seller may treat a sale or an identification of goods to a contract for sale as void if as against him a retention of possession by the seller is fraudulent under any rule of law of the state where the goods are situated, except that retention of possession in good faith and current course of trade by a merchant-seller for a commercially reasonable time after a sale or identification is not fraudulent.

(c) Nothing in this chapter shall be deemed to impair the rights of creditors of the seller

- (1) under the provisions of the chapter on Secured Transactions (Chapter 9); or
- (2) where identification to the contract or delivery is made not in current course of trade but in satisfaction of or as security for a pre-existing claim for money, security or the like and is made under circumstances which under any rule of law of the state where the goods are situated would apart from this chapter constitute the transaction a fraudulent transfer or voidable preference.

(59th Legis., Ch. 721, Sec. 2—402.)

§ 2.403. Power to Transfer; Good Faith Purchase of Goods; "Entrusting"

(a) A purchaser of goods acquires all title which his transferor had or had power to transfer except that a purchaser of a limited interest acquires rights only to the extent of the interest purchased. A person with voidable title has power to transfer a good title to a good faith purchaser for value. When goods have been delivered under a transaction of purchase the purchaser has such power even though

- (1) the transferor was deceived as to the identity of the purchaser, or
- (2) the delivery was in exchange for a check which is later dishonored, or
- (3) it was agreed that the transaction was to be a "cash sale", or

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(4) the delivery was procured through fraud punishable as larcenous under the criminal law.

(b) Any entrusting of possession of goods to a merchant who deals in goods of that kind gives him power to transfer all rights of the entruster to a buyer in ordinary course of business.

(c) "Entrusting" includes any delivery and any acquiescence in retention of possession regardless of any condition expressed between the parties to the delivery or acquiescence and regardless of whether the procurement of the entrusting or the possessor's disposition of the goods have been such as to be larcenous under the criminal law.

(d) The rights of other purchasers of goods and of lien creditors are governed by the chapters on Secured Transactions (Chapter 9), Bulk Transfers (Chapter 6) and Documents of Title (Chapter 7). (59th Legis., Ch. 721, Sec. 2—403.)

SUBCHAPTER E. PERFORMANCE

§ 2.501. Insurable Interest in Goods; Manner of Identification of Goods

(a) The buyer obtains a special property and an insurable interest in goods by identification of existing goods as goods to which the contract refers even though the goods so identified are non-conforming and he has an option to return or reject them. Such identification can be made at any time and in any manner explicitly agreed to by the parties. In the absence of explicit agreement identification occurs

- (1) when the contract is made if it is for the sale of goods already existing and identified;
- (2) if the contract is for the sale of future goods other than those described in Subdivision (3), when goods are shipped, marked or otherwise designated by the seller as goods to which the contract refers;
- (3) when the crops are planted or otherwise become growing crops or the young are conceived if the contract is for the sale of unborn young to be born within twelve months after contracting or for the sale of crops to be harvested within twelve months or the next normal harvest season after contracting whichever is longer.

(b) The seller retains an insurable interest in goods so long as title to or any security interest in the goods remains in him and where the identification is by the seller alone he may until default or insolvency or notification to the buyer that the identification is final substitute other goods for those identified.

(c) Nothing in this section impairs any insurable interest recognized under any other statute or rule of law. (59th Legis., Ch. 721, Sec. 2—501.)

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§ 2.502. Buyer's Right to Goods on Seller's Insolvency

(a) Subject to Subsection (b) and even though the goods have not been shipped a buyer who has paid a part or all of the price of goods in which he has a special property under the provisions of the immediately preceding section may on making and keeping good a tender of any unpaid portion of their price recover them from the seller if the seller becomes insolvent within ten days after receipt of the first installment on their price.

(b) If the identification creating his special property has been made by the buyer he acquires the right to recover the goods only if they conform to the contract for sale. (59th Legis., Ch. 721, Sec. 2—502.)

§ 2.503. Manner of Seller's Tender of Delivery

(a) Tender of delivery requires that the seller put and hold conforming goods at the buyer's disposition and give the buyer any notification reasonably necessary to enable him to take delivery. The manner, time and place for tender are determined by the agreement and this chapter, and in particular

- (1) tender must be at a reasonable hour, and if it is of goods they must be kept available for the period reasonably necessary to enable the buyer to take possession; but
- (2) unless otherwise agreed the buyer must furnish facilities reasonably suited to the receipt of the goods.

(b) Where the case is within the next section respecting shipment tender requires that the seller comply with its provisions.

(c) Where the seller is required to deliver at a particular destination tender requires that he comply with Subsection (a) and also in any appropriate case tender documents as described in Subsections (d) and (e) of this section.

(d) Where goods are in the possession of a bailee and are to be delivered without being moved

- (1) tender requires that the seller either tender a negotiable document of title covering such goods or procure acknowledgement by the bailee of the buyer's right to possession of the goods; but
- (2) tender to the buyer of a non-negotiable document of title or of a written direction to the bailee to deliver is sufficient tender unless the buyer seasonably objects, and receipt by the bailee of notification of the buyer's rights fixes those rights as against the bailee and all third persons; but risk of loss of the goods and of any failure by the bailee to honor the non-negotiable document of title or to obey the direction

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remains on the seller until the buyer has had a reasonable time to present the document or direction, and a refusal by the bailee to honor the document or to obey the direction defeats the tender.

- (e) Where the contract requires the seller to deliver documents
 - (1) he must tender all such documents in correct form, except as provided in this chapter with respect to bills of lading in a set (Subsection (b) of Section 2.323); and
 - (2) tender through customary banking channels is sufficient and dishonor of a draft accompanying the documents constitutes non-acceptance or rejection.

(59th Legis., Ch. 721, Sec. 2—503.)

§ 2.504. Shipment by Seller

Where the seller is required or authorized to send the goods to the buyer and the contract does not require him to deliver them at a particular destination, then unless otherwise agreed he must

- (1) put the goods in the possession of such a carrier and make such a contract for their transportation as may be reasonable having regard to the nature of the goods and other circumstances of the case; and
- (2) obtain and promptly deliver or tender in due form any document necessary to enable the buyer to obtain possession of the goods or otherwise required by the agreement or by usage of trade; and
- (3) promptly notify the buyer of the shipment.

Failure to notify the buyer under Subdivision (3) or to make a proper contract under Subdivision (1) is a ground for rejection only if material delay or loss ensues. (59th Legis., Ch. 721, Sec. 2—504.)

§ 2.505. Seller's Shipment Under Reservation

(a) Where the seller has identified goods to the contract by or before shipment:

- (1) his procurement of a negotiable bill of lading to his own order or otherwise reserves in him a security interest in the goods. His procurement of the bill to the order of a financing agency or of the buyer indicates in addition only the seller's expectation of transferring that interest to the person named.
- (2) a non-negotiable bill of lading to himself or his nominee reserves possession of the goods as security but except in a case of conditional delivery (Subsection (b) of Section 2.507) a non-negotiable bill of lading naming the buyer as consignee

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reserves no security interest even though the seller retains possession of the bill of lading.

(b) When shipment by the seller with reservation of a security interest is in violation of the contract for sale it constitutes an improper contract for transportation within the preceding section but impairs neither the rights given to the buyer by shipment and identification of the goods to the contract nor the seller's powers as a holder of a negotiable document. (59th Legis., Ch. 721, Sec. 2—505.)

§ 2.506. Rights of Financing Agency

(a) A financing agency by paying or purchasing for value a draft which relates to a shipment of goods acquires to the extent of the payment or purchase and in addition to its own rights under the draft and any document of title securing it any rights of the shipper in the goods including the right to stop delivery and the shipper's right to have the draft honored by the buyer.

(b) The right to reimbursement of a financing agency which has in good faith honored or purchased the draft under commitment to or authority from the buyer is not impaired by subsequent discovery of defects with reference to any relevant document which was apparently regular on its face. (59 Legis., Ch. 721, Sec. 2—506.)

§ 2.507. Effect of Seller's Tender; Delivery on Condition

(a) Tender of delivery is a condition to the buyer's duty to accept the goods and, unless otherwise agreed, to his duty to pay for them. Tender entitles the seller to acceptance of the goods and to payment according to the contract.

(b) Where payment is due and demanded on the delivery to the buyer of goods or documents of title, his right as against the seller to retain or dispose of them is conditional upon his making the payment due. (59th Legis., Ch. 721, Sec. 2—507.)

§ 2.508. Cure by Seller of Improper Tender or Delivery; Replacement

(a) Where any tender or delivery by the seller is rejected because non-conforming and the time for performance has not yet expired, the seller may seasonably notify the buyer of his intention to cure and may then within the contract time make a conforming delivery.

(b) Where the buyer rejects a non-conforming tender which the seller had reasonable grounds to believe would be acceptable with or without money allowance the seller may if he seasonably notifies the buyer have a further reasonable time to substitute a conforming tender. (59th Legis., Ch. 721, Sec. 2—508.)

§ 2.509. Risk of Loss in the Absence of Breach

(a) Where the contract requires or authorizes the seller to ship the goods by carrier

(1) if it does not require him to deliver them at a particular destination, the risk of loss passes to the buyer when the goods are duly delivered to the carrier even though the shipment is under reservation (Section 2.505); but

(2) if it does require him to deliver them at a particular destination and the goods are there duly tendered while in the possession of the carrier, the risk of loss passes to the buyer when the goods are there duly so tendered as to enable the buyer to take delivery.

(b) Where the goods are held by a bailee to be delivered without being moved, the risk of loss passes to the buyer

(1) on his receipt of a negotiable document of title covering the goods; or

(2) on acknowledgement by the bailee of the buyer's right to possession of the goods; or

(3) after his receipt of a non-negotiable document of title or other written direction to deliver, as provided in Subsection (d) (2) of Section 2.503.

(c) In any case not within Subsection (a) or (b), the risk of loss passes to the buyer on his receipt of the goods if the seller is a merchant; otherwise the risk passes to the buyer on tender of delivery.

(d) The provisions of this section are subject to contrary agreement of the parties and to the provisions of this chapter on sale on approval (Section 2.327) and on effect of breach on risk of loss (Section 2.510). (59th Legis., Ch. 721, Sec. 2—509.)

§ 2.510. Effect of Breach on Risk of Loss

(a) Where a tender or delivery of goods so fails to conform to the contract as to give a right of rejection the risk of their loss remains on the seller until cure or acceptance.

(b) Where the buyer rightfully revokes acceptance he may to the extent of any deficiency in his effective insurance coverage treat the risk of loss as having rested on the seller from the beginning.

(c) Where the buyer as to conforming goods already identified to the contract for sale repudiates or is otherwise in breach before risk of their loss has passed to him, the seller may to the extent of any deficiency in his effective insurance coverage treat the risk of loss as resting on the buyer for a commercially reasonable time. (59th Legis., Ch. 721, Sec. 2—510.)

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§ 2.511. Tender of Payment by Buyer; Payment by Check

(a) Unless otherwise agreed tender of payment is a condition to the seller's duty to tender and complete any delivery.

(b) Tender of payment is sufficient when made by any means or in any manner current in the ordinary course of business unless the seller demands payment in legal tender and gives any extension of time reasonably necessary to procure it.

(c) Subject to the provisions of this title on the effect of an instrument on an obligation (Section 3.802), payment by check is conditional and is defeated as between the parties by dishonor of the check on due presentment. (59th Legis., Ch. 721, Sec. 2—511.)

§ 2.512. Payment by Buyer Before Inspection

(a) Where the contract requires payment before inspection non-conformity of the goods does not excuse the buyer from so making payment unless

- (1) the non-conformity appears without inspection; or
- (2) despite tender of the required documents circumstances would justify injunction against honor under the provisions of this title (Section 5.114).

(b) Payment pursuant to Subsection (a) does not constitute an acceptance of goods or impair the buyer's right to inspect or any of his remedies. (59th Legis., Ch. 721, Sec. 2—512.)

§ 2.513. Buyer's Right to Inspection of Goods

(a) Unless otherwise agreed and subject to Subsection (c), where goods are tendered or delivered or identified to the contract for sale, the buyer has a right before payment or acceptance to inspect them at any reasonable place and time and in any reasonable manner. When the seller is required or authorized to send the goods to the buyer, the inspection may be after their arrival.

(b) Expenses of inspection must be borne by the buyer but may be recovered from the seller if the goods do not conform and are rejected.

(c) Unless otherwise agreed and subject to the provisions of this chapter on C.I.F. contracts (Subsection (c) of Section 2.321), the buyer is not entitled to inspect the goods before payment of the price when the contract provides

- (1) for delivery "C.O.D." or on other like terms; or
- (2) for payment against documents of title, except where such payment is due only after the goods are to become available for inspection.

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(d) A place or method of inspection fixed by the parties is presumed to be exclusive but unless otherwise expressly agreed it does not postpone identification or shift the place for delivery or for passing the risk of loss. If compliance becomes impossible, inspection shall be as provided in this section unless the place or method fixed was clearly intended as an indispensable condition failure of which avoids the contract. (59th Legis., Ch. 721, Sec. 2—513.)

§ 2.514. When Documents Deliverable on Acceptance; When on Payment

Unless otherwise agreed documents against which a draft is drawn are to be delivered to the drawee on acceptance of the draft if it is payable more than three days after presentment; otherwise, only on payment. (59th Legis., Ch. 721, Sec. 2—514.)

§ 2.515. Preserving Evidence of Goods in Dispute

In furtherance of the adjustment of any claim or dispute

- (1) either party on reasonable notification to the other and for the purpose of ascertaining the facts and preserving evidence has the right to inspect, test and sample the goods including such of them as may be in the possession or control of the other; and
- (2) the parties may agree to a third party inspection or survey to determine the conformity or condition of the goods and may agree that the findings shall be binding upon them in any subsequent litigation or adjustment.

(59th Legis., Ch. 721, Sec. 2—515.)

SUBCHAPTER F. BREACH, REPUDIATION AND EXCUSE

§ 2.601. Buyer's Rights on Improper Delivery

Subject to the provisions of this chapter on breach in installment contracts (Section 2.612) and unless otherwise agreed under the sections on contractual limitations of remedy (Sections 2.718 and 2.719), if the goods or the tender of delivery fail in any respect to conform to the contract, the buyer may

- (1) reject the whole; or
- (2) accept the whole; or
- (3) accept any commercial unit or units and reject the rest.

(59th Legis., Ch. 721, Sec. 2—601.)

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§ 2.602. Manner and Effect of Rightful Rejection

(a) Rejection of goods must be within a reasonable time after their delivery or tender. It is ineffective unless the buyer seasonably notifies the seller.

(b) Subject to the provisions of the two following sections on rejected goods (Sections 2.603 and 2.604),

- (1) after rejection any exercise of ownership by the buyer with respect to any commercial unit is wrongful as against the seller; and
- (2) if the buyer has before rejection taken physical possession of goods in which he does not have a security interest under the provisions of this chapter (Subsection (c) of Section 2.711), he is under a duty after rejection to hold them with reasonable care at the seller's disposition for a time sufficient to permit the seller to remove them; but
- (3) the buyer has no further obligations with regard to goods rightfully rejected.

(c) The seller's rights with respect to goods wrongfully rejected are governed by the provisions of this chapter on Seller's remedies in general (Section 2.703). (59th Legis., Ch. 721, Sec. 2—602.)

§ 2.603. Merchant Buyer's Duties as to Rightfully Rejected Goods

(a) Subject to any security interest in the buyer (Subsection (c) of Section 2.711), when the seller has no agent or place of business at the market of rejection a merchant buyer is under a duty after rejection of goods in his possession or control to follow any reasonable instructions received from the seller with respect to the goods and in the absence of such instructions to make reasonable efforts to sell them for the seller's account if they are perishable or threaten to decline in value speedily. Instructions are not reasonable if on demand indemnity for expenses is not forthcoming.

(b) When the buyer sells goods under Subsection (a), he is entitled to reimbursement from the seller or out of the proceeds for reasonable expenses of caring for and selling them, and if the expenses include no selling commission then to such commission as is usual in the trade or if there is none to a reasonable sum not exceeding ten per cent on the gross proceeds.

(c) In complying with this section the buyer is held only to good faith and good faith conduct hereunder is neither acceptance nor conversion nor the basis of an action for damages. (59th Legis., Ch. 721, Sec. 2—603.)

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§ 2.604. Buyer's Options as to Salvage of Rightfully Rejected Goods

Subject to the provisions of the immediately preceding section on perishables if the seller gives no instructions within a reasonable time after notification of rejection the buyer may store the rejected goods for the seller's account or reship them to him or resell them for the seller's account with reimbursement as provided in the preceding section. Such action is not acceptance or conversion. (59th Legis., Ch. 721, Sec. 2—604.)

§ 2.605. Waiver of Buyer's Objections by Failure to Particularize

(a) The buyer's failure to state in connection with rejection a particular defect which is ascertainable by reasonable inspection precludes him from relying on the unstated defect to justify rejection or to establish breach

- (1) where the seller could have cured it if stated seasonably; or
- (2) between merchants when the seller has after rejection made a request in writing for a full and final written statement of all defects on which the buyer proposes to rely.

(b) Payment against documents made without reservation of rights precludes recovery of the payment for defects apparent on the face of the documents. (59th Legis., Ch. 721, Sec. 2—605.)

§ 2.606. What Constitutes Acceptance of Goods

(a) Acceptance of goods occurs when the buyer

- (1) after a reasonable opportunity to inspect the goods signifies to the seller that the goods are conforming or that he will take or retain them in spite of their non-conformity; or
- (2) fails to make an effective rejection (Subsection (a) of Section 2.602), but such acceptance does not occur until the buyer has had a reasonable opportunity to inspect them; or
- (3) does any act inconsistent with the seller's ownership; but if such act is wrongful as against the seller it is an acceptance only if ratified by him.

(b) Acceptance of a part of any commercial unit is acceptance of that entire unit. (59th Legis., Ch. 721, Sec. 2—606.)

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§ 2.607. Effect of Acceptance; Notice of Breach; Burden of Establishing Breach After Acceptance; Notice of Claim or Litigation to Person Answerable Over

(a) The buyer must pay at the contract rate for any goods accepted.

(b) Acceptance of goods by the buyer precludes rejection of the goods accepted and if made with knowledge of a non-conformity cannot be revoked because of it unless the acceptance was on the reasonable assumption that the non-conformity would be seasonably cured but acceptance does not of itself impair any other remedy provided by this chapter for non-conformity.

(c) Where a tender has been accepted

(1) the buyer must within a reasonable time after he discovers or should have discovered any breach notify the seller of breach or be barred from any remedy; and

(2) if the claim is one for infringement or the like (Subsection (c) of Section 2.312) and the buyer is sued as a result of such a breach he must so notify the seller within a reasonable time after he receives notice of the litigation or be barred from any remedy over for liability established by the litigation.

(d) The burden is on the buyer to establish any breach with respect to the goods accepted.

(e) Where the buyer is sued for breach of a warranty or other obligation for which his seller is answerable over

(1) he may give his seller written notice of the litigation. If the notice states that the seller may come in and defend and that if the seller does not do so he will be bound in any action against him by his buyer by any determination of fact common to the two litigations, then unless the seller after seasonable receipt of the notice does come in and defend he is so bound.

(2) if the claim is one for infringement or the like (Subsection (c) of Section 2.312) the original seller may demand in writing that his buyer turn over to him control of the litigation including settlement or else be barred from any remedy over and if he also agrees to bear all expense and to satisfy any adverse judgment, then unless the buyer after seasonable receipt of the demand does turn over control the buyer is so barred.

(f) The provisions of Subsections (c), (d) and (e) apply to any obligation of a buyer to hold the seller harmless against infringement or the like (Subsection (c) of Section 2.312). (59th Legis., Ch. 721, Sec. 2—607.)

§ 2.608. Revocation of Acceptance in Whole or in Part

(a) The buyer may revoke his acceptance of a lot or commercial unit whose non-conformity substantially impairs its value to him if he has accepted it

- (1) on the reasonable assumption that its non-conformity would be cured and it has not been seasonably cured; or
- (2) without discovery of such non-conformity if his acceptance was reasonably induced either by the difficulty of discovery before acceptance or by the seller's assurances.

(b) Revocation of acceptance must occur within a reasonable time after the buyer discovers or should have discovered the ground for it and before any substantial change in condition of the goods which is not caused by their own defects. It is not effective until the buyer notifies the seller of it.

(c) A buyer who so revokes has the same rights and duties with regard to the goods involved as if he had rejected them. (59th Legis., Ch. 721, Sec. 2—608.)

§ 2.609. Right to Adequate Assurance of Performance

(a) A contract for sale imposes an obligation on each party that the other's expectation of receiving due performance will not be impaired. When reasonable grounds for insecurity arise with respect to the performance of either party the other may in writing demand adequate assurance of due performance and until he receives such assurance may if commercially reasonable suspend any performance for which he has not already received the agreed return.

(b) Between merchants the reasonableness of grounds for insecurity and the adequacy of any assurance offered shall be determined according to commercial standards.

(c) Acceptance of any improper delivery or payment does not prejudice the aggrieved party's right to demand adequate assurance of future performance.

(d) After receipt of a justified demand failure to provide within a reasonable time not exceeding thirty days such assurance of due performance as is adequate under the circumstances of the particular case is a repudiation of the contract. (59th Legis., Ch. 721, Sec. 2—609.)

§ 2.610. Anticipatory Repudiation

When either party repudiates the contract with respect to a performance not yet due the loss of which will substantially impair the value of the contract to the other, the aggrieved party may

- (1) for a commercially reasonable time await performance by the repudiating party; or

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- (2) resort to any remedy for breach (Section 2.703 or Section 2.711), even though he has notified the repudiating party that he would await the latter's performance and has urged retraction; and
- (3) in either case suspend his own performance or proceed in accordance with the provisions of this chapter on the seller's right to identify goods to the contract notwithstanding breach or to salvage unfinished goods (Section 2.704).

(59th Legis., Ch. 721, Sec. 2—610.)

§ 2.611. Retraction of Anticipatory Repudiation

(a) Until the repudiating party's next performance is due he can retract his repudiation unless the aggrieved party has since the repudiation cancelled or materially changed his position or otherwise indicated that he considers the repudiation final.

(b) Retraction may be by any method which clearly indicates to the aggrieved party that the repudiating party intends to perform, but must include any assurance justifiably demanded under the provisions of this chapter (Section 2.609).

(c) Retraction reinstates the repudiating party's rights under the contract with due excuse and allowance to the aggrieved party for any delay occasioned by the repudiation. (59th Legis., Ch. 721, Sec. 2—611.)

§ 2.612. "Installment Contract"; Breach

(a) An "installment contract" is one which requires or authorizes the delivery of goods in separate lots to be separately accepted, even though the contract contains a clause "each delivery is a separate contract" or its equivalent.

(b) The buyer may reject any installment which is non-conforming if the non-conformity substantially impairs the value of that installment and cannot be cured or if the non-conformity is a defect in the required documents; but if the non-conformity does not fall within Subsection (c) and the seller gives adequate assurance of its cure the buyer must accept that installment.

(c) Whenever non-conformity or default with respect to one or more installments substantially impairs the value of the whole contract there is a breach of the whole. But the aggrieved party reinstates the contract if he accepts a non-conforming installment without seasonably notifying of cancellation or if he brings an action with respect only to past installments or demands performance as to future installments. (59th Legis., Ch. 721, Sec. 2—612.)

§ 2.613. Casualty to Identified Goods

Where the contract requires for its performance goods identified when the contract is made, and the goods suffer casualty without fault of either party before the risk of loss passes to the buyer, or in a proper case under a "no arrival, no sale" term (Section 2.324) then

- (1) if the loss is total the contract is avoided; and
- (2) if the loss is partial or the goods have so deteriorated as no longer to conform to the contract the buyer may nevertheless demand inspection and at his option either treat the contract as avoided or accept the goods with due allowance from the contract price for the deterioration or the deficiency in quantity but without further right against the seller.

(59th Legis., Ch. 721, Sec. 2—613.)

§ 2.614. Substituted Performance

(a) Where without fault of either party the agreed berthing, loading, or unloading facilities fail or an agreed type of carrier becomes unavailable or the agreed manner of delivery otherwise becomes commercially impracticable but a commercially reasonable substitute is available, such substitute performance must be tendered and accepted.

(b) If the agreed means or manner of payment fails because of domestic or foreign governmental regulation, the seller may withhold or stop delivery unless the buyer provides a means or manner of payment which is commercially a substantial equivalent. If delivery has already been taken, payment by the means or in the manner provided by the regulation discharges the buyer's obligation unless the regulation is discriminatory, oppressive or predatory. (59th Legis., Ch. 721, Sec. 2—614.)

§ 2.615. Excuse by Failure of Presupposed Conditions

Except so far as a seller may have assumed a greater obligation and subject to the preceding section on substituted performance:

- (1) Delay in delivery or non-delivery in whole or in part by a seller who complies with Subdivisions (2) and (3) is not a breach of his duty under a contract for sale if performance as agreed has been made impracticable by the occurrence of a contingency the non-occurrence of which was a basic assumption on which the contract was made or by compliance in good faith with any applicable foreign or domestic governmental regulation or order whether or not it later proves to be invalid.

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- (2) Where the causes mentioned in Subdivision (1) affect only a part of the seller's capacity to perform, he must allocate production and deliveries among his customers but may at his option include regular customers not then under contract as well as his own requirements for further manufacture. He may so allocate in any manner which is fair and reasonable.
- (3) The seller must notify the buyer seasonably that there will be delay or non-delivery and, when allocation is required under Subdivision (2), of the estimated quota thus made available for the buyer.

(59th Legis., Ch. 721, Sec. 2—615.)

§ 2.616. Procedure on Notice Claiming Excuse

(a) Where the buyer receives notification of a material or indefinite delay or an allocation justified under the preceding section he may by written notification to the seller as to any delivery concerned, and where the prospective deficiency substantially impairs the value of the whole contract under the provisions of this chapter relating to breach of installment contracts (Section 2.612), then also as to the whole,

- (1) terminate and thereby discharge any unexecuted portion of the contract; or
- (2) modify the contract by agreeing to take his available quota in substitution.

(b) If after receipt of such notification from the seller the buyer fails so to modify the contract within a reasonable time not exceeding thirty days the contract lapses with respect to any deliveries affected.

(c) The provisions of this section may not be negated by agreement except insofar as the seller has assumed a greater obligation under the preceding section. (59th Legis., Ch. 721, Sec. 2—616.)

SUBCHAPTER G. REMEDIES

§ 2.701. Remedies for Breach of Collateral Contracts Not Impaired

Remedies for breach of any obligation or promise collateral or ancillary to a contract for sale are not impaired by the provisions of this chapter. (59th Legis., Ch. 721, Sec. 2—701.)

§ 2.702. Seller's Remedies on Discovery of Buyer's Insolvency

(a) Where the seller discovers the buyer to be insolvent he may refuse delivery except for cash including payment for all goods theretofore delivered under the contract, and stop delivery under this chapter (Section 2.705).

(b) Where the seller discovers that the buyer has received goods on credit while insolvent he may reclaim the goods upon demand made within ten days after the receipt, but if misrepresentation of solvency has been made to the particular seller in writing within three months before delivery the ten day limitation does not apply. Except as provided in this subsection the seller may not base a right to reclaim goods on the buyer's fraudulent or innocent misrepresentation of solvency or of intent to pay.

(c) The seller's right to reclaim under Subsection (b) is subject to the rights of a buyer in ordinary course or other good faith purchaser or lien creditor under this chapter (Section 2.403). Successful reclamation of goods excludes all other remedies with respect to them. (59th Legis., Ch. 721, Sec. 2—702.)

§ 2.703. Seller's Remedies in General

Where the buyer wrongfully rejects or revokes acceptance of goods or fails to make a payment due on or before delivery or repudiates with respect to a part or the whole, then with respect to any goods directly affected and, if the breach is of the whole contract (Section 2.612), then also with respect to the whole undelivered balance, the aggrieved seller may

- (1) withhold delivery of such goods;
- (2) stop delivery by any bailee as hereafter provided (Section 2.705);
- (3) proceed under the next section respecting goods still unidentified to the contract;
- (4) resell and recover damages as hereafter provided (Section 2.706);
- (5) recover damages for non-acceptance (Section 2.708) or in a proper case the price (Section 2.709);
- (6) cancel.

(59th Legis., Ch. 721, Sec. 2—703.)

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§ 2.704. Seller's Right to Identify Goods to the Contract Notwithstanding Breach or to Salvage Unfinished Goods

- (a) An aggrieved seller under the preceding section may
 - (1) identify to the contract conforming goods not already identified if at the time he learned of the breach they are in his possession or control;
 - (2) treat as the subject of resale goods which have demonstrably been intended for the particular contract even though those goods are unfinished.

(b) Where the goods are unfinished an aggrieved seller may in the exercise of reasonable commercial judgment for the purposes of avoiding loss and of effective realization either complete the manufacture and wholly identify the goods to the contract or cease manufacture and resell for scrap or salvage value or proceed in any other reasonable manner. (59th Legis., Ch. 721, Sec. 2—704.)

§ 2.705. Seller's Stoppage of Delivery in Transit or Otherwise

(a) The seller may stop delivery of goods in the possession of a carrier or other bailee when he discovers the buyer to be insolvent (Section 2.702) and may stop delivery of carload, truckload, plane-load or larger shipments of express or freight when the buyer repudiates or fails to make a payment due before delivery or if for any other reason the seller has a right to withhold or reclaim the goods.

- (b) As against such buyer the seller may stop delivery until
 - (1) receipt of the goods by the buyer; or
 - (2) acknowledgment to the buyer by any bailee of the goods except a carrier that the bailee holds the goods for the buyer; or
 - (3) such acknowledgment to the buyer by a carrier by reshipment or as warehouseman; or
 - (4) negotiation to the buyer of any negotiable document of title covering the goods.
- (c) (1) To stop delivery the seller must so notify as to enable the bailee by reasonable diligence to prevent delivery of the goods.
- (2) After such notification the bailee must hold and deliver the goods according to the directions of the seller but the seller is liable to the bailee for any ensuing charges or damages.
- (3) If a negotiable document of title has been issued for goods the bailee is not obliged to obey a notification to stop until surrender of the document.

- (4) A carrier who has issued a non-negotiable bill of lading is not obliged to obey a notification to stop received from a person other than the consignor.

(59th Legis., Ch. 721, Sec. 2—705.)

§ 2.706. Seller's Resale Including Contract for Resale

(a) Under the conditions stated in Section 2.703 on seller's remedies, the seller may resell the goods concerned or the undelivered balance thereof. Where the resale is made in good faith and in a commercially reasonable manner the seller may recover the difference between the resale price and the contract price together with any incidental damages allowed under the provisions of this chapter (Section 2.710), but less expenses saved in consequence of the buyer's breach.

(b) Except as otherwise provided in Subsection (c) or unless otherwise agreed resale may be at public or private sale including sale by way of one or more contracts to sell or of identification to an existing contract of the seller. Sale may be as a unit or in parcels and at any time and place and on any terms but every aspect of the sale including the method, manner, time, place and terms must be commercially reasonable. The resale must be reasonably identified as referring to the broken contract, but it is not necessary that the goods be in existence or that any or all of them have been identified to the contract before the breach.

(c) Where the resale is at private sale the seller must give the buyer reasonable notification of his intention to resell.

(d) Where the resale is at public sale

(1) only identified goods can be sold except where there is a recognized market for a public sale of futures in goods of the kind; and

(2) it must be made at a usual place or market for public sale if one is reasonably available and except in the case of goods which are perishable or threaten to decline in value speedily the seller must give the buyer reasonable notice of the time and place of the resale; and

(3) if the goods are not to be within the view of those attending the sale the notification of sale must state the place where the goods are located and provide for their reasonable inspection by prospective bidders; and

(4) the seller may buy.

(e) A purchaser who buys in good faith at a resale takes the goods free of any rights of the original buyer even though the seller fails to comply with one or more of the requirements of this section.

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(f) The seller is not accountable to the buyer for any profit made on any resale. A person in the position of a seller (Section 2.707) or a buyer who has rightfully rejected or justifiably revoked acceptance must account for any excess over the amount of his security interest, as hereinafter defined (Subsection (c) of Section 2.711). (59th Legis., Ch. 721, Sec. 2—706).

§ 2.707. "Person in the Position of a Seller"

(a) A "person in the position of a seller" includes as against a principal an agent who has paid or become responsible for the price of goods on behalf of his principal or anyone who otherwise holds a security interest or other right in goods similar to that of a seller.

(b) A person in the position of a seller may as provided in this chapter withhold or stop delivery (Section 2.705) and resell (Section 2.706) and recover incidental damages (Section 2.710). (59th Legis., Ch. 721, Sec. 2—707.)

§ 2.708. Seller's Damages for Non-Acceptance or Repudiation

(a) Subject to Subsection (b) and to the provisions of this chapter with respect to proof of market price (Section 2.723), the measure of damages for non-acceptance of repudiation by the buyer is the difference between the market price at the time and place for tender and the unpaid contract price together with any incidental damages provided in this chapter (Section 2.710), but less expenses saved in consequence of the buyer's breach.

(b) If the measure of damages provided in Subsection (a) is inadequate to put the seller in as good a position as performance would have done then the measure of damages is the profit (including reasonable overhead) which the seller would have made from full performance by the buyer, together with any incidental damages provided in this chapter (Section 2.710), due allowance for costs reasonably incurred and due credit for payments or proceeds of resale. (59th Legis., Ch. 721, Sec. 2—708.)

§ 2.709. Action for the Price

(a) When the buyer fails to pay the price as it becomes due the seller may recover, together with any incidental damages under the next section, the price

- (1) of goods accepted or of conforming goods lost or damaged within a commercially reasonable time after risk of their loss has passed to the buyer; and
- (2) of goods identified to the contract if the seller is unable after reasonable effort to resell them at a reasonable price or the

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circumstances reasonably indicate that such effort will be unavailing.

(b) Where the seller sues for the price he must hold for the buyer any goods which have been identified to the contract and are still in his control except that if resale becomes possible he may resell them at any time prior to the collection of the judgment. The net proceeds of any such resale must be credited to the buyer and payment of the judgment entitles him to any goods not resold.

(c) After the buyer has wrongfully rejected or revoked acceptance of the goods or has failed to make a payment due or has repudiated (Section 2.610), a seller who is held not entitled to the price under this section shall nevertheless be awarded damages for nonacceptance under the preceding section. (59th Legis., Ch. 721, Sec. 2—709.)

§ 2.710. Seller's Incidental Damages

Incidental damages to an aggrieved seller include any commercially reasonable charges, expenses or commissions incurred in stopping delivery, in the transportation, care and custody of goods after the buyer's breach, in connection with return or resale of the goods or otherwise resulting from the breach. (59th Legis., Ch. 721, Sec. 2—710.)

§ 2.711. Buyer's Remedies in General; Buyer's Security Interest in Rejected Goods

(a) Where the seller fails to make delivery or repudiates or the buyer rightfully rejects or justifiably revokes acceptance then with respect to any goods involved, and with respect to the whole if the breach goes to the whole contract (Section 2.612), the buyer may cancel and whether or not he has done so may in addition to recovering so much of the price as has been paid

- (1) "cover" and have damages under the next section as to all the goods affected whether or not they have been identified to the contract; or
- (2) recover damages for non-delivery as provided in this chapter (Section 2.713).

(b) Where the seller fails to deliver or repudiates the buyer may also

- (1) if the goods have been identified recover them as provided in this chapter (Section 2.502); or
- (2) in a proper case obtain specific performance or replevy the goods as provided in this chapter (Section 2.716).

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(c) On rightful rejection or justifiable revocation of acceptance a buyer has a security interest in goods in his possession or control for any payments made on their price and any expenses reasonably incurred in their inspection, receipt, transportation, care and custody and may hold such goods and resell them in like manner as an aggrieved seller (Section 2.706). (59th Legis., Ch. 721, Sec. 2—711.)

§ 2.712. "Cover"; Buyer's Procurement of Substitute Goods

(a) After a breach within the preceding section the buyer may "cover" by making in good faith and without unreasonable delay any reasonable purchase of or contract to purchase goods in substitution for those due from the seller.

(b) The buyer may recover from the seller as damages the difference between the cost of cover and the contract price together with any incidental or consequential damages as hereinafter defined (Section 2.715), but less expenses saved in consequence of the seller's breach.

(c) Failure of the buyer to effect cover within this section does not bar him from any other remedy. (59th Legis., Ch. 721, Sec. 2—712.)

§ 2.713. Buyer's Damages for Non-Delivery or Repudiation

(a) Subject to the provisions of this chapter with respect to proof of market price (Section 2.723), the measure of damages for non-delivery or repudiation by the seller is the difference between the market price at the time when the buyer learned of the breach and the contract price together with any incidental and consequential damages provided in this chapter (Section 2.715), but less expenses saved in consequence of the seller's breach.

(b) Market price is to be determined as of the place for tender or, in cases of rejection after arrival or revocation of acceptance, as of the place of arrival. (59th Legis., Ch. 721, Sec. 2—713.)

§ 2.714. Buyer's Damages for Breach in Regard to Accepted Goods

(a) Where the buyer has accepted goods and given notification (Subsection (c) of Section 2.607) he may recover as damages for any non-conformity of tender the loss resulting in the ordinary course of events from the seller's breach as determined in any manner which is reasonable.

(b) The measure of damages for breach of warranty is the difference at the time and place of acceptance between the value of the goods accepted and the value they would have had if they had been as

warranted, unless special circumstances show proximate damages of a different amount.

(c) In a proper case any incidental and consequential damages under the next section may also be recovered. (59th Legis., Ch. 721, Sec. 2—714.)

§ 2.715. Buyer's Incidental and Consequential Damages

(a) Incidental damages resulting from the seller's breach include expenses reasonably incurred in inspection, receipt, transportation and care and custody of goods rightfully rejected, any commercially reasonable charges, expenses or commissions in connection with effecting cover and any other reasonable expense incident to the delay or other breach.

(b) Consequential damages resulting from the seller's breach include

(1) any loss resulting from general or particular requirements and needs of which the seller at the time of contracting had reason to know and which could not reasonably be prevented by cover or otherwise; and

(2) injury to person or property proximately resulting from any breach of warranty.

(59th Legis., Ch. 721, Sec. 2—715.)

§ 2.716. Buyer's Right to Specific Performance or Replevin

(a) Specific performance may be decreed where the goods are unique or in other proper circumstances.

(b) The decree for specific performance may include such terms and conditions as to payment of the price, damages, or other relief as the court may deem just.

(c) The buyer has a right of replevin for goods identified to the contract if after reasonable effort he is unable to effect cover for such goods or the circumstances reasonably indicate that such effort will be unavailing or if the goods have been shipped under reservation and satisfaction of the security interest in them has been made or tendered. (59th Legis., Ch. 721, Sec. 2—716.)

§ 2.717. Deduction of Damages from the Price

The buyer on notifying the seller of his intention to do so may deduct all or any part of the damages resulting from any breach of the contract from any part of the price still due under the same contract. (59th Legis., Ch. 721, Sec. 2—717.)

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§ 2.718. Liquidation or Limitation of Damages; Deposits

(a) Damages for breach by either party may be liquidated in the agreement but only at an amount which is reasonable in the light of the anticipated or actual harm caused by the breach, the difficulties of proof of loss, and the inconvenience or non-feasibility of otherwise obtaining an adequate remedy. A term fixing unreasonably large liquidated damages is void as a penalty.

(b) Where the seller justifiably withholds delivery of goods because of the buyer's breach, the buyer is entitled to restitution of any amount by which the sum of his payments exceeds

- (1) the amount to which the seller is entitled by virtue of terms liquidating the seller's damages in accordance with Subsection (a), or
- (2) in the absence of such terms, twenty percent of the value of the total performance for which the buyer is obligated under the contract or \$500, whichever is smaller.

(c) The buyer's right to restitution under Subsection (b) is subject to offset to the extent that the seller establishes

- (1) a right to recover damages under the provisions of this chapter other than Subsection (a), and
- (2) the amount or value of any benefits received by the buyer directly or indirectly by reason of the contract.

(d) Where a seller has received payment in goods their reasonable value or the proceeds of their resale shall be treated as payments for the purposes of Subsection (b); but if the seller has notice of the buyer's breach before reselling goods received in part performance, his resale is subject to the conditions laid down in this chapter on resale by an aggrieved seller (Section 2.706). (59th Legis., Ch. 721, Sec. 2—718.)

§ 2.719. Contractual Modification or Limitation of Remedy

(a) Subject to the provisions of Subsections (b) and (c) of this section and of the preceding section on liquidation and limitation of damages,

- (1) the agreement may provide for remedies in addition to or in substitution for those provided in this chapter and may limit or alter the measure of damages recoverable under this chapter, as by limiting the buyer's remedies to return of the goods and repayment of the price or to repair and replacement of non-conforming goods or parts; and
- (2) resort to a remedy as provided is optional unless the remedy is expressly agreed to be exclusive, in which case it is the sole remedy.

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(b) Where circumstances cause an exclusive or limited remedy to fail of its essential purpose, remedy may be had as provided in this title.

(c) Consequential damages may be limited or excluded unless the limitation or exclusion is unconscionable. Limitation of consequential damages for injury to the person in the case of consumer goods is prima facie unconscionable but limitation of damages where the loss is commercial is not. (59th Legis., Ch. 721, Sec. 2—719.)

§ 2.720. Effect of “Cancellation” or “Rescission” on Claims for Antecedent Breach

Unless the contrary intention clearly appears, expressions of “cancellation” or “rescission” of the contract or the like shall not be construed as a renunciation or discharge of any claim in damages for an antecedent breach. (59th Legis., Ch. 721, Sec. 2—720.)

§ 2.721. Remedies for Fraud

Remedies for material misrepresentation or fraud include all remedies available under this chapter for non-fraudulent breach. Neither rescission or a claim for rescission of the contract for sale nor rejection or return of the goods shall bar or be deemed inconsistent with a claim for damages or other remedy. (59th Legis., Ch. 721, Sec. 2—721.)

§ 2.722. Who Can Sue Third Parties for Injury to Goods

Where a third party so deals with goods which have been identified to a contract for sale as to cause actionable injury to a party to that contract

- (1) a right of action against the third party is in either party to the contract for sale who has title to or a security interest or a special property or an insurable interest in the goods; and if the goods have been destroyed or converted a right of action is also in the party who either bore the risk of loss under the contract for sale or has since the injury assumed that risk as against the other;
- (2) if at the time of the injury the party plaintiff did not bear the risk of loss as against the other party to the contract for sale and there is no arrangement between them for disposition of the recovery, his suit or settlement is, subject to his own interest, as a fiduciary for the other party to the contract;
- (3) either party may with the consent of the other sue for the benefit of whom it may concern.

(59th Legis., Ch. 721, Sec. 2—722.)

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§ 2.723. Proof of Market Price: Time and Place

(a) If an action based on anticipatory repudiation comes to trial before the time for performance with respect to some or all of the goods, any damages based on market price (Section 2.708 or Section 2.713) shall be determined according to the price of such goods prevailing at the time when the aggrieved party learned of the repudiation.

(b) If evidence of a price prevailing at the times or places described in this chapter is not readily available the price prevailing within any reasonable time before or after the time described or at any other place which in commercial judgment or under usage of trade would serve as a reasonable substitute for the one described may be used, making any proper allowance for the cost of transporting the goods to or from such other place.

(c) Evidence of a relevant price prevailing at a time or place other than the one described in this chapter offered by one party is not admissible unless and until he has given the other party such notice as the court finds sufficient to prevent unfair surprise. (59th Legis., Ch. 721, Sec. 2—723.)

§ 2.724. Admissibility of Market Quotations

Whenever the prevailing price or value of any goods regularly bought and sold in any established commodity market is in issue, reports in official publications or trade journals or in newspapers or periodicals of general circulation published as the reports of such market shall be admissible in evidence. The circumstances of the preparation of such a report may be shown to affect its weight but not its admissibility. (59th Legis., Ch. 721, Sec. 2—724.)

§ 2.725. Statute of Limitations in Contracts for Sale

(a) An action for breach of any contract for sale must be commenced within four years after the cause of action has accrued. By the original agreement the parties may reduce the period of limitation to not less than one year but may not extend it.

(b) A cause of action accrues when the breach occurs, regardless of the aggrieved party's lack of knowledge of the breach. A breach of warranty occurs when tender of delivery is made, except that where a warranty explicitly extends to future performance of the goods and discovery of the breach must await the time of such performance the cause of action accrues when the breach is or should have been discovered.

(c) Where an action commenced within the time limited by Subsection (a) is so terminated as to leave available a remedy by

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another action for the same breach such other action may be commenced after the expiration of the time limited and within six months after the termination of the first action unless the termination resulted from voluntary discontinuance or from dismissal for failure or neglect to prosecute.

(d) This section does not alter the law on tolling of the statute of limitations nor does it apply to causes of action which have accrued before this title becomes effective. (59th Legis., Ch. 721, Sec. 2—725.)

CHAPTER 3. COMMERCIAL PAPER

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- 3.102. Definitions and Index of Definitions.
- 3.103. Limitations on Scope of Chapter.
- 3.104. Form of Negotiable Instruments; "Draft"; "Check"; "Certificate of Deposit"; "Note".
- 3.105. When Promise or Order Unconditional.
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- 3.801. Drafts in a Set.
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SUBCHAPTER A. SHORT TITLE, FORM AND INTERPRETATION

Section 3.101. Short Title

This chapter may be cited as Uniform Commercial Code—Commercial Paper. (59th Legis., Ch. 721, Sec. 3—101.)

§ 3.102. Definitions and Index of Definitions

(a) In this chapter unless the context otherwise requires

- (1) "Issue" means the first delivery of an instrument to a holder or a remitter.
- (2) An "order" is a direction to pay and must be more than an authorization or request. It must identify the person to pay with reasonable certainty. It may be addressed to one or more such persons jointly or in the alternative but not in succession.
- (3) A "promise" is an undertaking to pay and must be more than an acknowledgment of an obligation.
- (4) "Secondary party" means a drawer or endorser.
- (5) "Instrument" means a negotiable instrument.

(b) Other definitions applying to this chapter and the sections in which they appear are:

"Acceptance".	Section 3.410.
"Accommodation party".	Section 3.415.
"Alteration".	Section 3.407.
"Certificate of deposit".	Section 3.104.
"Certification".	Section 3.411.
"Check".	Section 3.104.
"Definite time".	Section 3.109.
"Dishonor".	Section 3.507.
"Draft".	Section 3.104.

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"Holder in due course".	Section 3.302.
"Negotiation".	Section 3.202.
"Note".	Section 3.104.
"Notice of dishonor".	Section 3.508.
"On demand".	Section 3.108.
"Presentment".	Section 3.504.
"Protest".	Section 3.509.
"Restrictive Indorsement".	Section 3.205.
"Signature".	Section 3.401.

(c) The following definitions in other chapters apply to this chapter:

"Account".	Section 4.104.
"Banking Day".	Section 4.104.
"Clearing house".	Section 4.104.
"Collecting bank".	Section 4.105.
"Customer".	Section 4.104.
"Depositary Bank".	Section 4.105.
"Documentary Draft".	Section 4.104.
"Intermediary Bank".	Section 4.105.
"Item".	Section 4.104.
"Midnight deadline".	Section 4.104.
"Payor bank".	Section 4.105.

(d) In addition Chapter 1 contains general definitions and principles of construction and interpretation applicable throughout this chapter. (59th Legis., Ch. 721, Sec. 3-102.)

§ 3.103. Limitations on Scope of Chapter

(a) This chapter does not apply to money, documents of title or investment securities.

(b) The provisions of this chapter are subject to the provisions of the chapter on Bank Deposits and Collections (Chapter 4) and Secured Transactions (Chapter 9). (59th Legis., Ch. 721, Sec. 3-103.)

§ 3.104. Form of Negotiable Instruments; "Draft"; "Check"; "Certificate of Deposit"; "Note"

(a) Any writing to be a negotiable instrument within this chapter must

- (1) be signed by the maker or drawer; and
- (2) contain an unconditional promise or order to pay a sum certain in money and no other promise, order, obligation or power given by the maker or drawer except as authorized by this chapter; and
- (3) be payable on demand or at a definite time; and
- (4) be payable to order or to bearer.

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(b) A writing which complies with the requirements of this section is

- (1) a "draft" ("bill of exchange") if it is an order;
- (2) a "check" if it is a draft drawn on a bank and payable on demand;
- (3) a "certificate of deposit" if it is an acknowledgment by a bank of receipt of money with an engagement to repay it;
- (4) a "note" if it is a promise other than a certificate of deposit.

(c) As used in other chapters of this title, and as the context may require, the terms "draft", "check", "certificate of deposit" and "note" may refer to instruments which are not negotiable within this chapter as well as to instruments which are so negotiable. (59th Legis., Ch. 721, Sec. 3—104.)

§ 3.105. When Promise or Order Unconditional

(a) A promise or order otherwise unconditional is not made conditional by the fact that the instrument

- (1) is subject to implied or constructive conditions; or
- (2) states its consideration, whether performed or promised, or the transaction which gave rise to the instrument, or that the promise or order is made or the instrument matures in accordance with or "as per" such transaction; or
- (3) refers to or states that it arises out of a separate agreement or refers to a separate agreement for rights as to prepayment or acceleration; or
- (4) states that it is drawn under a letter of credit; or
- (5) states that it is secured, whether by mortgage, reservation of title or otherwise; or
- (6) indicates a particular account to be debited or any other fund or source from which reimbursement is expected; or
- (7) is limited to payment out of a particular fund or the proceeds of a particular source, if the instrument is issued by a government or governmental agency or unit; or
- (8) is limited to payment out of the entire assets of a partnership, unincorporated association, trust or estate by or on behalf of which the instrument is issued.

(b) A promise or order is not unconditional if the instrument

- (1) states that it is subject to or governed by any other agreement; or
- (2) states that it is to be paid only out of a particular fund or source except as provided in this section.

(59th Legis., Ch. 721, Sec. 3—105.)

§ 3.106. Sum Certain

(a) The sum payable is a sum certain even though it is to be paid

- (1) with stated interest or by stated installments; or
- (2) with stated different rates of interest before and after default or a specified date; or
- (3) with a stated discount or addition if paid before or after the date fixed for payment; or
- (4) with exchange or less exchange, whether at a fixed rate or at the current rate; or
- (5) with costs of collection or an attorney's fee or both upon default.

(b) Nothing in this section shall validate any term which is otherwise illegal. (59th Legis., Ch. 721, Sec. 3—106.)

§ 3.107. Money

(a) An instrument is payable in money if the medium of exchange in which it is payable is money at the time the instrument is made. An instrument payable in "currency" or "current funds" is payable in money.

(b) A promise or order to pay a sum stated in a foreign currency is for a sum certain in money and, unless a different medium of payment is specified in the instrument, may be satisfied by payment of that number of dollars which the stated foreign currency will purchase at the buying sight rate for that currency on the day on which the instrument is payable or, if payable on demand, on the day of demand. If such an instrument specifies a foreign currency as the medium of payment the instrument is payable in that currency. (59th Legis., Ch. 721, Sec. 3—107.)

§ 3.108. Payable on Demand

Instruments payable on demand include those payable at sight or on presentation and those in which no time for payment is stated. (59th Legis., Ch. 721, Sec. 3—108.)

§ 3.109. Definite Time

(a) An instrument is payable at a definite time if by its terms it is payable

- (1) on or before a stated date or at a fixed period after a stated date; or

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- (2) at a fixed period after sight; or
- (3) at a definite time subject to any acceleration; or
- (4) at a definite time subject to extension at the option of the holder, or to extension to a further definite time at the option of the maker or acceptor or automatically upon or after a specified act or event.

(b) An instrument which by its terms is otherwise payable only upon an act or event uncertain as to time of occurrence is not payable at a definite time even though the act or event has occurred. (59th Legis., Ch. 721, Sec. 3—109.)

§ 3.110. Payable to Order

(a) An instrument is payable to order when by its terms it is payable to the order or assigns of any person therein specified with reasonable certainty, or to him or his order, or when it is conspicuously designated on its face as “exchange” or the like and names a payee. It may be payable to the order of

- (1) the maker or drawer; or
- (2) the drawee; or
- (3) a payee who is not maker, drawer or drawee; or
- (4) two or more payees together or in the alternative; or
- (5) an estate, trust or fund, in which case it is payable to the order of the representative of such estate, trust or fund or his successors; or
- (6) an office, or an officer by his title as such in which case it is payable to the principal but the incumbent of the office or his successors may act as if he or they were the holder; or
- (7) a partnership or unincorporated association, in which case it is payable to the partnership or association and may be indorsed or transferred by any person thereto authorized.

(b) An instrument not payable to order is not made so payable by such words as “payable upon return of this instrument properly indorsed.”

(c) An instrument made payable both to order and to bearer is payable to order unless the bearer words are handwritten or typewritten. (59th Legis., Ch. 721, Sec. 3—110.)

§ 3.111. Payable to Bearer

An instrument is payable to bearer when by its terms it is payable to

- (1) bearer or the order of bearer; or
- (2) a specified person or bearer; or
- (3) "cash" or the order of "cash", or any other indication which does not purport to designate a specific payee.

(59th Legis., Ch. 721, Sec. 3—111.)

§ 3.112. Terms and Omissions Not Affecting Negotiability

(a) The negotiability of an instrument is not affected by

- (1) the omission of a statement of any consideration or of the place where the instrument is drawn or payable; or
- (2) a statement that collateral has been given to secure obligations either on the instrument or otherwise of an obligor on the instrument or that in case of default on those obligations the holder may realize on or dispose of the collateral; or
- (3) a promise or power to maintain or protect collateral or to give additional collateral; or
- (4) a term authorizing a confession of judgment on the instrument if it is not paid when due; or
- (5) a term purporting to waive the benefit of any law intended for the advantage or protection of any obligor; or
- (6) a term in a draft providing that the payee by indorsing or cashing it acknowledges full satisfaction of an obligation of the drawer; or
- (7) a statement in a draft drawn in a set of parts (Section 3.801) to the effect that the order is effective only if no other part has been honored.

(b) Nothing in this section shall validate any term which is otherwise illegal. (59th Legis., Ch. 721, Sec. 3—112.)

§ 3.113. Seal

An instrument otherwise negotiable is within this chapter even though it is under a seal. (59th Legis., Ch. 721, Sec. 3—113.)

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§ 3.114. Date, Antedating, Postdating

(a) The negotiability of an instrument is not affected by the fact that it is undated, antedated or postdated.

(b) Where an instrument is antedated or postdated the time when it is payable is determined by the stated date if the instrument is payable on demand or at a fixed period after date.

(c) Where the instrument or any signature thereon is dated, the date is presumed to be correct. (59th Legis., Ch. 721, Sec. 3—114.)

§ 3.115. Incomplete Instruments

(a) When a paper whose contents at the time of signing show that it is intended to become an instrument is signed while still incomplete in any necessary respect it cannot be enforced until completed, but when it is completed in accordance with authority given it is effective as completed.

(b) If the completion is unauthorized the rules as to material alteration apply (Section 3.407), even though the paper was not delivered by the maker or drawer; but the burden of establishing that any completion is unauthorized is on the party so asserting. (59th Legis., Ch. 721, Sec. 3—115.)

§ 3.116. Instruments Payable to Two or More Persons

An instrument payable to the order of two or more persons

(1) if in the alternative is payable to any one of them and may be negotiated, discharged or enforced by any of them who has possession of it;

(2) if not in the alternative is payable to all of them and may be negotiated, discharged or enforced only by all of them.

(59th Legis., Ch. 721, Sec. 3—116.)

§ 3.117. Instruments Payable With Words of Description

An instrument made payable to a named person with the addition of words describing him

(1) as agent or officer of a specified person is payable to his principal but the agent or officer may act as if he were the holder;

(2) as any other fiduciary for a specified person or purpose is payable to the payee and may be negotiated, discharged or enforced by him;

(3) in any other manner is payable to the payee unconditionally and the additional words are without effect on subsequent parties.

(59th Legis., Ch. 721, Sec. 3—117.)

§ 3.118. Ambiguous Terms and Rules of Construction

The following rules apply to every instrument:

- (1) Where there is doubt whether the instrument is a draft or a note the holder may treat it as either. A draft drawn on the drawer is effective as a note.
- (2) Handwritten terms control typewritten and printed terms, and typewritten control printed.
- (3) Words control figures except that if the words are ambiguous figures control.
- (4) Unless otherwise specified a provision for interest means interest at the judgment rate at the place of payment from the date of the instrument, or if it is undated from the date of issue.
- (5) Unless the instrument otherwise specifies two or more persons who sign as maker, acceptor or drawer or indorser and as a part of the same transaction are jointly and severally liable even though the instrument contains such words as "I promise to pay."
- (6) Unless otherwise specified consent to extension authorizes a single extension for not longer than the original period. A consent to extension, expressed in the instrument, is binding on secondary parties and accommodation makers. A holder may not exercise his option to extend an instrument over the objection of a maker or acceptor or other party who in accordance with Section 3.604 tenders full payment when the instrument is due.

(59th Legis., Ch. 721, Sec. 3—118.)

§ 3.119. Other Writings Affecting Instrument

(a) As between the obligor and his immediate obligee or any transferee the terms of an instrument may be modified or affected by any other written agreement executed as a part of the same transaction, except that a holder in due course is not affected by any limitation of his rights arising out of the separate written agreement if he had no notice of the limitation when he took the instrument.

(b) A separate agreement does not affect the negotiability of an instrument. (59th Legis., Ch. 721, Sec. 3—119.)

§ 3.120. Instruments "Payable Through" Bank

An instrument which states that it is "payable through" a bank or the like designates that bank as a collecting bank to make presentment but does not of itself authorize the bank to pay the instrument. (59th Leg., Ch. 721, Sec. 3—120.)

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§ 3.121. Instruments Payable at Bank

A note or acceptance which states that it is payable at a bank is the equivalent of a draft drawn on the bank payable when it falls due out of any funds of the maker or acceptor in current account or otherwise available for such payment. (59th Legis., Ch. 721, Sec. 3—121.)

§ 3.122. Accrual of Cause of Action

(a) A cause of action against a maker or an acceptor accrues

(1) in the case of a time instrument on the day after maturity;

(2) in the case of a demand instrument upon its date or, if no date is stated, on the date of issue.

(b) A cause of action against the obligor of a demand or time certificate of deposit accrues upon demand, but demand on a time certificate may not be made until on or after the date of maturity.

(c) A cause of action against a drawer of a draft or an indorser of any instrument accrues upon demand following dishonor of the instrument. Notice of dishonor is a demand.

(d) Unless an instrument provides otherwise, interest runs at the rate provided by law for a judgment

(1) in the case of a maker, acceptor or other primary obligor of a demand instrument, from the date of demand;

(2) in all other cases from the date of accrual of the cause of action.

(59th Legis., Ch. 721, Sec. 3—122.)

SUBCHAPTER B. TRANSFER AND NEGOTIATION

§ 3.201. Transfer: Right to Indorsement

(a) Transfer of an instrument vests in the transferee such rights as the transferor has therein, except that a transferee who has himself been a party to any fraud or illegality affecting the instrument or who as a prior holder had notice of a defense or claim against it cannot improve his position by taking from a later holder in due course.

(b) A transfer of a security interest in an instrument vests the foregoing rights in the transferee to the extent of the interest transferred.

(c) Unless otherwise agreed any transfer for value of an instrument not then payable to bearer gives the transferee the specifically enforceable right to have the unqualified indorsement of the transferor. Negotiation takes effect only when the indorsement is made

and until that time there is no presumption that the transferee is the owner. (59th Legis., Ch. 721, Sec. 3—201.)

§ 3.202. Negotiation

(a) Negotiation is the transfer of an instrument in such form that the transferee becomes a holder. If the instrument is payable to order it is negotiated by delivery with any necessary indorsement; if payable to bearer it is negotiated by delivery.

(b) An indorsement must be written by or on behalf of the holder and on the instrument or on a paper so firmly affixed thereto as to become a part thereof.

(c) An indorsement is effective for negotiation only when it conveys the entire instrument or any unpaid residue. If it purports to be of less it operates only as a partial assignment.

(d) Words of assignment, condition, waiver, guaranty, limitation or disclaimer of liability and the like accompanying an indorsement do not affect its character as an indorsement. (59th Legis., Ch. 721, Sec. 3—202.)

§ 3.203. Wrong or Misspelled Name

Where an instrument is made payable to a person under a misspelled name or one other than his own he may indorse in that name or his own or both; but signature in both names may be required by a person paying or giving value for the instrument. (59th Legis., Ch. 721, Sec. 3—203.)

§ 3.204. Special Indorsement; Blank Indorsement

(a) A special indorsement specifies the person to whom or to whose order it makes the instrument payable. Any instrument specially indorsed becomes payable to the order of the special indorsee and may be further negotiated only by his indorsement.

(b) An indorsement in blank specifies no particular indorsee and may consist of a mere signature. An instrument payable to order and indorsed in blank becomes payable to bearer and may be negotiated by delivery alone until specially indorsed.

(c) The holder may convert a blank indorsement into a special indorsement by writing over the signature of the indorser in blank any contract consistent with the character of the indorsement. (59th Legis., Ch. 721, Sec. 3—204.)

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§ 3.205. Restrictive Indorsements

An indorsement is restrictive which either

- (1) is conditional; or
- (2) purports to prohibit further transfer of the instrument; or
- (3) includes the words "for collection", "for deposit", "pay any bank", or like terms signifying a purpose of deposit or collection; or
- (4) otherwise states that it is for the benefit or use of the indorser or of another person.

(59th Legis., Ch. 721, Sec. 3—205.)

§ 3.206. Effect of Restrictive Indorsement

(a) No restrictive indorsement prevents further transfer or negotiation of the instrument.

(b) An intermediary bank, or a payor bank which is not the depositary bank, is neither given notice nor otherwise affected by a restrictive indorsement of any person except the bank's immediate transferor or the person presenting for payment.

(c) Except for an intermediary bank, any transferee under an indorsement which is conditional or includes the words "for collection", "for deposit", "pay any bank", or like terms (Subdivisions (1) and (3) of Section 3.205) must pay or apply any value given by him for or on the security of the instrument consistently with the indorsement and to the extent that he does so he becomes a holder for value. In addition such transferee is a holder in due course if he otherwise complies with the requirements of Section 3.302 on what constitutes a holder in due course.

(d) The first taker under an indorsement for the benefit of the indorser or another person (Subdivision (4) of Section 3.205) must pay or apply any value given by him for or on the security of the instrument consistently with the indorsement and to the extent that he does so he becomes a holder for value. In addition such taker is a holder in due course if he otherwise complies with the requirements of Section 3.302 on what constitutes a holder in due course. A later holder for value is neither given notice nor otherwise affected by such restrictive indorsement unless he has knowledge that a fiduciary or other person has negotiated the instrument in any transaction for his own benefit or otherwise in breach of duty (Subsection (b) of Section 3.304). (59th Legis., Ch. 721, Sec. 3—206.)

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§ 3.207. Negotiation Effective Although It May Be Rescinded

(a) Negotiation is effective to transfer the instrument although the negotiation is

- (1) made by an infant, a corporation exceeding its powers, or any other person without capacity; or
- (2) obtained by fraud, duress or mistake of any kind; or
- (3) part of an illegal transaction; or
- (4) made in breach of duty.

(b) Except as against a subsequent holder in due course such negotiation is in an appropriate case subject to rescission, the declaration of a constructive trust or any other remedy permitted by law. (59th Legis., Ch. 721, Sec. 3—207.)

§ 3.208. Reacquisition

Where an instrument is returned to or reacquired by a prior party he may cancel any indorsement which is not necessary to his title and reissue or further negotiate the instrument, but any intervening party is discharged as against the reacquiring party and subsequent holders not in due course and if his indorsement has been cancelled is discharged as against subsequent holders in due course as well. (59th Legis., Ch. 721, Sec. 3—208.)

SUBCHAPTER C. RIGHTS OF A HOLDER

§ 3.301. Rights of a Holder

The holder of an instrument whether or not he is the owner may transfer or negotiate it and, except as otherwise provided in Section 3.603 on payment or satisfaction, discharge it or enforce payment in his own name. (59th Legis., Ch. 721, Sec. 3—301.)

§ 3.302. Holder in Due Course

- (a) A holder in due course is a holder who takes the instrument
- (1) for value; and
 - (2) in good faith; and
 - (3) without notice that it is overdue or has been dishonored or of any defense against or claim to it on the part of any person.

(b) A payee may be a holder in due course.

(c) A holder does not become a holder in due course of an instrument:

- (1) by purchase of it at judicial sale or by taking it under legal process; or

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- (2) by acquiring it in taking over an estate; or
- (3) by purchasing it as part of a bulk transaction not in regular course of business of the transferor.
- (d) A purchaser of a limited interest can be a holder in due course only to the extent of the interest purchased. (59th Legis., Ch. 721, Sec. 3—302.)

§ 3.303. Taking for Value

A holder takes the instrument for value

- (1) to the extent that the agreed consideration has been performed or that he acquires a security interest in or a lien on the instrument otherwise than by legal process; or
 - (2) when he takes the instrument in payment of or as security for an antecedent claim against any person whether or not the claim is due; or
 - (3) when he gives a negotiable instrument for it or makes an irrevocable commitment to a third person.
- (59th Legis., Ch. 721, Sec. 3—303.)

§ 3.304. Notice to Purchaser

- (a) The purchaser has notice of a claim or defense if
 - (1) the instrument is so incomplete, bears such visible evidence of forgery or alteration, or is otherwise so irregular as to call into question its validity, terms or ownership or to create an ambiguity as to the party to pay; or
 - (2) the purchaser has notice that the obligation of any party is voidable in whole or in part, or that all parties have been discharged.
- (b) The purchaser has notice of a claim against the instrument when he has knowledge that a fiduciary has negotiated the instrument in payment of or as security for his own debt or in any transaction for his own benefit or otherwise in breach of duty.
- (c) The purchaser has notice that an instrument is overdue if he has reason to know
 - (1) that any part of the principal amount is overdue or that there is an uncured default in payment of another instrument of the same series; or
 - (2) that acceleration of the instrument has been made; or
 - (3) that he is taking a demand instrument after demand has been made or more than a reasonable length of time after its issue. A reasonable time for a check drawn and payable

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within the states and territories of the United States and the District of Columbia is presumed to be thirty days.

(d) Knowledge of the following facts does not of itself give the purchaser notice of a defense or claim

- (1) that the instrument is antedated or postdated;
- (2) that it was issued or negotiated in return for an executory promise or accompanied by a separate agreement, unless the purchaser has notice that a defense or claim has arisen from the terms thereof;
- (3) that any party has signed for accommodation;
- (4) that an incomplete instrument has been completed, unless the purchaser has notice of any improper completion;
- (5) that any person negotiating the instrument is or was a fiduciary;
- (6) that there has been default in payment of interest on the instrument or in payment of any other instrument, except one of the same series.

(e) The filing or recording of a document does not of itself constitute notice within the provisions of this chapter to a person who would otherwise be a holder in due course.

(f) To be effective notice must be received at such time and in such manner as to give a reasonable opportunity to act on it. (59th Legis., Ch. 721, Sec. 3—304.)

§ 3.305. Rights of a Holder in Due Course

To the extent that a holder is a holder in due course he takes the instrument free from

- (a) all claims to it on the part of any person; and
- (b) all defenses of any party to the instrument with whom the holder has not dealt except
 - (1) infancy, to the extent that it is a defense to a simple contract; and
 - (2) such other incapacity, or duress, or illegality of the transaction, as renders the obligation of the party a nullity; and
 - (3) such misrepresentation as has induced the party to sign the instrument with neither knowledge nor reasonable opportunity to obtain knowledge of its character or its essential terms; and
 - (4) discharge in insolvency proceedings; and
 - (5) any other discharge of which the holder has notice when he takes the instrument.

(59th Legis., Ch. 721, Sec. 3—305.)

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§ 3.306. Rights of One Not Holder in Due Course

Unless he has the rights of a holder in due course any person takes the instrument subject to

- (1) all valid claims to it on the part of any person; and
- (2) all defenses of any party which would be available in an action on a simple contract; and
- (3) the defenses of want or failure of consideration, non-performance of any condition precedent, non-delivery, or delivery for a special purpose (Section 3.408); and
- (4) the defense that he or a person through whom he holds the instrument acquired it by theft, or that payment or satisfaction to such holder would be inconsistent with the terms of a restrictive indorsement. The claim of any third person to the instrument is not otherwise available as a defense to any party liable thereon unless the third person himself defends the action for such party.

(59th Legis., Ch. 721, Sec. 3—306.)

§ 3.307. Burden of Establishing Signatures, Defenses and Due Course

(a) Unless specifically denied in the pleadings each signature on an instrument is admitted. When the effectiveness of a signature is put in issue

- (1) the burden of establishing it is on the party claiming under the signature; but
- (2) the signature is presumed to be genuine or authorized except where the action is to enforce the obligation of a purported signer who has died or become incompetent before proof is required.

(b) When signatures are admitted or established, production of the instrument entitles a holder to recover on it unless the defendant establishes a defense.

(c) After it is shown that a defense exists a person claiming the rights of a holder in due course has the burden of establishing that he or some person under whom he claims is in all respects a holder in due course. (59th Legis., Ch. 721, Sec. 3—307.)

SUBCHAPTER D. LIABILITY OF PARTIES

§ 3.401. Signature

(a) No person is liable on an instrument unless his signature appears thereon.

(b) A signature is made by use of any name, including any trade or assumed name, upon an instrument, or by any word or mark used in lieu of a written signature. (59th Legis., Ch. 721, Sec. 3—401.)

§ 3.402. Signature in Ambiguous Capacity

Unless the instrument clearly indicates that a signature is made in some other capacity it is an indorsement. (59th Legis., Ch. 721, Sec. 3—402.)

§ 3.403. Signature by Authorized Representative

(a) A signature may be made by an agent or other representative, and his authority to make it may be established as in other cases of representation. No particular form of appointment is necessary to establish such authority.

(b) An authorized representative who signs his own name to an instrument

(1) is personally obligated if the instrument neither names the person represented nor shows that the representative signed in a representative capacity;

(2) except as otherwise established between the immediate parties, is personally obligated if the instrument names the person represented but does not show that the representative signed in a representative capacity, or if the instrument does not name the person represented but does show that the representative signed in a representative capacity.

(c) Except as otherwise established the name of an organization preceded or followed by the name and office of an authorized individual is a signature made in a representative capacity. (59th Legis., Ch. 721, Sec. 3—403.)

§ 3.404. Unauthorized Signatures

(a) Any unauthorized signature is wholly inoperative as that of the person whose name is signed unless he ratifies it or is precluded from denying it; but it operates as the signature of the unauthorized signer in favor of any person who in good faith pays the instrument or takes it for value.

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(b) Any unauthorized signature may be ratified for all purposes of this chapter. Such ratification does not of itself affect any rights of the person ratifying against the actual signer. (59th Legis., Ch. 721, Sec. 3—404.)

§ 3.405. Imposters; Signature in Name of Payee

(a) An indorsement by any person in the name of a named payee is effective if

- (1) an imposter by use of the mails or otherwise has induced the maker or drawer to issue the instrument to him or his confederate in the name of the payee; or
- (2) a person signing as or on behalf of a maker or drawer intends the payee to have no interest in the instrument; or
- (3) an agent or employee of the maker or drawer has supplied him with the name of the payee intending the latter to have no such interest.

(b) Nothing in this section shall affect the criminal or civil liability of the person so indorsing. (59th Legis., Ch. 721, Sec. 3—405.)

§ 3.406. Negligence Contributing to Alteration or Unauthorized Signature

Any person who by his negligence substantially contributes to a material alteration of the instrument or to the making of an unauthorized signature is precluded from asserting the alteration or lack of authority against a holder in due course or against a drawee or other payor who pays the instrument in good faith and in accordance with the reasonable commercial standards of the drawee's or payor's business. (59th Legis., Ch. 721, Sec. 3—406.)

§ 3.407. Alteration

(a) Any alteration of an instrument is material which changes the contract of any party thereto in any respect, including any such change in

- (1) the number or relations of the parties; or
- (2) an incomplete instrument, by completing it otherwise than as authorized; or
- (3) the writing as signed, by adding to it or by removing any part of it.

(b) As against any person other than a subsequent holder in due course

- (1) alteration by the holder which is both fraudulent and material discharges any party whose contract is thereby changed un-

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less that party assents or is precluded from asserting the defense;

(2) no other alteration discharges any party and the instrument may be enforced according to its original tenor, or as to incomplete instruments according to the authority given.

(c) A subsequent holder in due course may in all cases enforce the instrument according to its original tenor, and when an incomplete instrument has been completed, he may enforce it as completed. (59th Legis., Ch. 721, Sec. 3—407.)

§ 3.408. Consideration

Want or failure of consideration is a defense as against any person not having the rights of a holder in due course (Section 3.305), except that no consideration is necessary for an instrument or obligation thereon given in payment of or as security for an antecedent obligation of any kind. Nothing in this section shall be taken to displace any statute outside this title under which a promise is enforceable notwithstanding lack or failure of consideration. Partial failure of consideration is a defense pro tanto whether or not the failure is in an ascertained or liquidated amount. (59th Legis., Ch. 721, Sec. 3—408.)

§ 3.409. Draft Not an Assignment

(a) A check or other draft does not of itself operate as an assignment of any funds in the hands of the drawee available for its payment, and the drawee is not liable on the instrument until he accepts it.

(b) Nothing in this section shall affect any liability in contract, tort or otherwise arising from any letter of credit or other obligation or representation which is not an acceptance. (59th Legis., Ch. 721, Sec. 3—409.)

§ 3.410. Definition and Operation of Acceptance

(a) Acceptance is the drawee's signed engagement to honor the draft as presented. It must be written on the draft, and may consist of his signature alone. It becomes operative when completed by delivery or notification.

(b) A draft may be accepted although it has not been signed by the drawer or is otherwise incomplete or is overdue or has been dishonored.

(c) Where the draft is payable at a fixed period after sight and the acceptor fails to date his acceptance the holder may complete it by supplying a date in good faith. (59th Legis., Ch. 721, Sec. 3—410.)

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§ 3.411. Certification of a Check

(a) Certification of a check is acceptance. Where a holder procures certification the drawer and all prior indorsers are discharged.

(b) Unless otherwise agreed a bank has no obligation to certify a check.

(c) A bank may certify a check before returning it for lack of proper indorsement. If it does so the drawer is discharged. (59th Legis., Ch. 721, Sec. 3—411.)

§ 3.412. Acceptance Varying Draft

(a) Where the drawee's proffered acceptance in any manner varies the draft as presented the holder may refuse the acceptance and treat the draft as dishonored in which case the drawee is entitled to have his acceptance cancelled.

(b) The terms of the draft are not varied by an acceptance to pay at any particular bank or place in the United States, unless the acceptance states that the draft is to be paid only at such bank or place.

(c) Where the holder assents to an acceptance varying the terms of the draft each drawer and indorser who does not affirmatively assent is discharged. (59th Legis., Ch. 721, Sec. 3—412.)

§ 3.413. Contract of Maker, Drawer and Acceptor

(a) The maker or acceptor engages that he will pay the instrument according to its tenor at the time of his engagement or as completed pursuant to Section 3.115 on incomplete instruments.

(b) The drawer engages that upon dishonor of the draft and any necessary notice of dishonor or protest he will pay the amount of the draft to the holder or to any indorser who takes it up. The drawer may disclaim this liability by drawing without recourse.

(c) By making, drawing or accepting the party admits as against all subsequent parties including the drawee the existence of the payee and his then capacity to indorse. (59th Legis., Ch. 721, Sec. 3—413.)

§ 3.414. Contract of Indorser; Order of Liability

(a) Unless the indorsement otherwise specifies (as by such words as "without recourse") every indorser engages that upon dishonor and any necessary notice of dishonor and protest he will pay the instrument according to its tenor at the time of his indorsement to the holder or to any subsequent indorser who takes it up, even though the indorser who takes it up was not obligated to do so.

(b) Unless they otherwise agree indorsers are liable to one another in the order in which they indorse, which is presumed to be

the order in which their signatures appear on the instrument. (59th Legis., Ch. 721, Sec. 3—414.)

§ 3.415. Contract of Accommodation Party

(a) An accommodation party is one who signs the instrument in any capacity for the purpose of lending his name to another party to it.

(b) When the instrument has been taken for value before it is due the accommodation party is liable in the capacity in which he has signed even though the taker knows of the accommodation.

(c) As against a holder in due course and without notice of the accommodation oral proof of the accommodation is not admissible to give the accommodation party the benefit of discharges dependent on his character as such. In other cases the accommodation character may be shown by oral proof.

(d) An indorsement which shows that it is not in the chain of title is notice of its accommodation character.

(e) An accommodation party is not liable to the party accommodated, and if he pays the instrument has a right of recourse on the instrument against such party. (59th Legis., Ch. 721, Sec. 3—415.)

§ 3.416. Contract of Guarantor

(a) "Payment guaranteed" or equivalent words added to a signature mean that the signer engages that if the instrument is not paid when due he will pay it according to its tenor without resort by the holder to any other party.

(b) "Collection guaranteed" or equivalent words added to a signature mean that the signer engages that if the instrument is not paid when due he will pay it according to its tenor, but only after the holder has reduced his claim against the maker or acceptor to judgment and execution has been returned unsatisfied, or after the maker or acceptor has become insolvent or it is otherwise apparent that it is useless to proceed against him.

(c) Words of guaranty which do not otherwise specify guarantee payment.

(d) No words of guaranty added to the signature of a sole maker or acceptor affect his liability on the instrument. Such words added to the signature of one of two or more makers or acceptors create a presumption that the signature is for the accommodation of the others.

(e) When words of guaranty are used presentment, notice of dishonor and protest are not necessary to charge the user.

(f) Any guaranty written on the instrument is enforceable notwithstanding any statute of frauds. (59th Legis., Ch. 721, Sec. 3—416.)

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§ 3.417. Warranties on Presentment and Transfer

(a) Any person who obtains payment or acceptance and any prior transferor warrants to a person who in good faith pays or accepts that

(1) he has a good title to the instrument or is authorized to obtain payment or acceptance on behalf of one who has a good title; and

(2) he has no knowledge that the signature of the maker or drawer is unauthorized, except that this warranty is not given by a holder in due course acting in good faith

(A) to a maker with respect to the maker's own signature; or

(B) to a drawer with respect to the drawer's own signature, whether or not the drawer is also the drawee; or

(C) to an acceptor of a draft if the holder in due course took the draft after the acceptance or obtained the acceptance without knowledge that the drawer's signature was unauthorized; and

(3) the instrument has not been materially altered, except that this warranty is not given by a holder in due course acting in good faith

(A) to the maker of a note; or

(B) to the drawer of a draft whether or not the drawer is also the drawee; or

(C) to the acceptor of a draft with respect to an alteration made prior to the acceptance if the holder in due course took the draft after the acceptance, even though the acceptance provided "payable as originally drawn" or equivalent terms; or

(D) to the acceptor of a draft with respect to an alteration made after the acceptance.

(b) Any person who transfers an instrument and receives consideration warrants to his transferee and if the transfer is by indorsement to any subsequent holder who takes the instrument in good faith that

(1) he has a good title to the instrument or is authorized to obtain payment or acceptance on behalf of one who has a good title and the transfer is otherwise rightful; and

(2) all signatures are genuine or authorized; and

(3) the instrument has not been materially altered; and

(4) no defense of any party is good against him; and

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(5) he has no knowledge of any insolvency proceeding instituted with respect to the maker or acceptor or the drawer of an unaccepted instrument.

(c) By transferring "without recourse" the transferor limits the obligation stated in Subsection (b) (4) to a warranty that he has no knowledge of such a defense.

(d) A selling agent or broker who does not disclose the fact that he is acting only as such gives the warranties provided in this section, but if he makes such disclosure warrants only his good faith and authority. (59th Legis., Ch. 721, Sec. 3—417.)

§ 3.418. Finality of Payment or Acceptance

Except for recovery of bank payments as provided in the chapter on Bank Deposits and Collections (Chapter 4) and except for liability for breach of warranty on presentment under the preceding section, payment or acceptance of any instrument is final in favor of a holder in due course, or a person who has in good faith changed his position in reliance on the payment. (59th Legis., Ch. 721, Sec. 3—418.)

§ 3.419. Conversion of Instrument; Innocent Representative

(a) An instrument is converted when

- (1) a drawee to whom it is delivered for acceptance refuses to return it on demand; or
- (2) any person to whom it is delivered for payment refuses on demand either to pay or to return it; or
- (3) it is paid on a forged indorsement.

(b) In an action against a drawee under Subsection (a) the measure of the drawee's liability is the face amount of the instrument. In any other action under Subsection (a) the measure of liability is presumed to be the face amount of the instrument.

(c) Subject to the provisions of this title concerning restrictive indorsements a representative, including a depository or collecting bank, who has in good faith and in accordance with the reasonable commercial standards applicable to the business of such representative dealt with an instrument or its proceeds on behalf of one who was not the true owner is not liable in conversion or otherwise to the true owner beyond the amount of any proceeds remaining in his hands.

(d) An intermediary bank or payor bank which is not a depository bank is not liable in conversion solely by reason of the fact that proceeds of an item indorsed restrictively (Sections 3.205 and 3.206) are not paid or applied consistently with the restrictive indorsement of an indorser other than its immediate transferor. (59th Legis., Ch. 721, Sec. 3—419.)

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**SUBCHAPTER E. PRESENTMENT, NOTICE OF DISHONOR
AND PROTEST**

**§ 3.501. When Presentment, Notice of Dishonor, and Protest
Necessary or Permissible**

(a) Unless excused (Section 3.511) presentment is necessary to charge secondary parties as follows:

- (1) presentment for acceptance is necessary to charge the drawer and indorsers of a draft where the draft so provides, or is payable elsewhere than at the residence or place of business of the drawee, or its date of payment depends upon such presentment. The holder may at his option present for acceptance any other draft payable at a stated date;
- (2) presentment for payment is necessary to charge any indorser;
- (3) in the case of any drawer, the acceptor of a draft payable at a bank or the maker of a note payable at a bank, presentment for payment is necessary, but failure to make presentment discharges such drawer, acceptor or maker only as stated in Section 3.502(a) (2).

(b) Unless excused (Section 3.511)

- (1) notice of any dishonor is necessary to charge any indorser;
- (2) in the case of any drawer, the acceptor of a draft payable at a bank or the maker of a note payable at a bank, notice of any dishonor is necessary, but failure to give such notice discharges such drawer, acceptor or maker only as stated in Section 3.502(a) (2).

(c) Unless excused (Section 3.511) protest of any dishonor is necessary to charge the drawer and indorsers of any draft which on its face appears to be drawn or payable outside of the states and territories of the United States and the District of Columbia. The holder may at his option make protest of any dishonor of any other instrument and in the case of a foreign draft may on insolvency of the acceptor before maturity make protest for better security.

(d) Notwithstanding any provision of this section, neither presentment nor notice of dishonor nor protest is necessary to charge an indorser who has indorsed an instrument after maturity. (59th Legis., Ch. 721, Sec. 3—501.)

§ 3.502. Unexcused Delay; Discharge

(a) Where without excuse any necessary presentment or notice of dishonor is delayed beyond the time when it is due

- (1) any indorser is discharged; and
- (2) any drawer or the acceptor of a draft payable at a bank or the maker of a note payable at a bank who because the drawee or payor bank becomes insolvent during the delay is deprived of funds maintained with the drawee or payor bank to cover the instrument may discharge his liability by written assignment to the holder of his rights against the drawee or payor bank in respect of such funds, but such drawer, acceptor or maker is not otherwise discharged.

(b) Where without excuse a necessary protest is delayed beyond the time when it is due any drawer or indorser is discharged. (59th Legis., Ch. 721, Sec. 3—502.)

§ 3.503. Time of Presentment

(a) Unless a different time is expressed in the instrument the time for any presentment is determined as follows:

- (1) where an instrument is payable at or a fixed period after a stated date any presentment for acceptance must be made on or before the date it is payable;
- (2) where an instrument is payable after sight it must either be presented for acceptance or negotiated within a reasonable time after date or issue whichever is later;
- (3) where an instrument shows the date on which it is payable presentment for payment is due on that date;
- (4) where an instrument is accelerated presentment for payment is due within a reasonable time after the acceleration;
- (5) with respect to the liability of any secondary party presentment for acceptance or payment of any other instrument is due within a reasonable time after such party becomes liable thereon.

(b) A reasonable time for presentment is determined by the nature of the instrument, any usage of banking or trade and the facts of the particular case. In the case of an uncertified check which is drawn and payable within the United States and which is not a draft drawn by a bank the following are presumed to be reasonable periods within which to present for payment or to initiate bank collection:

- (1) with respect to the liability of the drawer, thirty days after date or issue whichever is later; and

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(2) with respect to the liability of an indorser, seven days after his indorsement.

(c) Where any presentment is due on a day which is not a full business day for either the person making presentment or the party to pay or accept, presentment is due on the next following day which is a full business day for both parties.

(d) Presentment to be sufficient must be made at a reasonable hour, and if at a bank during its banking day. (59th Legis., Ch. 721, Sec. 3—503.)

§ 3.504. How Presentment Made

(a) Presentment is a demand for acceptance or payment made upon the maker, acceptor, drawee or other payor by or on behalf of the holder.

(b) Presentment may be made

(1) by mail, in which event the time of presentment is determined by the time of receipt of the mail; or

(2) through a clearing house; or

(3) at the place of acceptance or payment specified in the instrument or if there be none at the place of business or residence of the party to accept or pay. If neither the party to accept or pay nor anyone authorized to act for him is present or accessible at such place presentment is excused.

(c) It may be made

(1) to any one of two or more makers, acceptors, drawees or other payors; or

(2) to any person who has authority to make or refuse the acceptance or payment.

(d) A draft accepted or a note made payable at a bank in the United States must be presented at such bank.

(e) In the cases described in Section 4.210 presentment may be made in the manner and with the result stated in that section. (59th Legis., Ch. 721, Sec. 3—504.)

§ 3.505. Rights of Party to Whom Presentment Is Made

(a) The party to whom presentment is made may without dishonor require

(1) exhibition of the instrument; and

(2) reasonable identification of the person making presentment and evidence of his authority to make it if made for another; and

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- (3) that the instrument be produced for acceptance or payment at a place specified in it, or if there be none at any place reasonable in the circumstances; and
- (4) a signed receipt on the instrument for any partial or full payment and its surrender upon full payment.

(b) Failure to comply with any such requirement invalidates the presentment but the person presenting has a reasonable time in which to comply and the time for acceptance or payment runs from the time of compliance. (59th Legis., Ch. 721, Sec. 3—505.)

§ 3.506. Time Allowed for Acceptance or Payment

(a) Acceptance may be deferred without dishonor until the close of the next business day following presentment. The holder may also in a good faith effort to obtain acceptance and without either dishonor of the instrument or discharge of secondary parties allow postponement of acceptance for an additional business day.

(b) Except as a longer time is allowed in the case of documentary drafts drawn under a letter of credit, and unless an earlier time is agreed to by the party to pay, payment of an instrument may be deferred without dishonor pending reasonable examination to determine whether it is properly payable, but payment must be made in any event before the close of business on the day of presentment. (59th Legis., Ch. 721, Sec. 3—506.)

§ 3.507. Dishonor; Holder's Right of Recourse; Term Allowing Re-Presentment

(a) An instrument is dishonored when

- (1) a necessary or optional presentment is duly made and due acceptance or payment is refused or cannot be obtained within the prescribed time or in case of bank collections the instrument is seasonably returned by the midnight deadline (Section 4.301); or
- (2) presentment is excused and the instrument is not duly accepted or paid.

(b) Subject to any necessary notice of dishonor and protest, the holder has upon dishonor an immediate right of recourse against the drawers and indorsers.

(c) Return of an instrument for lack of proper indorsement is not dishonor.

(d) A term in a draft or an indorsement thereof allowing a stated time for re-presentment in the event of any dishonor of the draft by nonacceptance if a time draft or by nonpayment if a sight draft gives the holder as against any secondary party bound by the

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term an option to waive the dishonor without affecting the liability of the secondary party and he may present again up to the end of the stated time. (59th Legis., Ch. 721, Sec. 3—507.)

§ 3.508. Notice of Dishonor

(a) Notice of dishonor may be given to any person who may be liable on the instrument by or on behalf of the holder or any party who has himself received notice, or any other party who can be compelled to pay the instrument. In addition an agent or bank in whose hands the instrument is dishonored may give notice to his principal or customer or to another agent or bank from which the instrument was received.

(b) Any necessary notice must be given by a bank before its midnight deadline and by any other person before midnight of the third business day after dishonor or receipt of notice of dishonor.

(c) Notice may be given in any reasonable manner. It may be oral or written and in any terms which identify the instrument and state that it has been dishonored. A misdescription which does not mislead the party notified does not vitiate the notice. Sending the instrument bearing a stamp, ticket or writing stating that acceptance or payment has been refused or sending a notice of debit with respect to the instrument is sufficient.

(d) Written notice is given when sent although it is not received.

(e) Notice to one partner is notice to each although the firm has been dissolved.

(f) When any party is in insolvency proceedings instituted after the issue of the instrument notice may be given either to the party or to the representative of his estate.

(g) When any party is dead or incompetent notice may be sent to his last known address or given to his personal representative.

(h) Notice operates for the benefit of all parties who have rights on the instrument against the party notified. (59th Legis., Ch. 721, Sec. 3—508.)

§ 3.509. Protest; Noting for Protest

(a) A protest is a certificate of dishonor made under the hand and seal of a United States consul or vice-consul or a notary public or other person authorized to certify dishonor by the law of the place where dishonor occurs. It may be made upon information satisfactory to such person.

(b) The protest must identify the instrument and certify either that due presentment has been made or the reason why it is excused

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and that the instrument has been dishonored by nonacceptance or non-payment.

(c) The protest may also certify that notice of dishonor has been given to all parties or to specified parties.

(d) Subject to Subsection (e) any necessary protest is due by the time that notice of dishonor is due.

(e) If, before protest is due, an instrument has been noted for protest by the officer to make protest, the protest may be made at any time thereafter as of the date of the noting. (59th Legis., Ch. 721, Sec. 3—509.)

§ 3.510. Evidence of Dishonor and Notice of Dishonor

The following are admissible as evidence and create a presumption of dishonor and of any notice of dishonor therein shown:

- (1) a document regular in form as provided in the preceding section which purports to be a protest;
- (2) the purported stamp or writing of the drawee, payor bank or presenting bank on the instrument or accompanying it stating that acceptance or payment has been refused for reasons consistent with dishonor;
- (3) any book or record of the drawee, payor bank, or any collecting bank kept in the usual course of business which shows dishonor, even though there is no evidence of who made the entry.

(59th Legis., Ch. 721, Sec. 3—510.)

§ 3.511. Waived or Excused Presentment, Protest or Notice of Dishonor or Delay Therein

(a) Delay in presentment, protest or notice of dishonor is excused when the party is without notice that it is due or when the delay is caused by circumstances beyond his control and he exercises reasonable diligence after the cause of the delay ceases to operate.

(b) Presentment or notice or protest as the case may be is entirely excused when

- (1) the party to be charged has waived it expressly or by implication either before or after it is due; or
- (2) such party has himself dishonored the instrument or has countermanded payment or otherwise has no reason to expect or right to require that the instrument be accepted or paid; or
- (3) by reasonable diligence the presentment or protest cannot be made or the notice given.

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(c) Presentment is also entirely excused when

- (1) the maker, acceptor or drawee of any instrument except a documentary draft is dead or in insolvency proceedings instituted after the issue of the instrument; or
- (2) acceptance or payment is refused but not for want of proper presentment.

(d) Where a draft has been dishonored by nonacceptance a later presentment for payment and any notice of dishonor and protest for nonpayment are excused unless in the meantime the instrument has been accepted.

(e) A waiver of protest is also a waiver of presentment and of notice of dishonor even though protest is not required.

(f) Where a waiver of presentment or notice or protest is embodied in the instrument itself it is binding upon all parties; but where it is written above the signature of an indorser it binds him only. (59th Legis., Ch. 721, Sec. 3—511.)

SUBCHAPTER F. DISCHARGE

§ 3.601. Discharge of Parties

(a) The extent of the discharge of any party from liability on an instrument is governed by the sections on

- (1) payment or satisfaction (Section 3.603); or
- (2) tender of payment (Section 3.604); or
- (3) cancellation or renunciation (Section 3.605); or
- (4) impairment of right of recourse or of collateral (Section 3.606); or
- (5) reacquisition of the instrument by a prior party (Section 3.208); or
- (6) fraudulent and material alteration (Section 3.407); or
- (7) certification of a check (Section 3.411); or
- (8) acceptance varying a draft (Section 3.412); or
- (9) unexcused delay in presentment or notice of dishonor or protest (Section 3.502).

(b) Any party is also discharged from his liability on an instrument to another party by any other act or agreement with such party which would discharge his simple contract for the payment of money.

(c) The liability of all parties is discharged when any party who has himself no right of action or recourse on the instrument

- (1) reacquires the instrument in his own right; or

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- (2) is discharged under any provision of this chapter, except as otherwise provided with respect to discharge for impairment of recourse or of security (Section 3.606).

(59th Legis., Ch. 721, Sec. 3—601.)

§ 3.602. Effect of Discharge Against Holder in Due Course

No discharge of any party provided by this chapter is effective against a subsequent holder in due course unless he has notice thereof when he takes the instrument. (59th Legis., Ch. 721, Sec. 3—602.)

§ 3.603. Payment or Satisfaction

(a) The liability of any party is discharged to the extent of his payment or satisfaction to the holder even though it is made with knowledge of a claim of another person to the instrument unless prior to such payment or satisfaction the person making the claim either supplies indemnity deemed adequate by the party seeking the discharge or enjoins payment or satisfaction by order of a court of competent jurisdiction in an action in which the adverse claimant and the holder are parties. This subsection does not, however, result in the discharge of the liability

- (1) of a party who in bad faith pays or satisfies a holder who acquired the instrument by theft or who (unless having the rights of a holder in due course) holds through one who so acquired it; or
- (2) of a party (other than an intermediary bank or a payor bank which is not a depositary bank) who pays or satisfies the holder of an instrument which has been restrictively indorsed in a manner not consistent with the terms of such restrictive indorsement.

(b) Payment or satisfaction may be made with the consent of the holder by any person including a stranger to the instrument. Surrender of the instrument to such a person gives him the rights of a transferee (Section 3.201). (59th Legis., Ch. 721, Sec. 3—603.)

§ 3.604. Tender of Payment

(a) Any party making tender of full payment to a holder when or after it is due is discharged to the extent of all subsequent liability for interest, costs and attorney's fees.

(b) The holder's refusal of such tender wholly discharges any party who has a right of recourse against the party making the tender.

(c) Where the maker or acceptor of an instrument payable otherwise than on demand is able and ready to pay at every place of

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payment specified in the instrument when it is due, it is equivalent to tender. (59th Legis., Ch. 721, Sec. 3—604.)

§ 3.605. Cancellation and Renunciation

(a) The holder of an instrument may even without consideration discharge any party

- (1) in any manner apparent on the face of the instrument or the indorsement, as by intentionally cancelling the instrument or the party's signature by destruction or mutilation, or by striking out the party's signature; or
- (2) by renouncing his rights by a writing signed and delivered or by surrender of the instrument to the party to be discharged.

(b) Neither cancellation nor renunciation without surrender of the instrument affects the title thereto. (59th Legis., Ch. 721, Sec. 3—605.)

§ 3.606. Impairment of Recourse or of Collateral

(a) The holder discharges any party to the instrument to the extent that without such party's consent the holder

- (1) without express reservation of rights releases or agrees not to sue any person against whom the party has to the knowledge of the holder a right of recourse or agrees to suspend the right to enforce against such person the instrument or collateral or otherwise discharges such person, except that failure or delay in effecting any required presentment, protest or notice of dishonor with respect to any such person does not discharge any party as to whom presentment, protest or notice of dishonor is effective or unnecessary; or
- (2) unjustifiably impairs any collateral for the instrument given by or on behalf of the party or any person against whom he has a right of recourse.

(b) By express reservation of rights against a party with a right of recourse the holder preserves

- (1) all his rights against such party as of the time when the instrument was originally due; and
- (2) the right of the party to pay the instrument as of that time; and
- (3) all rights of such party to recourse against others.

(59th Legis., Ch. 721, Sec. 3—606.)

SUBCHAPTER G. ADVICE OF INTERNATIONAL
SIGHT DRAFT

§ 3.701. Letter of Advice of International Sight Draft

(a) A "letter of advice" is a drawer's communication to the drawee that a described draft has been drawn.

(b) Unless otherwise agreed when a bank receives from another bank a letter of advice of an international sight draft the drawee bank may immediately debit the drawer's account and stop the running of interest pro tanto. Such a debit and any resulting credit to any account covering outstanding drafts leaves in the drawer full power to stop payment or otherwise dispose of the amount and creates no trust or interest in favor of the holder.

(c) Unless otherwise agreed and except where a draft is drawn under a credit issued by the drawee, the drawee of an international sight draft owes the drawer no duty to pay an unadvised draft but if it does so and the draft is genuine, may appropriately debit the drawer's account. (59th Legis., Ch. 721, Sec. 3—701.)

SUBCHAPTER H. MISCELLANEOUS

§ 3.801. Drafts in a Set

(a) Where a draft is drawn in a set of parts, each of which is numbered and expressed to be an order only if no other part has been honored, the whole of the parts constitutes one draft but a taker of any part may become a holder in due course of the draft.

(b) Any person who negotiates, indorses or accepts a single part of a draft drawn in a set thereby becomes liable to any holder in due course of that part as if it were the whole set, but as between different holders in due course to whom different parts have been negotiated the holder whose title first accrues has all rights to the draft and its proceeds.

(c) As against the drawee the first presented part of a draft drawn in a set is the part entitled to payment, or if a time draft to acceptance and payment. Acceptance of any subsequently presented part renders the drawee liable thereon under Subsection (b). With respect both to a holder and to the drawer payment of a subsequently presented part of a draft payable at sight has the same effect as payment of a check notwithstanding an effective stop order (Section 4.407).

(d) Except as otherwise provided in this section, where any part of a draft in a set is discharged by payment or otherwise the whole draft is discharged. (59th Legis., Ch. 721, Sec. 3—801.)

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§ 3.802. Effect of Instrument on Obligation for Which It Is Given

(a) Unless otherwise agreed where an instrument is taken for an underlying obligation

- (1) the obligation is pro tanto discharged if a bank is drawer, maker or acceptor of the instrument and there is no recourse on the instrument against the underlying obligor; and
- (2) in any other case the obligation is suspended pro tanto until the instrument is due or if it is payable on demand until its presentment. If the instrument is dishonored action may be maintained on either the instrument or the obligation; discharge of the underlying obligor on the instrument also discharges him on the obligation.

(b) The taking in good faith of a check which is not postdated does not of itself so extend the time on the original obligation as to discharge a surety. (59th Legis., Ch. 721, Sec. 3—802.)

§ 3.803. Notice to Third Party

Where a defendant is sued for breach of an obligation for which a third person is answerable over under this chapter he may give the third person written notice of the litigation, and the person notified may then give similar notice to any other person who is answerable over to him under this chapter. If the notice states that the person notified may come in and defend and that if the person notified does not do so he will in any action against him by the person giving the notice be bound by any determination of fact common to the two litigations, then unless after seasonable receipt of the notice the person notified does come in and defend he is so bound. (59th Legis., Ch. 721, Sec. 3—803.)

§ 3.804. Lost, Destroyed or Stolen Instruments

The owner of an instrument which is lost, whether by destruction, theft or otherwise, may maintain an action in his own name and recover from any party liable thereon upon due proof of his ownership, the facts which prevent his production of the instrument and its terms. The court may require security indemnifying the defendant against loss by reason of further claims on the instrument. (59th Legis., Ch. 721, Sec. 3—804.)

§ 3.805. Instruments Not Payable to Order or to Bearer

This chapter applies to any instrument whose terms do not preclude transfer and which is otherwise negotiable within this chapter but which is not payable to order or to bearer, except that there can be no holder in due course of such an instrument. (59th Legis., Ch. 721, Sec. 3—805.)

CHAPTER 4. BANK DEPOSITS AND COLLECTIONS

SUBCHAPTER A. GENERAL PROVISIONS AND DEFINITIONS

Section

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- 4.102. Applicability.
- 4.103. Variation by Agreement; Measure of Damages; Certain Action Constituting Ordinary Care.
- 4.104. Definitions and Index of Definitions.
- 4.105. "Depository Bank"; "Intermediary Bank"; "Collecting Bank"; "Payor Bank"; "Presenting Bank"; "Remitting Bank".
- 4.106. Separate Office of a Bank.
- 4.107. Time of Receipt of Items.
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SUBCHAPTER B. COLLECTION OF ITEMS: DEPOSITORY AND COLLECTING BANKS

- 4.201. Presumption and Duration of Agency Status of Collecting Banks and Provisional Status of Credits; Applicability of Chapter; Item Indorsed "Pay Any Bank".
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- 4.205. Supplying Missing Indorsement; No Notice from Prior Indorsement.
- 4.206. Transfer Between Banks.
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- 4.210. Presentment by Notice of Item Not Payable by, Through or at a Bank; Liability of Secondary Parties.
- 4.211. Media of Remittance; Provisional and Final Settlement in Remittance Cases.
- 4.212. Right of Charge-Back or Refund.
- 4.213. Final Payment of Item by Payor Bank; When Provisional Debits and Credits Become Final; When Certain Credits Become Available for Withdrawal.
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SUBCHAPTER C. COLLECTION OF ITEMS: PAYOR BANKS

Section

- 4.301. Deferred Posting; Recovery of Payment by Return of Items; Time of Dishonor.
- 4.302. Payor Bank's Responsibility for Late Return of Item.
- 4.303. When Items Subject to Notice, Stop-Order, Legal Process or Set-Off; Order in Which Items May be Charged or Certified.

SUBCHAPTER D. RELATIONSHIP BETWEEN PAYOR BANK AND ITS CUSTOMER

- 4.401. When Bank May Charge Customer's Account.
- 4.402. Bank's Liability to Customer for Wrongful Dishonor.
- 4.403. Customer's Right to Stop Payment; Burden of Proof of Loss.
- 4.404. Bank Not Obligated to Pay Check More Than Six Months Old.
- 4.405. Death or Incompetence of Customer.
- 4.406. Customer's Duty to Discover and Report Unauthorized Signature or Alteration.
- 4.407. Payor Bank's Right to Subrogation on Improper Payment.

SUBCHAPTER E. COLLECTION OF DOCUMENTARY DRAFTS

- 4.501. Handling of Documentary Drafts; Duty to Send for Presentment and to Notify Customer of Dishonor.
- 4.502. Presentment of "On Arrival" Drafts.
- 4.503. Responsibility of Presenting Bank for Documents and Goods; Report of Reasons for Dishonor; Referee in Case of Need.
- 4.504. Privilege of Presenting Bank to Deal with Goods; Security Interest for Expenses.

SUBCHAPTER A. GENERAL PROVISIONS AND DEFINITIONS

Section 4.101. Short Title

This chapter may be cited as Uniform Commercial Code—Bank Deposits and Collections. (59th Legis., Ch. 721, Sec. 4—101.)

§ 4.102. Applicability

(a) To the extent that items within this chapter are also within the scope of Chapters 3 and 8, they are subject to the provisions of those chapters. In the event of conflict the provisions of this chapter govern those of Chapter 3 but the provisions of Chapter 8 govern those of this chapter.

(b) The liability of a bank for action or non-action with respect to any item handled by it for purposes of presentment, payment or

collection is governed by the law of the place where the bank is located. In the case of action or non-action by or at a branch or separate office of a bank, its liability is governed by the law of the place where the branch or separate office is located. (59th Legis., Ch. 721, Sec. 4—102.)

§ 4.103. Variation by Agreement; Measure of Damages; Certain Action Constituting Ordinary Care

(a) The effect of the provisions of this chapter may be varied by agreement except that no agreement can disclaim a bank's responsibility for its own lack of good faith or failure to exercise ordinary care or can limit the measure of damages for such lack or failure; but the parties may by agreement determine the standards by which such responsibility is to be measured if such standards are not manifestly unreasonable.

(b) Federal Reserve regulations and operating letters, clearing house rules, and the like, have the effect of agreements under Subsection (a), whether or not specifically assented to by all parties interested in items handled.

(c) Action or non-action approved by this chapter or pursuant to Federal Reserve regulations or operating letters constitutes the exercise of ordinary care and, in the absence of special instructions, action or non-action consistent with clearing house rules and the like or with a general banking usage not disapproved by this chapter, prima facie constitutes the exercise of ordinary care.

(d) The specification or approval of certain procedures by this chapter does not constitute disapproval of other procedures which may be reasonable under the circumstances.

(e) The measure of damages for failure to exercise ordinary care in handling an item is the amount of the item reduced by an amount which could not have been realized by the use of ordinary care, and where there is bad faith it includes other damages, if any, suffered by the party as a proximate consequence. (59th Legis., Ch. 721, Sec. 4—103.)

§ 4.104. Definitions and Index of Definitions

(a) In this chapter unless the context otherwise requires

- (1) "Account" means any account with a bank and includes a checking, time, interest or savings account;
- (2) "Afternoon" means the period of a day between noon and midnight;
- (3) "Banking day" means that part of any day on which a bank is open to the public for carrying on substantially all of its banking functions;

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- (4) "Clearing house" means any association of banks or other payors regularly clearing items;
- (5) "Customer" means any person having an account with a bank or for whom a bank has agreed to collect items and includes a bank carrying an account with another bank;
- (6) "Documentary draft" means any negotiable or non-negotiable draft with accompanying documents, securities or other papers to be delivered against honor of the draft;
- (7) "Item" means any instrument for the payment of money even though it is not negotiable but does not include money;
- (8) "Midnight deadline" with respect to a bank is midnight on its next banking day following the banking day on which it receives the relevant item or notice or from which the time for taking action commences to run, whichever is later;
- (9) "Properly payable" includes the availability of funds for payment at the time of decision to pay or dishonor;
- (10) "Settle" means to pay in cash, by clearing house settlement, in a charge or credit or by remittance, or otherwise as instructed. A settlement may be either provisional or final;
- (11) "Suspends payments" with respect to a bank means that it has been closed by order of the supervisory authorities, that a public officer has been appointed to take it over or that it ceases or refuses to make payments in the ordinary course of business.

(b) Other definitions applying to this chapter and the sections in which they appear are:

"Collecting bank"	Section 4.105.
"Depository bank"	Section 4.105.
"Intermediary bank"	Section 4.105.
"Payor bank"	Section 4.105.
"Presenting bank"	Section 4.105.
"Remitting bank"	Section 4.105.

(c) The following definitions in other chapters apply to this chapter:

"Acceptance"	Section 3.410.
"Certificate of deposit"	Section 3.104.
"Certification"	Section 3.411.
"Check"	Section 3.104.
"Draft"	Section 3.104.
"Holder in due course"	Section 3.302.
"Notice of dishonor"	Section 3.508.
"Presentment"	Section 3.504.
"Protest"	Section 3.509.
"Secondary party"	Section 3.102.

(d) In addition Chapter 1 contains general definitions and principles of construction and interpretation applicable throughout this chapter. (59th Legis., Ch. 721, Sec. 4—104.)

§ 4.105. “Depository Bank”; “Intermediary Bank”; “Collecting Bank”; “Payor Bank”; “Presenting Bank”; “Remitting Bank”

In this chapter unless the context otherwise requires:

- (1) “Depository bank” means the first bank to which an item is transferred for collection even though it is also the payor bank;
- (2) “Payor bank” means a bank by which an item is payable as drawn or accepted;
- (3) “Intermediary bank” means any bank to which an item is transferred in course of collection except the depository or payor bank;
- (4) “Collecting bank” means any bank handling the item for collection except the payor bank;
- (5) “Presenting bank” means any bank presenting an item except a payor bank;
- (6) “Remitting bank” means any payor or intermediary bank remitting for an item.

(59th Legis., Ch. 721, Sec. 4—105.)

§ 4.106. Separate Office of a Bank

A branch or separate office of a bank is a separate bank for the purpose of computing the time within which and determining the place at or to which action may be taken or notices or orders shall be given under this chapter and under Chapter 3. (59th Legis., Ch. 721, Sec. 4—106.)

§ 4.107. Time of Receipt of Items

(a) For the purpose of allowing time to process items, prove balances and make the necessary entries on its books to determine its position for the day, a bank may fix an afternoon hour of two P.M. or later as a cut-off hour for the handling of money and items and the making of entries on its books.

(b) Any item or deposit of money received on any day after a cut-off hour so fixed or after the close of the banking day may be treated as being received at the opening of the next banking day. (59th Legis., Ch. 721, Sec. 4—107.)

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§ 4.108. Delays

(a) Unless otherwise instructed, a collecting bank in a good faith effort to secure payment may, in the case of specific items and with or without the approval of any person involved, waive, modify or extend time limits imposed or permitted by this title for a period not in excess of an additional banking day without discharge of secondary parties and without liability to its transferor or any prior party.

(b) Delay by a collecting bank or payor bank beyond time limits prescribed or permitted by this title or by instructions is excused if caused by interruption of communication facilities, suspension of payments by another bank, war, emergency conditions or other circumstances beyond the control of the bank provided it exercises such diligence as the circumstances require. (59th Legis., Ch. 721, Sec. 4—108.)

§ 4.109. Process of Posting

The “process of posting” means the usual procedure followed by a payor bank in determining to pay an item and in recording the payment including one or more of the following or other steps as determined by the bank:

- (1) verification of any signature;
- (2) ascertaining that sufficient funds are available;
- (3) affixing a “paid” or other stamp;
- (4) entering a charge or entry to a customer’s account;
- (5) correcting or reversing an entry or erroneous action with respect to the item.

(59th Legis., Ch. 721, Sec. 4—109.)

**SUBCHAPTER B. COLLECTION OF ITEMS: DEPOSITARY
AND COLLECTING BANKS**

§ 4.201. Presumption and Duration of Agency Status of Collecting Banks and Provisional Status of Credits; Applicability of Article; Item Indorsed “Pay Any Bank”

(a) Unless a contrary intent clearly appears and prior to the time that a settlement given by a collecting bank for an item is or becomes final (Subsection (c) of Section 4.211 and Sections 4.212 and 4.213) the bank is an agent or sub-agent of the owner of the item and any settlement given for the item is provisional. This provision applies regardless of the form of indorsement or lack of indorsement and even though credit given for the item is subject to immediate withdrawal as of right or is in fact withdrawn; but the continuance of ownership

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of an item by its owner and any rights of the owner to proceeds of the item are subject to rights of a collecting bank such as those resulting from outstanding advances on the item and valid rights of setoff. When an item is handled by banks for purposes of presentment, payment and collection, the relevant provisions of this chapter apply even though action of parties clearly establishes that a particular bank has purchased the item and is the owner of it.

(b) After an item has been indorsed with the words "pay any bank" or the like, only a bank may acquire the rights of a holder

- (1) until the item has been returned to the customer initiating collection; or
- (2) until the item has been specially indorsed by a bank to a person who is not a bank.

(59th Legis., Ch. 721, Sec. 4—201.)

§ 4.202. Responsibility for Collection; When Action Seasonable

(a) A collecting bank must use ordinary care in

- (1) presenting an item or sending it for presentment; and
- (2) sending notice of dishonor or non-payment or returning an item other than a documentary draft to the bank's transferor or directly to the depository bank under Subsection (b) of Section 4.212 after learning that the item has not been paid or accepted, as the case may be; and
- (3) settling for an item when the bank receives final settlement; and
- (4) making or providing for any necessary protest; and
- (5) notifying its transferor of any loss or delay in transit within a reasonable time after discovery thereof.

(b) A collecting bank taking proper action before its midnight deadline following receipt of an item, notice or payment acts seasonably; taking proper action within a reasonably longer time may be seasonable but the bank has the burden of so establishing.

(c) Subject to Subsection (a) (1), a bank is not liable for the insolvency, neglect, misconduct, mistake or default of another bank or person or for loss or destruction of an item in transit or in the possession of others. (59th Legis., Ch. 721, Sec. 4—202.)

§ 4.203. Effect of Instructions

Subject to the provisions of Chapter 3 concerning conversion of instruments (Section 3.419) and the provisions of both Chapter 3 and this chapter concerning restrictive indorsements only a collecting bank's transferor can give instructions which affect the bank or con-

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stitute notice to it and a collecting bank is not liable to prior parties for any action taken pursuant to such instructions or in accordance with any agreement with its transferor. (59th Legis., Ch. 721, Sec. 4—203.)

§ 4.204. Methods of Sending and Presenting; Sending Direct to Payor Bank

(a) A collecting bank must send items by reasonably prompt method taking into consideration any relevant instructions, the nature of the item, the number of such items on hand, and the cost of collection involved and the method generally used by it or others to present such items.

(b) A collecting bank may send

- (1) any item direct to the payor bank;
- (2) any item to any non-bank payor if authorized by its transferor; and
- (3) any item other than documentary drafts to any non-bank payor, if authorized by Federal Reserve regulation or operating letter, clearing house rule or the like.

(c) Presentment may be made by a presenting bank at a place where the payor bank has requested that presentment be made. (59th Legis., Ch. 721, Sec. 4—204.)

§ 4.205. Supplying Missing Indorsement; No Notice from Prior Indorsement

(a) A depository bank which has taken an item for collection may supply any indorsement of the customer which is necessary to title unless the item contains the words "payee's indorsement required" or the like. In the absence of such a requirement a statement placed on the item by the depository bank to the effect that the item was deposited by a customer or credited to his account is effective as the customer's indorsement.

(b) An intermediary bank, or payor bank which is not a depository bank, is neither given notice nor otherwise affected by a restrictive indorsement of any person except the bank's immediate transferor. (59th Legis., Ch. 721, Sec. 4—205.)

§ 4.206. Transfer Between Banks

Any agreed method which identifies the transferor bank is sufficient for the item's further transfer to another bank. (59th Legis., Ch. 721, Sec. 4—206.)

§ 4.207. Warranties of Customer and Collecting Bank on Transfer or Presentment of Items; Time for Claims

(a) Each customer or collecting bank who obtains payment or acceptance of an item and each prior customer and collecting bank warrants to the payor bank or other payor who in good faith pays or accepts the item that

- (1) he has a good title to the item or is authorized to obtain payment or acceptance on behalf of one who has a good title; and
- (2) he has no knowledge that the signature of the maker or drawer is unauthorized, except that this warranty is not given by any customer or collecting bank that is a holder in due course and acts in good faith
 - (A) to a maker with respect to the maker's own signature; or
 - (B) to a drawer with respect to the drawer's own signature, whether or not the drawer is also the drawee; or
 - (C) to an acceptor of an item if the holder in due course took the item after the acceptance or obtained the acceptance without knowledge that the drawer's signature was unauthorized; and
- (3) the item has not been materially altered, except that this warranty is not given by any customer or collecting bank that is a holder in due course and acts in good faith
 - (A) to the maker of a note; or
 - (B) to the drawer of a draft whether or not the drawer is also the drawee; or
 - (C) to the acceptor of an item with respect to an alteration made prior to the acceptance if the holder in due course took the item after the acceptance, even though the acceptance provided "payable as originally drawn" or equivalent terms; or
 - (D) to the acceptor of an item with respect to an alteration made after the acceptance.

(b) Each customer and collecting bank who transfers an item and receives a settlement or other consideration for it warrants to his transferee and to any subsequent collecting bank who takes the item in good faith that

- (1) he has a good title to the item or is authorized to obtain payment or acceptance on behalf of one who has a good title and the transfer is otherwise rightful; and
- (2) all signatures are genuine or authorized; and
- (3) the item has not been materially altered; and

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- (4) no defense of any party is good against him; and
- (5) he has no knowledge of any insolvency proceeding instituted with respect to the maker or acceptor or the drawer of an unaccepted item.

In addition each customer and collecting bank so transferring an item and receiving a settlement or other consideration engages that upon dishonor and any necessary notice of dishonor and protest he will take up the item.

(c) The warranties and the engagement to honor set forth in the two preceding subsections arise notwithstanding the absence of indorsement or words of guaranty or warranty in the transfer or presentment and a collecting bank remains liable for their breach despite remittance to its transferor. Damages for breach of such warranties or engagement to honor shall not exceed the consideration received by the customer or collecting bank responsible plus finance charges and expenses related to the item, if any.

(d) Unless a claim for breach of warranty under this section is made within a reasonable time after the person claiming learns of the breach, the person liable is discharged to the extent of any loss caused by the delay in making claim. (59th Legis., Ch. 721, Sec. 4—207.)

§ 4.208. Security Interest of Collecting Bank in Items, Accompanying Documents and Proceeds

(a) A bank has a security interest in an item and any accompanying documents or the proceeds of either

- (1) in case of an item deposited in an account to the extent to which credit given for the item has been withdrawn or applied;
- (2) in case of an item for which it has given credit available for withdrawal as of right, to the extent of the credit given whether or not the credit is drawn upon and whether or not there is a right of charge-back; or
- (3) if it makes an advance on or against the item.

(b) When credit which has been given for several items received at one time or pursuant to a single agreement is withdrawn or applied in part the security interest remains upon all the items, any accompanying documents or the proceeds of either. For the purpose of this section, credits first given are first withdrawn.

(c) Receipt by a collecting bank of a final settlement for an item is a realization on its security interest in the item, accompanying documents and proceeds. To the extent and so long as the bank does not receive final settlement for the item or give up possession of the item or accompanying documents for purposes other than collection, the

security interest continues and is subject to the provisions of Chapter 9 except that

- (1) no security agreement is necessary to make the security interest enforceable (Subsection (a) (2) of Section 9.203); and
- (2) no filing is required to perfect the security interest; and
- (3) the security interest has priority over conflicting perfected security interests in the item, accompanying documents or proceeds.

(59th Legis., Ch. 721, Sec. 4—208.)

§ 4.209. When Bank Gives Value for Purposes of Holder in Due Course

For purposes of determining its status as a holder in due course, the bank has given value to the extent that it has a security interest in an item provided that the bank otherwise complies with the requirements of Section 3.302 on what constitutes a holder in due course. (59th Legis., Ch. 721, Sec. 4—209.)

§ 4.210. Presentment by Notice of Item Not Payable by, Through or at a Bank; Liability of Secondary Parties

(a) Unless otherwise instructed, a collecting bank may present an item not payable by, through or at a bank by sending to the party to accept or pay a written notice that the bank holds the item for acceptance or payment. The notice must be sent in time to be received on or before the day when presentment is due and the bank must meet any requirement of the party to accept or pay under Section 3.505 by the close of the bank's next banking day after it knows of the requirement.

(b) Where presentment is made by notice and neither honor nor request for compliance with a requirement under Section 3.505 is received by the close of business on the day after maturity or in the case of demand items by the close of business on the third banking day after notice was sent, the presenting bank may treat the item as dishonored and charge any secondary party by sending him notice of the facts. (59th Legis., Ch. 721, Sec. 4—210.)

§ 4.211. Media of Remittance; Provisional and Final Settlement in Remittance Cases

- (a) A collecting bank may take in settlement of an item
- (1) a check of the remitting bank or of another bank on any bank except the remitting bank; or
 - (2) a cashier's check or similar primary obligation of a remitting bank which is a member of or clears through a member of the same clearing house or group as the collecting bank; or

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- (3) appropriate authority to charge an account of the remitting bank or of another bank with the collecting bank; or
- (4) if the item is drawn upon or payable by a person other than a bank, a cashier's check, certified check or other bank check or obligation.

(b) If before its midnight deadline the collecting bank properly dishonors a remittance check or authorization to charge on itself or presents or forwards for collection a remittance instrument of or on another bank which is of a kind approved by Subsection (a) or has not been authorized by it, the collecting bank is not liable to prior parties in the event of the dishonor of such check, instrument or authorization.

(c) A settlement for an item by means of a remittance instrument or authorization to charge is or becomes a final settlement as to both the person making and the person receiving the settlement

- (1) if the remittance instrument or authorization to charge is of a kind approved by Subsection (a) or has not been authorized by the person receiving the settlement and in either case the person receiving the settlement acts seasonably before its midnight deadline in presenting, forwarding for collection or paying the instrument or authorization,—at the time the remittance instrument or authorization is finally paid by the payor by which it is payable;
- (2) if the person receiving the settlement has authorized remittance by a non-bank check or obligation or by a cashier's check remitting bank which is not of a kind approved by Subsection (a) (2);—at the time of the receipt of such remittance check or obligation; or
- (3) if in a case not covered by Subdivision (1) or (2) the person receiving the settlement fails to seasonably present, forward for collection, pay or return a remittance instrument or authorization to it to charge before its midnight deadline,—at such midnight deadline.

(59th Legis., Ch. 721, Sec. 4—211.)

§ 4.212. Right of Charge-Back or Refund

(a) If a collecting bank has made provisional settlement with its customer for an item and itself fails by reason of dishonor, suspension of payments by a bank or otherwise to receive a settlement for the item which is or becomes final, the bank may revoke the settlement given by it, charge back the amount of any credit given for the item to its customer's account or obtain refund from its customer whether or not it is able to return the items if by its midnight deadline or within a longer reasonable time after it learns the facts it returns the item or sends notification of the facts. These rights to revoke, charge-back and

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obtain refund terminate if and when a settlement for the item received by the bank is or becomes final (Subsection (c) of Section 4.211 and Subsections (b) and (c) of Section 4.213).

(b) Within the time and manner prescribed by this section and Section 4.301, an intermediary or payor bank, as the case may be, may return an unpaid item directly to the depository bank and may send for collection a draft on the depository bank and obtain reimbursement. In such case, if the depository bank has received provisional settlement for the item, it must reimburse the bank drawing the draft and any provisional credits for the item between banks shall become and remain final.

(c) A depository bank which is also the payor may charge-back the amount of an item to its customer's account or obtain refund in accordance with the section governing return of an item received by a payor bank for credit on its books (Section 4.301).

(d) The right to charge-back is not affected by

- (1) prior use of the credit given for the item; or
- (2) failure by any bank to exercise ordinary care with respect to the item but any bank so failing remains liable.

(e) A failure to charge-back or claim refund does not affect other rights of the bank against the customer or any other party.

(f) If credit is given in dollars as the equivalent of the value of an item payable in a foreign currency the dollar amount of any charge-back or refund shall be calculated on the basis of the buying sight rate for the foreign currency prevailing on the day when the person entitled to the charge-back or refund learns that it will not receive payment in ordinary course. (59th Legis., Ch. 721, Sec. 4—212.)

§ 4.213. Final Payment of Item by Payor Bank; When Provisional Debits and Credits Become Final; When Certain Credits Become Available for Withdrawal

(a) An item is finally paid by a payor bank when the bank has done any of the following, whichever happens first:

- (1) paid the item in cash; or
- (2) settled for the item without reserving a right to revoke the settlement and without having such right under statute, clearing house rule or agreement; or
- (3) completed the process of posting the item to the indicated account of the drawer, maker or other person to be charged therewith; or
- (4) made a provisional settlement for the item and failed to revoke the settlement in the time and manner permitted by statute, clearing house rule or agreement.

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Upon a final payment under Subdivisions (2), (3) or (4) the payor bank shall be accountable for the amount of the item.

(b) If provisional settlement for an item between the presenting and payor banks is made through a clearing house or by debits or credits in an account between them, then to the extent that provisional debits or credits for the item are entered in accounts between the presenting and payor banks or between the presenting and successive prior collecting banks seriatim, they become final upon final payment of the item by the payor bank.

(c) If a collecting bank receives a settlement for an item which is or becomes final (Subsection (c) of Section 4.211, Subsection (b) of Section 4.213) the bank is accountable to its customer for the amount of the item and any provisional credit given for the item in an account with its customer becomes final.

(d) Subject to any right of the bank to apply the credit to an obligation of the customer, credit given by a bank for an item in an account with its customer becomes available for withdrawal as of right

(1) in any case where the bank has received a provisional settlement for the item,—when such settlement becomes final and the bank has had a reasonable time to learn that the settlement is final;

(2) in any case where the bank is both a depository bank and a payor bank and the item is finally paid,—at the opening of the bank's second banking day following receipt of the item.

(e) A deposit of money in a bank is final when made but, subject to any right of the bank to apply the deposit to an obligation of the customer, the deposit becomes available for withdrawal as of right at the opening of the bank's next banking day following receipt of the deposit. (59th Legis., Ch. 721, Sec. 4—213.)

§ 4.214. Insolvency and Preference

(a) Any item in or coming into the possession of a payor or collecting bank which suspends payment and which item is not finally paid shall be returned by the receiver, trustee or agent in charge of the closed bank to the presenting bank or the closed bank's customer.

(b) If a payor bank finally pays an item and suspends payments without making a settlement for the item with its customer or the presenting bank which settlement is or becomes final, the owner of the item has a preferred claim against the payor bank.

(c) If a payor bank gives or a collecting bank gives or receives a provisional settlement for an item and thereafter suspends payments, the suspension does not prevent or interfere with the settlement becoming final if such finality occurs automatically upon the lapse of

certain time or the happening of certain events (Subsection (c) of Section 4.211, Subsections (a) (4), (b) and (c) of Section 4.213).

(d) If a collecting bank receives from subsequent parties settlement for an item which settlement is or becomes final and suspends payments without making a settlement for the item with its customer which is or becomes final, the owner of the item has a preferred claim against such collecting bank. (59th Legis., Ch. 721, Sec. 4—214.)

SUBCHAPTER C. COLLECTION OF ITEMS: PAYOR BANKS

§ 4.301. Deferred Posting; Recovery of Payment by Return of Items; Time of Dishonor

(a) Where an authorized settlement for a demand item (other than a documentary draft) received by a payor bank otherwise than for immediate payment over the counter has been made before midnight of the banking day of receipt the payor bank may revoke the settlement and recover any payment if before it has made final payment (Subsection (a) of Section 4.213) and before its midnight deadline it

- (1) returns the item; or
- (2) sends written notice of dishonor or nonpayment if the item is held for protest or is otherwise unavailable for return.

(b) If a demand item is received by a payor bank for credit on its books it may return such item or send notice of dishonor and may revoke any credit given or recover the amount thereof withdrawn by its customer, if it acts within the time limit and in the manner specified in the preceding subsection.

(c) Unless previous notice of dishonor has been sent an item is dishonored at the time when for purposes of dishonor it is returned or notice sent in accordance with this section.

(d) An item is returned:

- (1) as to an item received through a clearing house, when it is delivered to the presenting or last collecting bank or to the clearing house or is sent or delivered in accordance with its rules; or
- (2) in all other cases, when it is sent or delivered to the bank's customer or transferor or pursuant to his instructions.

(59th Legis., Ch. 721, Sec. 4—301.)

§ 4.302. Payor Bank's Responsibility for Late Return of Item

In the absence of a valid defense such as breach of a presentment warranty (Subsection (a) of Section 4.207), settlement effected or the

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like, if an item is presented on and received by a payor bank the bank is accountable for the amount of

- (1) a demand item other than a documentary draft whether properly payable or not if the bank, in any case where it is not also the depositary bank, retains the item beyond midnight of the banking day of receipt without settling for it or, regardless of whether it is also the depositary bank, does not pay or return the item or send notice of dishonor until after its midnight deadline; or
- (2) any other properly payable item unless within the time allowed for acceptance or payment of that item the bank either accepts or pays the item or returns it and accompanying documents.

(59th Legis., Ch. 721, Sec. 4—302.)

§ 4.303. When Items Subject to Notice, Stop-Order, Legal Process or Setoff; Order in Which Items May be Charged or Certified

(a) Any knowledge, notice or stop-order received by, legal process served upon or setoff exercised by a payor bank, whether or not effective under other rules of law to terminate, suspend or modify the bank's right or duty to pay an item or to charge its customer's account for the item, comes too late to so terminate, suspend or modify such right or duty if the knowledge, notice, stop-order or legal process is received or served and a reasonable time for the bank to act thereon expires or the setoff is exercised after the bank has done any of the following:

- (1) accepted or certified the item;
- (2) paid the item in cash;
- (3) settled for the item without reserving a right to revoke the settlement and without having such right under statute, clearing house rule or agreement;
- (4) completed the process of posting the item to the indicated account of the drawer, maker or other person to be charged therewith or otherwise has evidenced by examination of such indicated account and by action its decision to pay the item; or
- (5) become accountable for the amount of the item under Subsection (a) (4) of Section 4.213 and Section 4.302 dealing with the payor bank's responsibility for late return of items.

(b) Subject to the provisions of Subsection (a) items may be accepted, paid, certified or charged to the indicated account of its customer in any order convenient to the bank. (59th Legis., Ch. 721, Sec. 4—303.)

SUBCHAPTER D. RELATIONSHIP BETWEEN PAYOR BANK
AND ITS CUSTOMER

§ 4.401. When Bank May Charge Customer's Account

(a) As against its customer; a bank may charge against his account any item which is otherwise properly payable from that account even though the charge creates an overdraft.

(b) A bank which in good faith makes payment to a holder may charge the indicated account of its customer according to

- (1) the original tenor of his altered item; or
- (2) the tenor of his completed item, even though the bank knows the item has been completed unless the bank has notice that the completion was improper.

(59th Legis., Ch. 721, Sec. 4—401.)

§ 4.402. Bank's Liability to Customer for Wrongful Dishonor

A payor bank is liable to its customer for damages proximately caused by the wrongful dishonor of an item. When the dishonor occurs through mistake liability is limited to actual damages proved. If so proximately caused and proved damages may include damages for an arrest or prosecution of the customer or other consequential damages. Whether any consequential damages are proximately caused by the wrongful dishonor is a question of fact to be determined in each case. (59th Legis., Ch. 721, Sec. 4—402.)

§ 4.403. Customer's Right to Stop Payment; Burden of Proof of Loss

(a) A customer may by order to his bank stop payment of any item payable for his account but the order must be received at such time and in such manner as to afford the bank a reasonable opportunity to act on it prior to any action by the bank with respect to the item described in Section 4.303.

(b) An order is binding upon the bank only if it is in writing, dated, signed, and describes the item with certainty. An order is effective for only six months unless renewed in writing.

(c) The burden of establishing the fact and amount of loss resulting from the payment of an item contrary to a binding stop payment order is on the customer. (59th Legis., Ch. 721, Sec. 4—403.)

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§ 4.404. Bank Not Obligated to Pay Check More Than Six Months Old

A bank is under no obligation to a customer having a checking account to pay a check, other than a certified check, which is presented more than six months after its date, but it may charge its customer's account for a payment made thereafter in good faith. (59th Legis., Ch. 721, Sec. 4—404.)

§ 4.405. Death or Incompetence of Customer

(a) A payor or collecting bank's authority to accept, pay or collect an item or to account for proceeds of its collection if otherwise effective is not rendered ineffective by incompetence of a customer of either bank existing at the time the item is issued or its collection is undertaken if the bank does not know of an adjudication of incompetence. Neither death nor incompetence of a customer revokes such authority to accept, pay, collect or account until the bank knows of the fact of death or of an adjudication of incompetence and has reasonable opportunity to act on it.

(b) Even with knowledge a bank may for ten days after the date of death pay or certify checks drawn on or prior to that date unless ordered to stop payment by a person claiming an interest in the account. (59th Legis., Ch. 721, Sec. 4—405.)

§ 4.406. Customer's Duty to Discover and Report Unauthorized Signature or Alteration

(a) When a bank sends to its customer a statement of account accompanied by items paid in good faith in support of the debit entries or holds the statement and items pursuant to a request or instructions of its customer or otherwise in a reasonable manner makes the statement and items available to the customer, the customer must exercise reasonable care and promptness to examine the statement and items to discover his unauthorized signature or any alteration on an item and must notify the bank promptly after discovery thereof.

(b) If the bank establishes that the customer failed with respect to an item to comply with the duties imposed on the customer by Subsection (a) the customer is precluded from asserting against the bank

- (1) his unauthorized signature or any alteration on the item if the bank also establishes that it suffered a loss by reason of such failure; and
- (2) an unauthorized signature or alteration by the same wrongdoer on any other item paid in good faith by the bank after the first item and statement was available to the customer for a reasonable period not exceeding fourteen calendar days

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and before the bank receives notification from the customer of any such unauthorized signature or alteration.

(c) The preclusion under Subsection (b) does not apply if the customer establishes lack of ordinary care on the part of the bank in paying the item(s).

(d) Without regard to care or lack of care of either the customer or the bank a customer who does not within one year from the time the statement and items are made available to the customer (Subsection (a)) discover and report his unauthorized signature or any alteration on the face or back of the item or does not within three years from that time discover and report any unauthorized indorsement is precluded from asserting against the bank such unauthorized signature or indorsement or such alteration.

(e) If under this section a payor bank has a valid defense against a claim of a customer upon or resulting from payment of an item and waives or fails upon request to assert the defense the bank may not assert against any collecting bank or other prior party presenting or transferring the item a claim based upon the unauthorized signature or alteration giving rise to the customer's claim. (59th Legis., Ch. 721, Sec. 4—406.)

§ 4.407. Payor Bank's Right to Subrogation on Improper Payment

If a payor bank has paid an item over the stop payment order of the drawer or maker or otherwise under circumstances giving a basis for objection by the drawer or maker, to prevent unjust enrichment and only to the extent necessary to prevent loss to the bank by reason of its payment of the item, the payor bank shall be subrogated to the rights

- (1) of any holder in due course on the item against the drawer or maker; and
- (2) of the payee or any other holder of the item against the drawer or maker either on the item or under the transaction out of which the item arose; and
- (3) of the drawer or maker against the payee or any other holder of the item with respect to the transaction out of which the item arose.

(59th Legis., Ch. 721, Sec. 4—407.)

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SUBCHAPTER E. COLLECTION OF DOCUMENTARY DRAFTS

§ 4.501. Handling of Documentary Drafts; Duty to Send for Presentment and to Notify Customer of Dishonor

A bank which takes a documentary draft for collection must present or send the draft and accompanying documents for presentment and upon learning that the draft has not been paid or accepted in due course must seasonably notify its customer of such fact even though it may have discounted or bought the draft or extended credit available for withdrawal as of right. (59th Legis., Ch. 721, Sec. 4—501.)

§ 4.502. Presentment of “On Arrival” Drafts

When a draft or the relevant instructions require presentment “on arrival”, “when goods arrive” or the like, the collecting bank need not present until in its judgment a reasonable time for arrival of the goods has expired. Refusal to pay or accept because the goods have not arrived is not dishonor; the bank must notify its transferor of such refusal but need not present the draft again until it is instructed to do so or learns of the arrival of the goods. (59th Legis., Ch. 721, Sec. 4—502.)

§ 4.503. Responsibility of Presenting Bank for Documents and Goods; Report of Reasons for Dishonor; Referee in Case of Need

Unless otherwise instructed and except as provided in Chapter 5 a bank presenting a documentary draft

- (1) must deliver the documents to the drawee on acceptance of the draft if it is payable more than three days after presentment; otherwise, only on payment; and
- (2) upon dishonor, either in the case of presentment for acceptance or presentment for payment, may seek and follow instructions from any referee in case of need designated in the draft or if the presenting bank does not choose to utilize his services it must use diligence and good faith to ascertain the reason for dishonor, must notify its transferor of the dishonor and of the results of its effort to ascertain the reasons therefor and must request instructions.

But the presenting bank is under no obligation with respect to goods represented by the documents except to follow any reasonable instructions seasonably received; it has a right to reimbursement for any expense incurred in following instructions and to prepayment of or indemnity for such expenses. (59th Legis., Ch. 721, Sec. 4—503.)

§ 4.504. Privilege of Presenting Bank to Deal With Goods; Security Interest for Expenses

(a) A presenting bank which, following the dishonor of a documentary draft, has seasonably requested instructions but does not receive them within a reasonable time may store, sell, or otherwise deal with the goods in any reasonable manner.

(b) For its reasonable expenses incurred by action under Subsection (a) the presenting bank has a lien upon the goods or their proceeds, which may be foreclosed in the same manner as an unpaid seller's lien. (59th Legis., Ch. 721, Sec. 4—504.)

CHAPTER 5. LETTERS OF CREDIT

Section

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- 5.108. "Notation Credit"; Exhaustion of Credit.
- 5.109. Issuer's Obligation to its Customer.
- 5.110. Availability of Credit in Portions; Presenter's Reservation of Lien or Claim.
- 5.111. Warranties on Transfer and Presentment.
- 5.112. Time Allowed for Honor or Rejection; Withholding Honor or Rejection by Consent; "Presenter".
- 5.113. Indemnities.
- 5.114. Issuer's Duty and Privilege to Honor; Right to Reimbursement.
- 5.115. Remedy for Improper Dishonor or Anticipatory Repudiation.
- 5.116. Transfer and Assignment.
- 5.117. Insolvency of Bank Holding Funds for Documentary Credit.

Section 5.101. Short Title

This chapter may be cited as Uniform Commercial Code—Letters of Credit. (59th Legis., Ch. 721, Sec. 5—101.)

§ 5.102. Scope

(a) This chapter applies

- (1) to a credit issued by a bank if the credit requires a documentary draft or a documentary demand for payment; and
- (2) to a credit issued by a person other than a bank if the credit requires that the draft or demand for payment be accompanied by a document of title; and
- (3) to a credit issued by a bank or other person if the credit is not within Subdivision (1) or (2) but conspicuously states that it is a letter of credit or is conspicuously so entitled.

(b) Unless the engagement meets the requirements of Subsection (a), this chapter does not apply to engagements to make advances or to honor drafts or demands for payment, to authorities to pay or purchase, to guarantees or to general agreements.

(c) This chapter deals with some but not all of the rules and concepts of letters of credit as such rules or concepts have developed prior to this title or may hereafter develop. The fact that this chapter states a rule does not by itself require, imply or negate application of the

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same or a converse rule to a situation not provided for or to a person not specified by this chapter. (59th Legis., Ch. 721, Sec. 5—102.)

§ 5.103. Definitions

(a) In this chapter unless the context otherwise requires

- (1) "Credit" or "letter of credit" means an engagement by a bank or other person made at the request of a customer and of a kind within the scope of this chapter (Section 5.102) that the issuer will honor drafts or other demands for payment upon compliance with the conditions specified in the credit. A credit may be either revocable or irrevocable. The engagement may be either an agreement to honor or a statement that the bank or other person is authorized to honor.
- (2) A "documentary draft" or a "documentary demand for payment" is one honor of which is conditioned upon the presentation of a document or documents. "Document" means any paper including document of title, security, invoice, certificate, notice of default and the like.
- (3) An "issuer" is a bank or other person issuing a credit.
- (4) A "beneficiary" of a credit is a person who is entitled under its terms to draw or demand payment.
- (5) An "advising bank" is a bank which gives notification of the issuance of a credit by another bank.
- (6) A "confirming bank" is a bank which engages either that it will itself honor a credit already issued by another bank or that such a credit will be honored by the issuer or a third bank.
- (7) A "customer" is a buyer or other person who causes an issuer to issue a credit. The term also includes a bank which procures issuance or confirmation on behalf of that bank's customer.

(b) Other definitions applying to this chapter and the sections in which they appear are:

"Notation Credit".	Section 5.108.
"Presenter".	Section 5.112(c).

(c) Definitions in other chapters applying to this chapter and the sections in which they appear are:

"Accept" or "Acceptance".	Section 3.410.
"Contract for sale".	Section 2.106.
"Draft".	Section 3.104.
"Holder in due course".	Section 3.302.

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“Midnight deadline”. Section 4.104.
“Security”. Section 8.102.

(d) In addition, Chapter 1 contains general definitions and principles of construction and interpretation applicable throughout this chapter. (59th Legis., Ch. 721, Sec. 5—103.)

§ 5.104. Formal Requirements; Signing

(a) Except as otherwise required in Subsection (a) (3) of Section 5.102 on scope, no particular form of phrasing is required for a credit. A credit must be in writing and signed by the issuer and a confirmation must be in writing and signed by the confirming bank. A modification of the terms of a credit or confirmation must be signed by the issuer or confirming bank.

(b) A telegram may be a sufficient signed writing if it identifies its sender by an authorized authentication. The authentication may be in code and the authorized naming of the issuer in an advice of credit is a sufficient signing. (59th Legis., Ch. 721, Sec. 5—104.)

§ 5.105. Consideration

No consideration is necessary to establish a credit or to enlarge or otherwise modify its terms. (59th Legis., Ch. 721, Sec. 5—105.)

§ 5.106. Time and Effect of Establishment of Credit

(a) Unless otherwise agreed a credit is established

- (1) as regards the customer as soon as a letter of credit is sent to him or the letter of credit or an authorized written advice of its issuance is sent to the beneficiary; and
- (2) as regards the beneficiary when he receives a letter of credit or an authorized written advice of its issuance.

(b) Unless otherwise agreed once an irrevocable credit is established as regards the customer it can be modified or revoked only with the consent of the customer and once it is established as regards the beneficiary it can be modified or revoked only with his consent.

(c) Unless otherwise agreed after a revocable credit is established it may be modified or revoked by the issuer without notice to or consent from the customer or beneficiary.

(d) Notwithstanding any modification or revocation of a revocable credit any person authorized to honor or negotiate under the terms of the original credit is entitled to reimbursement for or honor of any draft or demand for payment duly honored or negotiated before receipt of notice of the modification or revocation and the issuer in turn is entitled to reimbursement from its customer. (59th Legis., Ch. 721, Sec. 5—106.)

§ 5.107. Advice of Credit; Confirmation; Error in Statement of Terms

(a) Unless otherwise specified an advising bank by advising a credit issued by another bank does not assume any obligation to honor drafts drawn or demands for payment made under the credit but it does assume obligation for the accuracy of its own statement.

(b) A confirming bank by confirming a credit becomes directly obligated on the credit to the extent of its confirmation as though it were its issuer and acquires the rights of an issuer.

(c) Even though an advising bank incorrectly advises the terms of a credit it has been authorized to advise the credit is established as against the issuer to the extent of its original terms.

(d) Unless otherwise specified the customer bears as against the issuer all risks of transmission and reasonable translation or interpretation of any message relating to a credit. (59th Legis., Ch. 721, Sec. 5—107.)

§ 5.108. "Notation Credit"; Exhaustion of Credit

(a) A credit which specifies that any person purchasing or paying drafts drawn or demands for payment made under it must note the amount of the draft or demand on the letter or advice of credit is a "notation credit".

(b) Under a notation credit

(1) a person paying the beneficiary or purchasing a draft or demand for payment from him acquires a right to honor only if the appropriate notation is made and by transferring or forwarding for honor the documents under the credit such a person warrants to the issuer that the notation has been made; and

(2) unless the credit or a signed statement that an appropriate notation has been made accompanies the draft or demand for payment the issuer may delay honor until evidence of notation has been procured which is satisfactory to it but its obligation and that of its customer continue for a reasonable time not exceeding thirty days to obtain such evidence.

(c) If the credit is not a notation credit

(1) the issuer may honor complying drafts or demands for payment presented to it in the order in which they are presented and is discharged pro tanto by honor of any such draft or demand;

(2) as between competing good faith purchasers of complying drafts or demands the person first purchasing has priority

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over a subsequent purchaser even though the later purchased draft or demand has been first honored.

(59th Legis., Ch. 721, Sec. 5—108.)

§ 5.109. Issuer's Obligation to Its Customer

(a) An issuer's obligation to its customer includes good faith and observance of any general banking usage but unless otherwise agreed does not include liability or responsibility

- (1) for performance of the underlying contract for sale or other transaction between the customer and the beneficiary; or
- (2) for any act or omission of any person other than itself or its own branch or for loss or destruction of a draft, demand or document in transit or in the possession of others; or
- (3) based on knowledge or lack of knowledge of any usage of any particular trade.

(b) An issuer must examine documents with care so as to ascertain that on their face they appear to comply with the terms of the credit but unless otherwise agreed assumes no liability or responsibility for the genuineness, falsification or effect of any document which appears on such examination to be regular on its face.

(c) A non-bank issuer is not bound by any banking usage of which it has no knowledge. (59th Legis., Ch. 721, Sec. 5—109.)

§ 5.110. Availability of Credit in Portions; Presenter's Reservation of Lien or Claim

(a) Unless otherwise specified a credit may be used in portions in the discretion of the beneficiary.

(b) Unless otherwise specified a person by presenting a documentary draft or demand for payment under a credit relinquishes upon its honor all claims to the documents and a person by transferring such draft or demand or causing such presentment authorizes such relinquishment. An explicit reservation of claim makes the draft or demand non-complying. (59th Legis., Ch. 721, Sec. 5—110.)

§ 5.111. Warranties on Transfer and Presentment

(a) Unless otherwise agreed the beneficiary by transferring or presenting a documentary draft or demand for payment warrants to all interested parties that the necessary conditions of the credit have been complied with. This is in addition to any warranties arising under Chapters 3, 4, 7 and 8.

(b) Unless otherwise agreed a negotiating, advising, confirming, collecting or issuing bank presenting or transferring a draft or de-

mand for payment under a credit warrants only the matters warranted by a collecting bank under Chapter 4 and any such bank transferring a document warrants only the matters warranted by an intermediary under Chapters 7 and 8. (59th Legis., Ch. 721, Sec. 5—111.)

§ 5.112. Time Allowed for Honor or Rejection; Withholding Honor or Rejection by Consent; "Presenter"

(a) A bank to which a documentary draft or demand for payment is presented under a credit may without dishonor of the draft, demand or credit

- (1) defer honor until the close of the third banking day following receipt of the documents; and
- (2) further defer honor if the presenter has expressly or impliedly consented thereto.

Failure to honor within the time here specified constitutes dishonor of the draft or demand and of the credit except as otherwise provided in Subsection (d) of Section 5.114 on conditional payment.

(b) Upon dishonor the bank may unless otherwise instructed fulfill its duty to return the draft or demand and the documents by holding them at the disposal of the presenter and sending him an advice to that effect.

(c) "Presenter" means any person presenting a draft or demand for payment for honor under a credit even though that person is a confirming bank or other correspondent which is acting under an issuer's authorization. (59th Legis., Ch. 721, Sec. 5—112.)

§ 5.113. Indemnities

(a) A bank seeking to obtain (whether for itself or another) honor, negotiation or reimbursement under a credit may give an indemnity to induce such honor, negotiation or reimbursement.

(b) An indemnity agreement inducing honor, negotiation or reimbursement

- (1) unless otherwise explicitly agreed applies to defects in the documents but not in the goods; and
- (2) unless a longer time is explicitly agreed expires at the end of ten business days following receipt of the documents by the ultimate customer unless notice of objection is sent before such expiration date. The ultimate customer may send notice of objection to the person from whom he received the documents and any bank receiving such notice is under a duty to send notice to its transferor before its midnight deadline.

(59th Legis., Ch. 721, Sec. 5—113.)

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§ 5.114. Issuer's Duty and Privilege to Honor; Right to Reimbursement

(a) An issuer must honor a draft or demand for payment which complies with the terms of the relevant credit regardless of whether the goods or documents conform to the underlying contract for sale or other contract between the customer and the beneficiary. The issuer is not excused from honor of such a draft or demand by reason of an additional general term that all documents must be satisfactory to the issuer, but an issuer may require that specified documents must be satisfactory to it.

(b) Unless otherwise agreed when documents appear on their face to comply with the terms of a credit but a required document does not in fact conform to the warranties made on negotiation or transfer of a document of title (Section 7.507) or of a security (Section 8.306) or is forged or fraudulent or there is fraud in the transaction

- (1) the issuer must honor the draft or demand for payment if honor is demanded by a negotiating bank or other holder of the draft or demand which has taken the draft or demand under the credit and under circumstances which would make it a holder in due course (Section 3.302) and in an appropriate case would make it a person to whom a document of title has been duly negotiated (Section 7.502) or a bona fide purchaser of a security (Section 8.302); and
- (2) in all other cases as against its customer, an issuer acting in good faith may honor the draft or demand for payment despite notification from the customer of fraud, forgery or other defect not apparent on the face of the documents but a court of appropriate jurisdiction may enjoin such honor.

(c) Unless otherwise agreed an issuer which has duly honored a draft or demand for payment is entitled to immediate reimbursement of any payment made under the credit and to be put in effectively available funds not later than the day before maturity of any acceptance made under the credit.

(d) When a credit provides for payment by the issuer on receipt of notice that the required documents are in the possession of a correspondent or other agent of the issuer

- (1) any payment made on receipt of such notice is conditional; and
- (2) the issuer may reject documents which do not comply with the credit if it does so within three banking days following its receipt of the documents; and
- (3) in the event of such rejection, the issuer is entitled by charge back or otherwise to return of the payment made.

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(e) In the case covered by Subsection (d) failure to reject documents within the time specified in Subdivision (2), constitutes acceptance of the documents and makes the payment final in favor of the beneficiary. (59th Legis., Ch. 721, Sec. 5—114.)

§ 5.115. Remedy for Improper Dishonor or Anticipatory Repudiation

(a) When an issuer wrongfully dishonors a draft or demand for payment presented under a credit the person entitled to honor has with respect to any documents the rights of a person in the position of a seller (Section 2.707) and may recover from the issuer the face amount of the draft or demand together with incidental damages under Section 2.710 on seller's incidental damages and interest but less any amount realized by resale or other use or disposition of the subject matter of the transaction. In the event no resale or other utilization is made the documents, goods or other subject matter involved in the transaction must be turned over to the issuer on payment of judgment.

(b) When an issuer wrongfully cancels or otherwise repudiates a credit before presentment of a draft or demand for payment drawn under it the beneficiary has the rights of a seller after anticipatory repudiation by the buyer under Section 2.610 if he learns of the repudiation in time reasonably to avoid procurement of the required documents. Otherwise the beneficiary has an immediate right of action for wrongful dishonor. (59th Legis., Ch. 721, Sec. 5—115.)

§ 5.116. Transfer and Assignment

(a) The right to draw under a credit can be transferred or assigned only when the credit is expressly designated as transferable or assignable.

(b) Even though the credit specifically states that it is non-transferable or nonassignable the beneficiary may before performance of the conditions of the credit assign his right to proceeds. Such an assignment is an assignment of a contract right under Chapter 9 on Secured Transactions and is governed by that chapter except that

- (1) the assignment is ineffective until the letter of credit or advice of credit is delivered to the assignee which delivery constitutes perfection of the security interest under Chapter 9; and
- (2) the issuer may honor drafts or demands for payment drawn under the credit until it receives a notification of the assignment signed by the beneficiary which reasonably identifies the credit involved in the assignment and contains a request to pay the assignee; and

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(3) after what reasonably appears to be such a notification has been received the issuer may without dishonor refuse to accept or pay even to a person otherwise entitled to honor until the letter of credit or advice of credit is exhibited to the issuer.

(c) Except where the beneficiary has effectively assigned his right to draw or his right to proceeds, nothing in this section limits his right to transfer or negotiate drafts or demands drawn under the credit. (59th Legis., Ch. 721, Sec. 5—116.)

§ 5.117. Insolvency of Bank Holding Funds for Documentary Credit

(a) Where an issuer or an advising or confirming bank or a bank which has for a customer procured issuance of a credit by another bank becomes insolvent before final payment under the credit and the credit is one to which this chapter is made applicable by Subdivision (1) or (2) of Section 5.102(a) on scope, the receipt or allocation of funds or collateral to secure or meet obligations under the credit shall have the following results:

- (1) to the extent of any funds or collateral turned over after or before the insolvency as indemnity against or specifically for the purpose of payment of drafts or demands for payment drawn under the designated credit, the drafts or demands are entitled to payment in preference over depositors or other general creditors of the issuer or bank; and
- (2) on expiration of the credit or surrender of the beneficiary's rights under it unused any person who has given such funds or collateral is similarly entitled to return thereof; and
- (3) a charge to a general or current account with a bank if specifically consented to for the purpose of indemnity against or payment of drafts or demands for payment drawn under the designated credit falls under the same rules as if the funds had been drawn out in cash and then turned over with specific instructions.

(b) After honor or reimbursement under this section the customer or other person for whose account the insolvent bank has acted is entitled to receive the documents involved. (59th Legis., Ch. 721, Sec. 5—117.)

CHAPTER 6. BULK TRANSFERS

Section

- 6.101. Short Title.
- 6.102. "Bulk Transfers"; Transfers of Equipment; Enterprises Subject to This Chapter; Bulk Transfers Subject to This Chapter.
- 6.103. Transfers Excepted From This Chapter.
- 6.104. Schedule of Property, List of Creditors.
- 6.105. Notice to Creditors.
- 6.106. Application of the Proceeds.
- 6.107. The Notice.
- 6.108. Auction Sales; "Auctioneer".
- 6.109. What Creditors Protected; Credit for Payment to Particular Creditors.
- 6.110. Subsequent Transfers.
- 6.111. Limitation of Actions and Levies.

Section 6.101. Short Title

This chapter may be cited as Uniform Commercial Code—Bulk Transfers. (59th Legis., Ch. 721, Sec. 6—101.)

§ 6.102. "Bulk Transfers"; Transfers of Equipment; Enterprises Subject to This Chapter; Bulk Transfers Subject to This Chapter

(a) A "bulk transfer" is any transfer in bulk and not in the ordinary course of the transferor's business of a major part of the materials, supplies, merchandise or other inventory (Section 9.109) of an enterprise subject to this chapter.

(b) A transfer of a substantial part of the equipment (Section 9.109) of such an enterprise is a bulk transfer if it is made in connection with a bulk transfer of inventory, but not otherwise.

(c) The enterprises subject to this chapter are all those whose principal business is the sale of merchandise from stock, including those who manufacture what they sell.

(d) Except as limited by the following section all bulk transfers of goods located within this state are subject to this chapter. (59th Legis., Ch. 721, Sec. 6—102.)

§ 6.103. Transfers Excepted From This Chapter

The following transfers are not subject to this chapter:

- (1) Those made to give security for the performance of an obligation;
- (2) General assignments for the benefit of all the creditors of the transferor, and subsequent transfers by the assignee thereunder;

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- (3) Transfers in settlement or realization of a lien or other security interest;
- (4) Sales by executors, administrators, receivers, trustees in bankruptcy, or any public officer under judicial process;
- (5) Sales made in the course of judicial or administrative proceedings for the dissolution or reorganization of a corporation and of which notice is sent to the creditors of the corporation pursuant to order of the court or administrative agency;
- (6) Transfers to a person maintaining a known place of business in this state who becomes bound to pay the debts of the transferor in full and gives public notice of that fact, and who is solvent after becoming so bound;
- (7) A transfer to a new business enterprise organized to take over and continue the business, if public notice of the transaction is given and the new enterprise assumes the debts of the transferor and he receives nothing from the transaction except an interest in the new enterprise junior to the claims of creditors;
- (8) Transfers of property which are exempt from execution.

Public notice under Subdivision (6) or (7) may be given by publishing once a week for two consecutive weeks in a newspaper of general circulation where the transferor had its principal place of business in this state an advertisement including the names and addresses of the transferor and transferee and the effective date of the transfer. (59th Legis., Ch. 721, Sec. 6—103.)

§ 6.104. Schedule of Property, List of Creditors

(a) Except as provided with respect to auction sales (Section 6.108), a bulk transfer subject to this chapter is ineffective against any creditor of the transferor unless:

- (1) The transferee requires the transferor to furnish a list of his existing creditors prepared as stated in this section; and
- (2) The parties prepare a schedule of the property transferred sufficient to identify it; and
- (3) The transferee preserves the list and schedule for six months next following the transfer and permits inspection of either or both and copying therefrom at all reasonable hours by any creditor of the transferor, or files the list and schedule in the office of the County Clerk of the county in which the transferor had its principal place of business in this state.

(b) The list of creditors must be signed and sworn to or affirmed by the transferor or his agent. It must contain the names and busi-

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ness addresses of all creditors of the transferor, with the amounts when known, and also the names of all persons who are known to the transferor to assert claims against him even though such claims are disputed. If the transferor is the obligor of an outstanding issue of bonds, debentures or the like as to which there is an indenture trustee, the list of creditors need include only the name and address of the indenture trustee and the aggregate outstanding principal amount of the issue.

(c) Responsibility for the completeness and accuracy of the list of creditors rests on the transferor, and the transfer is not rendered ineffective by errors or omissions therein unless the transferee is shown to have had knowledge. (59th Legis., Ch. 721, Sec. 6—104.)

§ 6.105. Notice to Creditors

In addition to the requirements of the preceding section, any bulk transfer subject to this chapter except one made by auction sale (Section 6.108) is ineffective against any creditor of the transferor unless at least ten days before he takes possession of the goods or pays for them, whichever happens first, the transferee gives notice of the transfer in the manner and to the persons hereafter provided (Section 6.107). (59th Legis., Ch. 721, Sec. 6—105.)

§ 6.106. Application of the Proceeds

In addition to the requirements of the two preceding sections:

- (1) Upon every bulk transfer subject to this chapter for which new consideration becomes payable except those made by sale at auction it is the duty of the transferee to assure that such consideration is applied so far as necessary to pay those debts of the transferor which are either shown on the list furnished by the transferor (Section 6.104) or filed in writing in the place stated in the notice (Section 6.107) within thirty days after the mailing of such notice. This duty of the transferee runs to all the holders of such debts, and may be enforced by any of them for the benefit of all.
- (2) If any of said debts are in dispute the necessary sum may be withheld from distribution until the dispute is settled or adjudicated.
- (3) If the consideration payable is not enough to pay all of the said debts in full distribution shall be made pro rata.

(59th Legis., Ch. 721, Sec. 6—106.)

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§ 6.107. The Notice

(a) The notice to creditors (Section 6.105) shall state:

- (1) that a bulk transfer is about to be made; and
- (2) the names and business addresses of the transferor and transferee, and all other business names and addresses used by the transferor within three years last past so far as known to the transferee; and
- (3) whether or not all the debts of the transferor are to be paid in full as they fall due as a result of the transaction, and if so, the address to which creditors should send their bills.

(b) If the debts of the transferor are not to be paid in full as they fall due or if the transferee is in doubt on that point then the notice shall state further:

- (1) the location and general description of the property to be transferred and the estimated total of the transferor's debts;
- (2) the address where the schedule of property and list of creditors (Section 6.104) may be inspected;
- (3) whether the transfer is to pay existing debts and if so the amount of such debts and to whom owing;
- (4) whether the transfer is for new consideration and if so the amount of such consideration and the time and place of payment; and
- (5) if for new consideration the time and place where creditors of the transferor are to file their claims.

(c) The notice in any case shall be delivered personally or sent by registered or certified mail to all the persons shown on the list of creditors furnished by the transferor (Section 6.104) and to all other persons who are known to the transferee to hold or assert claims against the transferor. (59th Legis., Ch. 721, Sec. 6—107.)

§ 6.108. Auction Sales; "Auctioneer"

(a) A bulk transfer is subject to this chapter even though it is by sale at auction, but only in the manner and with the results stated in this section.

(b) The transferor shall furnish a list of his creditors and assist in the preparation of a schedule of the property to be sold, both prepared as before stated (Section 6.104).

(c) The person or persons other than the transferor who direct, control or are responsible for the auction are collectively called the "auctioneer". The auctioneer shall:

- (1) receive and retain the list of creditors and prepare and retain the schedule of property for the period stated in this chapter (Section 6.104);

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- (2) give notice of the auction personally or by registered or certified mail at least ten days before it occurs to all persons shown on the list of creditors and to all other persons who are known to him to hold or assert claims against the transferor; and
- (3) assure that the net proceeds of the auction are applied as as provided in this chapter (Section 6.106).

(d) Failure of the auctioneer to perform any of these duties does not affect the validity of the sale or the title of the purchasers, but if the auctioneer knows that the auction constitutes a bulk transfer such failure renders the auctioneer liable to the creditors of the transferor as a class for the sums owing to them from the transferor up to but not exceeding the net proceeds of the auction. If the auctioneer consists of several persons their liability is joint and several. (59th Legis., Ch. 721, Sec. 6—108.)

§ 6.109. What Creditors Protected; Credit for Payment to Particular Creditors

(a) The creditors of the transferor mentioned in this chapter are those holding claims based on transactions or events occurring before the bulk transfer, but creditors who become such after notice to creditors is given (Sections 6.105 and 6.107) are not entitled to notice.

(b) Against the aggregate obligation imposed by the provisions of this chapter concerning the application of the proceeds (Section 6.106 and Subsection (c) (3) of 6.108) the transferee or auctioneer is entitled to credit for sums paid to particular creditors of the transferor, not exceeding the sums believed in good faith at the time of the payment to be properly payable to such creditors. (59th Legis., Ch. 721, Sec. 6—109.)

§ 6.110. Subsequent Transfers

When the title of a transferee to property is subject to a defect by reason of his noncompliance with the requirements of this chapter, then:

- (1) a purchaser of any of such property from such transferee who pays no value or who takes with notice of such non-compliance takes subject to such defect, but
- (2) a purchaser for value in good faith and without such notice takes free of such defect.

(59th Legis., Ch. 721, Sec. 6—110.)

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§ 6.111. Limitation of Actions and Levies

No action under this chapter shall be brought nor levy made more than six months after the date on which the transferee took possession of the goods unless the transfer has been concealed. If the transfer has been concealed, actions may be brought or levies made within six months after its discovery. (59th Legis., Ch. 721, Sec. 6—111.)

CHAPTER 7. WAREHOUSE RECEIPTS, BILLS OF LADING AND OTHER DOCUMENTS OF TITLE

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Section

- 7.101. Short Title.
- 7.102. Definitions and Index of Definitions.
- 7.103. Relation of Article to Treaty, Statute, Tariff, Classification or Regulation.
- 7.104. Negotiable and Non-Negotiable Warehouse Receipt, Bill of Lading or Other Document of Title.
- 7.105. Construction Against Negative Implication.

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- 7.201. Who May Issue a Warehouse Receipt; Storage Under Government Bond.
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- 7.203. Liability for Non-Receipt or Misdescription.
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- 7.205. Title Under Warehouse Receipt Defeated in Certain Cases.
- 7.206. Termination of Storage at Warehouseman's Option.
- 7.207. Goods Must be Kept Separate; Fungible Goods.
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- 7.304. Bills of Lading in a Set.
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- 7.401. Irregularities in Issue of Receipt or Bill or Conduct of Issuer.
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- 7.403. Obligation of Warehouseman or Carrier to Deliver; Excuse.
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Section

- 7.501. Form of Negotiation and Requirements of "Due Negotiation".
- 7.502. Rights Acquired by Due Negotiation.
- 7.503. Document of Title to Goods Defeated in Certain Cases.
- 7.504. Rights Acquired in the Absence of Due Negotiation; Effect of Diversion; Seller's Stoppage of Delivery.
- 7.505. Indorser not a Guarantor for Other Parties.
- 7.506. Delivery Without Indorsement: Right to Compel Indorsement.
- 7.507. Warranties on Negotiation or Transfer of Receipt or Bill.
- 7.508. Warranties of Collecting Bank as to Documents.
- 7.509. Receipt or Bill: When Adequate Compliance With Commercial Contract.

SUBCHAPTER F. WAREHOUSE RECEIPTS AND BILLS OF LADING: MISCELLANEOUS PROVISIONS

- 7.601. Lost and Missing Documents.
- 7.602. Attachment of Goods Covered by a Negotiable Document.
- 7.603. Conflicting Claims; Interpleader.

SUBCHAPTER A. GENERAL

Section 7.101. Short Title

This chapter may be cited as Uniform Commercial Code—Documents of Title. (59th Legis., Ch. 721, Sec. 7—101.)

§ 7.102. Definitions and Index of Definitions

- (a) In this chapter, unless the context otherwise requires:
 - (1) "Bailee" means the person who by a warehouse receipt, bill of lading or other document of title acknowledges possession of goods and contracts to deliver them.
 - (2) "Consignee" means the person named in a bill to whom or to whose order the bill promises delivery.
 - (3) "Consignor" means the person named in a bill as the person from whom the goods have been received for shipment.
 - (4) "Delivery order" means a written order to deliver goods directed to a warehouseman, carrier or other person who in the ordinary course of business issues warehouse receipts or bills of lading.
 - (5) "Document" means document of title as defined in the general definitions in Chapter 1 (Section 1.201).
 - (6) "Goods" means all things which are treated as movable for the purposes of a contract of storage or transportation.

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- (7) "Issuer" means a bailee who issues a document except that in relation to an unaccepted delivery order it means the person who orders the possessor of goods to deliver. Issuer includes any person for whom an agent or employee purports to act in issuing a document if the agent or employee has real or apparent authority to issue documents, notwithstanding that the issuer received no goods or that the goods were misdescribed or that in any other respect the agent or employee violated his instructions.
- (8) "Warehouseman" is a person engaged in the business of storing goods for hire.
- (b) Other definitions applying to this chapter or to specified subchapters thereof, and the sections in which they appear are:
- | | |
|---------------------------------------|-------------------|
| "Duly negotiate". | Section 7.501. |
| "Person entitled under the document". | Section 7.403(d). |
- (c) Definitions in other chapters applying to this chapter and the sections in which they appear are:
- | | |
|----------------------|----------------|
| "Contract for sale". | Section 2.106. |
| "Overseas". | Section 2.323. |
| "Receipt" of goods. | Section 2.103. |
- (d) In addition Chapter 1 contains general definitions and principles of construction and interpretation applicable throughout this chapter. (59th Legis., Ch. 721, Sec. 7—102.)

§ 7.103. Relation of Chapter to Treaty, Statute, Tariff, Classification or Regulation

To the extent that any treaty or statute of the United States, regulatory statute of this state or tariff, classification or regulation filed or issued pursuant thereto is applicable, the provisions of this chapter are subject thereto. (59th Legis., Ch. 721, Sec. 7—103.)

§ 7.104. Negotiable and Non-Negotiable Warehouse Receipt, Bill of Lading or Other Document of Title

- (a) A warehouse receipt, bill of lading or other document of title is negotiable
- (1) if by its terms the goods are to be delivered to bearer or to the order of a named person; or
 - (2) where recognized in overseas trade, if it runs to a named person or assigns.
- (b) Any other document is non-negotiable. A bill of lading in which it is stated that the goods are consigned to a named person is not made negotiable by a provision that the goods are to be delivered

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only against a written order signed by the same or another named person. (59th Legis., Ch. 721, Sec. 7—104.)

§ 7.105. Construction Against Negative Implication

The omission from either Subchapter B or Subchapter C of this chapter of a provision corresponding to a provision made in the other subchapter does not imply that a corresponding rule of law is not applicable. (59th Legis., Ch. 721, Sec. 7—105.)

SUBCHAPTER B. WAREHOUSE RECEIPTS: SPECIAL PROVISIONS

§ 7.201. Who May Issue a Warehouse Receipt; Storage Under Government Bond

(a) A warehouse receipt may be issued by any warehouseman.

(b) Where goods including distilled spirits and agricultural commodities are stored under a statute requiring a bond against withdrawal or a license for the issuance of receipts in the nature of warehouse receipts, a receipt issued for the goods has like effect as a warehouse receipt even though issued by a person who is the owner of the goods and is not a warehouseman. (59th Legis., Ch. 721, Sec. 7—201.)

§ 7.202. Form of Warehouse Receipt; Essential Term; Optional Terms

(a) A warehouse receipt need not be in any particular form.

(b) Unless a warehouse receipt embodies within its written or printed terms each of the following, the warehouseman is liable for damages caused by the omission to a person injured thereby:

- (1) the location of the warehouse where the goods are stored;
- (2) the date of issue of the receipt;
- (3) the consecutive number of the receipt;
- (4) a statement whether the goods received will be delivered to the bearer, to a specified person, or to a specified person or his order;
- (5) the rate of storage and handling charges, except that where goods are stored under a field warehousing arrangement a statement of that fact is sufficient on a non-negotiable receipt;
- (6) a description of the goods or of the packages containing them;
- (7) the signature of the warehouseman, which may be made by his authorized agent;

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- (8) if the receipt is issued for goods of which the warehouseman is owner, either solely or jointly or in common with others, the fact of such ownership; and
- (9) a statement of the amount of advances made and of liabilities incurred for which the warehouseman claims a lien or security interest (Section 7.209). If the precise amount of such advances made or of such liabilities incurred is, at the time of the issue of the receipt, unknown to the warehouseman or to his agent who issues it, a statement of the fact that advances have been made or liabilities incurred and the purpose thereof is sufficient.

(c) A warehouseman may insert in his receipt any other terms which are not contrary to the provisions of this title and do not impair his obligation of delivery (Section 7.403) or his duty of care (Section 7.204). Any contrary provisions shall be ineffective. (59th Legis., Ch. 721, Sec. 7—202.)

§ 7.203. Liability for Non-Receipt or Misdescription

A party to or purchaser for value in good faith of a document of title other than a bill of lading relying in either case upon the description therein of the goods may recover from the issuer damages caused by the non-receipt or misdescription of the goods, except to the extent that the document conspicuously indicates that the issuer does not know whether any part or all of the goods in fact were received or conform to the description, as where the description is in terms of marks or labels or kind, quantity or condition, or the receipt or description is qualified by "contents, condition and quality unknown", "said to contain" or the like, if such indication be true, or the party or purchaser otherwise has notice. (59th Legis., Ch. 721, Sec. 7—203.)

§ 7.204. Duty of Care; Contractual Limitation of Warehouseman's Liability

(a) A warehouseman is liable for damages for loss of or injury to the goods caused by his failure to exercise such care in regard to them as a reasonably careful man would exercise under like circumstances but unless otherwise agreed he is not liable for damages which could not have been avoided by the exercise of such care.

(b) Damages may be limited by a term in the warehouse receipt or storage agreement limiting the amount of liability in case of loss or damage, and setting forth a specific liability per article or item, or value per unit of weight, beyond which the warehouseman shall not be liable; provided, however, that such liability may on written request of the bailor at the time of signing such storage agreement or within a reasonable time after receipt of the warehouse receipt be increased

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on part or all of the goods thereunder, in which event increased rates may be charged based on such increased valuation, but that no such increase shall be permitted contrary to a lawful limitation of liability contained in the warehouseman's tariff, if any. No such limitation is effective with respect to the warehouseman's liability for conversion to his own use.

(c) Reasonable provisions as to the time and manner of presenting claims and instituting actions based on the bailment may be included in the warehouse receipt or tariff.

(d) This section does not impair or repeal Texas Revised Civil Statutes of 1925, Articles 5545 and 5546. (59th Legis., Ch. 721, Sec. 7—204.)

§ 7.205. Title Under Warehouse Receipt Defeated in Certain Cases

A buyer in the ordinary course of business of fungible goods sold and delivered by a warehouseman who is also in the business of buying and selling such goods takes free of any claim under a warehouse receipt even though it has been duly negotiated. (59th Legis., Ch. 721, Sec. 7—205.)

§ 7.206. Termination of Storage at Warehouseman's Option

(a) A warehouseman may on notifying the person on whose account the goods are held and any other person known to claim an interest in the goods require payment of any charges and removal of the goods from the warehouse at the termination of the period of storage fixed by the document, or, if no period is fixed, within a stated period not less than thirty days after the notification. If the goods are not removed before the date specified in the notification, the warehouseman may sell them in accordance with the provisions of the section on enforcement of a warehouseman's lien (Section 7.210).

(b) If a warehouseman in good faith believes that the goods are about to deteriorate or decline in value to less than the amount of his lien within the time prescribed in Subsection (a) for notification, advertisement and sale, the warehouseman may specify in the notification any reasonable shorter time for removal of the goods and in case the goods are not removed, may sell them at public sale held not less than one week after a single advertisement or posting.

(c) If as a result of a quality or condition of the goods of which the warehouseman had no notice at the time of deposit the goods are a hazard to other property or to the warehouse or to persons, the warehouseman may sell the goods at public or private sale without advertisement on reasonable notification to all persons known to claim an interest in the goods. If the warehouseman after a reasonable effort

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is unable to sell the goods he may dispose of them in any lawful manner and shall incur no liability by reason of such disposition.

(d) The warehouseman must deliver the goods to any person entitled to them under this chapter upon due demand made at any time prior to sale or other disposition under this section.

(e) The warehouseman may satisfy his lien from the proceeds of any sale or disposition under this section but must hold the balance for delivery on the demand of any person to whom he would have been bound to deliver the goods. (59th Legis., Ch. 721, Sec. 7—206.)

§ 7.207. Goods Must be Kept Separate; Fungible Goods

(a) Unless the warehouse receipt otherwise provides, a warehouseman must keep separate the goods covered by each receipt so as to permit at all times identification and delivery of those goods except that different lots of fungible goods may be commingled.

(b) Fungible goods so commingled are owned in common by the persons entitled thereto and the warehouseman is severally liable to each owner for that owner's share. Where because of overissue a mass of fungible goods is insufficient to meet all the receipts which the warehouseman has issued against it, the persons entitled include all holders to whom overissued receipts have been duly negotiated. (59th Legis., Ch. 721, Sec. 7—207.)

§ 7.208. Altered Warehouse Receipts

Where a blank in a negotiable warehouse receipt has been filled in without authority, a purchaser for value and without notice of the want of authority may treat the insertion as authorized. Any other unauthorized alteration leaves any receipt enforceable against the issuer according to its original tenor. (59th Legis., Ch. 721, Sec. 7—208.)

§ 7.209. Lien of Warehouseman

(a) (1) A warehouseman has a lien against the bailor on the goods covered by a warehouse receipt or on the proceeds thereof in his possession for charges for storage or transportation (including demurrage and terminal charges), insurance, labor, or charges present or future in relation to the goods, and for expenses necessary for preservation of the goods or reasonably incurred in their sale pursuant to law.

(2) If the person on whose account the goods are held is liable for like charges or expenses in relation to other goods whenever deposited and it is stated in the receipt that a lien is claimed for charges and expenses in relation to other goods,

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the warehouseman also has a lien against him for such charges and expenses whether or not the other goods have been delivered by the warehouseman. But against a person to whom a negotiable warehouse receipt is duly negotiated a warehouseman's lien is limited to charges in an amount or at a rate specified on the receipt or if no charges are so specified then to a reasonable charge for storage of the goods covered by the receipt subsequent to the date of the receipt.

(b) The warehouseman may also reserve a security interest against the bailor for a maximum amount specified on the receipt for charges other than those specified in Subsection (a), such as for money advanced and interest. Such a security interest is governed by the chapter on Secured Transactions (Chapter 9).

(c) A warehouseman's lien for charges and expenses under Subsection (a) or a security interest under Subsection (b) is also effective against any person who so entrusted the bailor with possession of the goods that a pledge of them by him to a good faith purchaser for value would have been valid but is not effective against a person as to whom the document confers no right in the goods covered by it under Section 7.503. However, the warehouseman's specific lien for charges and expenses under Subsection (a) (1) is effective against any security interest. If the warehouseman learns of a perfected security interest owned by a person as to whom the document confers no right in the goods covered by it under Section 7.503 against the goods and fails thereafter to give such secured party (Section 9.105) written notice of the accrued and unpaid charges and expenses at the time when they have accrued for between two and six months, then the warehouseman's specific lien under Subsection (a) (1) is effective as against such secured party only with respect to unpaid charges and expenses which have accrued by the end of six months.

(d) A warehouseman loses his lien on any goods which he voluntarily delivers or which he unjustifiably refuses to deliver. (59th Legis., Ch. 721, Sec. 7—209.)

§ 7.210. Enforcement of Warehouseman's Lien

(a) Except as provided in Subsection (b), a warehouseman's lien may be enforced by public or private sale of the goods in block or in parcels, at any time or place and on any terms which are commercially reasonable, after notifying all persons known to claim an interest in the goods. Such notification must include a statement of the amount due, the nature of the proposed sale and the time and place of any public sale. The fact that a better price could have been obtained by a sale at a different time or in a different method from that select-

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ed by the warehouseman is not of itself sufficient to establish that the sale was not made in a commercially reasonable manner. If the warehouseman either sells the goods in the usual manner in any recognized market therefor, or if he sells at the price current in such market at the time of his sale, or if he has otherwise sold in conformity with commercially reasonable practices among dealers in the type of goods sold, he has sold in a commercially reasonable manner. A sale of more goods than apparently necessary to be offered to insure satisfaction of the obligation is not commercially reasonable except in cases covered by the preceding sentence.

(b) A warehouseman's lien on goods other than goods stored by a merchant in the course of his business may be enforced only as follows:

- (1) All persons known to claim an interest in the goods must be notified.
- (2) The notification must be delivered in person or sent by registered or certified letter to the last known address of any person to be notified.
- (3) The notification must include an itemized statement of the claim, a description of the goods subject to the lien, a demand for payment within a specified time not less than ten days after receipt of the notification, and a conspicuous statement that unless the claim is paid within that time the goods will be advertised for sale and sold by auction at a specified time and place.
- (4) The sale must conform to the terms of the notification.
- (5) The sale must be held at the nearest suitable place to that where the goods are held or stored.
- (6) After the expiration of the time given in the notification, an advertisement of the sale must be published once a week for two weeks consecutively in a newspaper of general circulation where the sale is to be held. The advertisement must include a description of the goods, the name of the person on whose account they are being held, and the time and place of the sale. The sale must take place at least fifteen days after the first publication. If there is no newspaper of general circulation where the sale is to be held, the advertisement must be posted at least ten days before the sale in not less than six conspicuous places in the neighborhood of the proposed sale.

(c) Before any sale pursuant to this section any person claiming a right in the goods may pay the amount necessary to satisfy the lien and the reasonable expenses incurred under this section. In that event the goods must not be sold, but must be retained by the warehouseman subject to the terms of the receipt and this chapter.

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(d) The warehouseman may buy at any public sale pursuant to this section.

(e) A purchaser in good faith of goods sold to enforce a warehouseman's lien takes the goods free of any rights of persons against whom the lien was valid, despite noncompliance by the warehouseman with the requirements of this section.

(f) The warehouseman may satisfy his lien from the proceeds of any sale pursuant to this section but must hold the balance, if any, for delivery on demand to any person to whom he would have been bound to deliver the goods.

(g) The rights provided by this section shall be in addition to all other rights allowed by law to a creditor against his debtor.

(h) Where a lien is on goods stored by a merchant in the course of his business the lien may be enforced in accordance with either Subsection (a) or (b).

(i) The warehouseman is liable for damages caused by failure to comply with the requirements for sale under this section and in case of willful violation is liable for conversion. (59th Legis., Ch. 721, Sec. 7—210.)

SUBCHAPTER C. BILLS OF LADING: SPECIAL PROVISIONS

§ 7.301. Liability for Non-Receipt or Misdescription; "Said to Contain"; "Shipper's Load and Count"; Improper Handling

(a) A consignee of a non-negotiable bill who has given value in good faith or a holder to whom a negotiable bill has been duly negotiated relying in either case upon the description therein of the goods, or upon the date therein shown, may recover from the issuer damages caused by the misdating of the bill or the non-receipt or misdescription of the goods, except to the extent that the document indicates that the issuer does not know whether any part or all of the goods in fact were received or conform to the description, as where the description is in terms of marks or labels or kind, quantity, or condition or the receipt or description is qualified by "contents or condition of contents of packages unknown", "said to contain", "shipper's weight, load and count" or the like, if such indication be true.

(b) When goods are loaded by an issuer who is a common carrier, the issuer must count the packages of goods if package freight and ascertain the kind and quantity if bulk freight. In such cases "shipper's weight, load and count" or other words indicating that the description was made by the shipper are ineffective except as to freight concealed by packages.

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(c) When bulk freight is loaded by a shipper who makes available to the issuer adequate facilities for weighing such freight, an issuer who is a common carrier must ascertain the kind and quantity within a reasonable time after receiving the written request of the shipper to do so. In such cases "shipper's weight" or other words of like purport are ineffective.

(d) The issuer may by inserting in the bill the words "shipper's weight, load and count" or other words of like purport indicate that the goods were loaded by the shipper; and if such statement be true the issuer shall not be liable for damages caused by the improper loading. But their omission does not imply liability for such damages.

(e) The shipper shall be deemed to have guaranteed to the issuer the accuracy at the time of shipment of the description, marks, labels, number, kind, quantity, condition and weight, as furnished by him; and the shipper shall indemnify the issuer against damage caused by inaccuracies in such particulars. The right of the issuer to such indemnity shall in no way limit his responsibility and liability under the contract of carriage to any person other than the shipper. (59th Legis., Ch. 721, Sec. 7—301.)

§ 7.302. Through Bills of Lading and Similar Documents

(a) The issuer of a through bill of lading or other document embodying an undertaking to be performed in part by persons acting as its agents or by connecting carriers is liable to anyone entitled to recover on the document for any breach by such other persons or by a connecting carrier of its obligation under the document but to the extent that the bill covers an undertaking to be performed overseas or in territory not contiguous to the continental United States or an undertaking including matters other than transportation this liability may be varied by agreement of the parties.

(b) Where goods covered by a through bill of lading or other document embodying an undertaking to be performed in part by persons other than the issuer are received by any such person, he is subject with respect to his own performance while the goods are in his possession to the obligation of the issuer. His obligation is discharged by delivery of the goods to another such person pursuant to the document, and does not include liability for breach by any other such persons or by the issuer.

(c) The issuer of such through bill of lading or other document shall be entitled to recover from the connecting carrier or such other person in possession of the goods when the breach of the obligation under the document occurred, the amount it may be required to pay to anyone entitled to recover on the document therefor, as may be evidenced by any receipt, judgment, or transcript thereof, and the amount of any expense reasonably incurred by it in defending any

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action brought by anyone entitled to recover on the document therefor. (59th Legis., Ch. 721, Sec. 7—302.)

§ 7.303. Diversion; Reconsignment; Change of Instructions

(a) Unless the bill of lading otherwise provides, the carrier may deliver the goods to a person or destination other than that stated in the bill or may otherwise dispose of the goods on instructions from

- (1) the holder of a negotiable bill; or
- (2) the consignor on a non-negotiable bill notwithstanding contrary instructions from the consignee; or
- (3) the consignee on a non-negotiable bill in the absence of contrary instructions from the consignor, if the goods have arrived at the billed destination or if the consignee is in possession of the bill; or
- (4) the consignee on a non-negotiable bill if he is entitled as against the consignor to dispose of them.

(b) Unless such instructions are noted on a negotiable bill of lading, a person to whom the bill is duly negotiated can hold the bailee according to the original terms. (59th Legis., Ch. 721, Sec. 7—303.)

§ 7.304. Bills of Lading in a Set

(a) Except where customary in overseas transportation, a bill of lading must not be issued in a set of parts. The issuer is liable for damages caused by violation of this subsection.

(b) Where a bill of lading is lawfully drawn in a set of parts, each of which is numbered and expressed to be valid only if the goods have not been delivered against any other part, the whole of the parts constitute one bill.

(c) Where a bill of lading is lawfully issued in a set of parts and different parts are negotiated to different persons, the title of the holder to whom the first due negotiation is made prevails as to both the document and the goods even though any later holder may have received the goods from the carrier in good faith and discharged the carrier's obligation by surrender of his part.

(d) Any person who negotiates or transfers a single part of a bill of lading drawn in a set is liable to holders of that part as if it were the whole set.

(e) The bailee is obliged to deliver in accordance with Subchapter D of this chapter against the first presented part of a bill of lading lawfully drawn in a set. Such delivery discharges the bailee's obligation on the whole bill. (59th Legis., Ch. 721, Sec. 7—304.)

§ 7.305. Destination Bills

(a) Instead of issuing a bill of lading to the consignor at the place of shipment a carrier may at the request of the consignor procure the bill to be issued at destination or at any other place designated in the request.

(b) Upon request of anyone entitled as against the carrier to control the goods while in transit and on surrender of any outstanding bill of lading or other receipt covering such goods, the issuer may procure a substitute bill to be issued at any place designated in the request. (59th Legis., Ch. 721, Sec. 7—305.)

§ 7.306. Altered Bills of Lading

An unauthorized alteration or filling in of a blank in a bill of lading leaves the bill enforceable according to its original tenor. (59th Legis., Ch. 721, Sec. 7—306.)

§ 7.307. Lien of Carrier

(a) A carrier has a lien on the goods covered by a bill of lading for charges subsequent to the date of its receipt of the goods for storage or transportation (including demurrage and terminal charges) and for expenses necessary for preservation of the goods incident to their transportation or reasonably incurred in their sale pursuant to law. But against a purchaser for value of a negotiable bill of lading a carrier's lien is limited to charges stated in the bill or the applicable tariffs, or if no charges are stated then to a reasonable charge.

(b) A lien for charges and expenses under Subsection (a) on goods which the carrier was required by law to receive for transportation is effective against the consignor or any person entitled to the goods unless the carrier had notice that the consignor lacked authority to subject the goods to such charges and expenses. Any other lien under Subsection (a) is effective against the consignor and any person who permitted the bailor to have control or possession of the goods unless the carrier had notice that the bailor lacked such authority.

(c) A carrier loses his lien on any goods which he voluntarily delivers or which he unjustifiably refuses to deliver. (59th Legis., Ch. 721, Sec. 7—307.)

§ 7.308. Enforcement of Carrier's Lien

(a) A carrier's lien may be enforced by public or private sale of the goods, in bloc or in parcels, at any time or place and on any terms which are commercially reasonable, after notifying all persons known

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to claim an interest in the goods. Such notification must include a statement of the amount due, the nature of the proposed sale and the time and place of any public sale. The fact that a better price could have been obtained by a sale at a different time or in a different method from that selected by the carrier is not of itself sufficient to establish that the sale was not made in a commercially reasonable manner. If the carrier either sells the goods in the usual manner in any recognized market therefor or if he sells at the price current in such market at the time of his sale or if he has otherwise sold in conformity with commercially reasonable practices among dealers in the type of goods sold he has sold in a commercially reasonable manner. A sale of more goods than apparently necessary to be offered to ensure satisfaction of the obligation is not commercially reasonable except in cases covered by the preceding sentence.

(b) Before any sale pursuant to this section any person claiming a right in the goods may pay the amount necessary to satisfy the lien and the reasonable expenses incurred under this section. In that event the goods must not be sold, but must be retained by the carrier subject to the terms of the bill and this chapter.

(c) The carrier may buy at any public sale pursuant to this section.

(d) A purchaser in good faith of goods sold to enforce a carrier's lien takes the goods free of any rights of persons against whom the lien was valid, despite noncompliance by the carrier with the requirements of this section.

(e) The carrier may satisfy his lien from the proceeds of any sale pursuant to this section but must hold the balance, if any, for delivery on demand to any person to whom he would have been bound to deliver the goods.

(f) The rights provided by this section shall be in addition to all other rights allowed by law to a creditor against his debtor.

(g) A carrier's lien may be enforced in accordance with either Subsection (a) or the procedure set forth in Subsection (b) of Section 7.210.

(h) The carrier is liable for damages caused by failure to comply with the requirements for sale under this section and in case of willful violation is liable for conversion. (59th Legis., Ch. 721, Sec. 7—308.)

§ 7.309. Duty of Care; Contractual Limitation of Carrier's Liability

(a) A carrier who issues a bill of lading whether negotiable or non-negotiable must exercise the degree of care in relation to the goods which a reasonably careful man would exercise under like cir-

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cumstances. This subsection does not repeal or change any law or rule of law which imposes liability upon a common carrier for damages not caused by its negligence.

(b) Damages may be limited by a provision that the carrier's liability shall not exceed a value stated in the document if the carrier's rates are dependent upon value and the consignor by the carrier's tariff is afforded an opportunity to declare a higher value or a value as lawfully provided in the tariff, or where no tariff is filed he is otherwise advised of such opportunity; but no such limitation is effective with respect to the carrier's liability for conversion to its own use.

(c) Reasonable provisions as to the time and manner of presenting claims and instituting actions based on the shipment may be included in a bill of lading or tariff. (59th Legis., Ch. 721, Sec. 7—309.)

SUBCHAPTER D. WAREHOUSE RECEIPTS AND BILLS OF LADING: GENERAL OBLIGATIONS

§ 7.401. Irregularities in Issue of Receipt or Bill or Conduct of Issuer

The obligations imposed by this chapter on an issuer apply to a document of title regardless of the fact that

- (1) the document may not comply with the requirements of this chapter or of any other law or regulation regarding its issue, form or content; or
- (2) the issuer may have violated laws regulating the conduct of his business; or
- (3) the goods covered by the document were owned by the bailee at the time the document was issued; or
- (4) the person issuing the document does not come within the definition of warehouseman if it purports to be a warehouse receipt.

(59th Legis., Ch. 721, Sec. 7—401.)

§ 7.402. Duplicate Receipt or Bill; Overissue

Neither a duplicate nor any other document of title purporting to cover goods already represented by an outstanding document of the same issuer confers any right in the goods, except as provided in the case of bills in a set, overissue of documents for fungible goods substitutes for lost, stolen or destroyed documents. But the issuer is liable for damages caused by his overissue or failure to identify a duplicate document as such by conspicuous notation on its face. (59th Legis., Ch. 721, Sec. 7—402.)

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§ 7.403. Obligation of Warehouseman or Carrier to Deliver; Excuse

(a) The bailee must deliver the goods to a person entitled under the document who complies with Subsections (b) and (c), unless and to the extent that the bailee establishes any of the following:

- (1) delivery of the goods to a person whose receipt was rightful as against the claimant;
- (2) damage to or delay, loss or destruction of the goods for which the bailee is not liable, but the burden of establishing negligence in case of damage or destruction by fire is on the person entitled under the document;
- (3) previous sale or other disposition of the goods in lawful enforcement of a lien or on warehouseman's lawful termination of storage;
- (4) the exercise by a seller of his right to stop delivery pursuant to the provisions of the chapter on Sales (Section 2.705);
- (5) a diversion, reconsignment or other disposition pursuant to the provisions of this chapter (Section 7.303) or tariff regulating such right;
- (6) release, satisfaction or any other fact affording a personal defense against the claimant;
- (7) any other lawful excuse.

(b) A person claiming goods covered by a document of title must satisfy the bailee's lien where the bailee so requests or where the bailee is prohibited by law from delivering the goods until the charges are paid.

(c) Unless the person claiming is one against whom the document confers no right under Section 7.503(a), he must surrender for cancellation or notation of partial deliveries any outstanding negotiable document covering the goods, and the bailee must cancel the document or conspicuously note the partial delivery thereon or be liable to any person to whom the document is duly negotiated.

(d) "Person entitled under the document" means holder in the case of a negotiable document, or the person to whom delivery is to be made by the terms of or pursuant to written instructions under a non-negotiable document. (59th Legis., Ch. 721, Sec. 7—403.)

§ 7.404. No Liability for Good Faith Delivery Pursuant to Receipt or Bill

A bailee who in good faith including observance of reasonable commercial standards has received goods and delivered or otherwise disposed of them according to the terms of the document of title or pursuant to this chapter is not liable therefor. This rule applies even

though the person from whom he received the goods had no authority to procure the document or to dispose of the goods and even though the person to whom he delivered the goods had no authority to receive them. (59th Legis., Ch. 721, Sec. 7—404.)

SUBCHAPTER E. WAREHOUSE RECEIPTS AND BILLS OF LADING: NEGOTIATION AND TRANSFER

§ 7.501. Form of Negotiation and Requirements of "Due Negotiation"

(a) A negotiable document of title running to the order of a named person is negotiated by his indorsement and delivery. After his indorsement in blank or to bearer any person can negotiate it by delivery alone.

(b) (1) A negotiable document of title is also negotiated by delivery alone when by its original terms it runs to bearer.

(2) When a document running to the order of a named person is delivered to him the effect is the same as if the document had been negotiated.

(c) Negotiation of a negotiable document of title after it has been indorsed to a specified person requires indorsement by the special indorsee as well as delivery.

(d) A negotiable document of title is "duly negotiated" when it is negotiated in the manner stated in this section to a holder who purchases it in good faith without notice of any defense against or claim to it on the part of any person and for value, unless it is established that the negotiation is not in the regular course of business or financing or involves receiving the document in settlement or payment of a money obligation.

(e) Indorsement of a non-negotiable document neither makes it negotiable nor adds to the transferee's rights.

(f) The naming in a negotiable bill of a person to be notified of the arrival of the goods does not limit the negotiability of the bill nor constitute notice to a purchaser thereof of any interest of such person in the goods. (59th Legis., Ch. 721, Sec. 7—501.)

§ 7.502. Rights Acquired by Due Negotiation

(a) Subject to the following section and to the provisions of Section 7.205 on fungible goods, a holder to whom a negotiable document of title has been duly negotiated acquires thereby:

(1) title to the document;

(2) title to the goods;

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- (3) all rights accruing under the law of agency or estoppel, including rights to goods delivered to the bailee after the document was issued; and
- (4) the direct obligation of the issuer to hold or deliver the goods according to the terms of the document free of any defense or claim by him except those arising under the terms of the document or under this chapter. In the case of a delivery order the bailee's obligation accrues only upon acceptance and the obligation acquired by the holder is that the issuer and any indorser will procure the acceptance of the bailee.

(b) Subject to the following section, title and rights so acquired are not defeated by any stoppage of the goods represented by the document or by surrender of such goods by the bailee, and are not impaired even though the negotiation or any prior negotiation constituted a breach of duty or even though any person has been deprived of possession of the document by misrepresentation, fraud, accident, mistake, duress, loss, theft or conversion, or even though a previous sale or other transfer of the goods or document has been made to a third person. (59th Legis., Ch. 721, Sec. 7—502.)

§ 7.503. Document of Title to Goods Defeated in Certain Cases

(a) A document of title confers no right in goods against a person who before issuance of the document had a legal interest or a perfected security interest in them and who neither

- (1) delivered or entrusted them or any document of title covering them to the bailor or his nominee with actual or apparent authority to ship, store or sell or with power to obtain delivery under this chapter (Section 7.403) or with power of disposition under this title (Sections 2.403 and 9.307) or other statute or rule of law; nor
- (2) acquiesced in the procurement by the bailor or his nominee of any document of title.

(b) Title to goods based upon an unaccepted delivery order is subject to the rights of anyone to whom a negotiable warehouse receipt or bill of lading covering the goods has been duly negotiated. Such a title may be defeated under the next section to the same extent as the rights of the issuer or a transferee from the issuer.

(c) Title to goods based upon a bill of lading issued to a freight forwarder is subject to the rights of anyone to whom a bill issued by the freight forwarder is duly negotiated; but delivery by the carrier in accordance with Subchapter D of this chapter pursuant to its own bill of lading discharges the carrier's obligation to delivery. (59th Legis., Ch. 721, Sec. 7—503.)

**§ 7.504. Rights Acquired in the Absence of Due Negotiation;
Effect of Diversion; Seller's Stoppage of Delivery**

(a) A transferee of a document, whether negotiable or non-negotiable, to whom the document has been delivered but not duly negotiated, acquires the title and rights which his transferor had or had actual authority to convey.

(b) In the case of a non-negotiable document, until but not after the bailee receives notification of the transfer, the rights of the transferee may be defeated

- (1) by those creditors of the transferor who could treat the sale as void under Section 2.402; or
- (2) by a buyer from the transferor in ordinary course of business if the bailee has delivered the goods to the buyer or received notification of his rights; or
- (3) as against the bailee by good faith dealings of the bailee with the transferor.

(c) A diversion or other change of shipping instructions by the consignor in a non-negotiable bill of lading which causes the bailee not to deliver to the consignee defeats the consignee's title to the goods if they have been delivered to a buyer in ordinary course of business and in any event defeats the consignee's rights against the bailee.

(d) Delivery pursuant to a non-negotiable document may be stopped by a seller under Section 2.705, and subject to the requirement of due notification there provided. A bailee honoring the seller's instructions is entitled to be indemnified by the seller against any resulting loss or expense. (59th Legis., Ch. 721, Sec. 7—504.)

§ 7.505. Indorser Not a Guarantor for Other Parties

The indorsement of a document of title issued by a bailee does not make the indorser liable for any default by the bailee or by previous indorsers. (59th Legis., Ch. 721, Sec. 7—505.)

§ 7.506. Delivery Without Indorsement: Right to Compel Indorsement

The transferee of a negotiable document of title has a specifically enforceable right to have his transferor supply any necessary indorsement but the transfer becomes a negotiation only as of the time the indorsement is supplied. (59th Legis., Ch. 721, Sec. 7—506.)

§ 7.507. Warranties on Negotiation or Transfer of Receipt or Bill

Where a person negotiates or transfers a document of title for value otherwise than as a mere intermediary under the next following

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section, then unless otherwise agreed he warrants to his immediate purchaser only in addition to any warranty made in selling the goods

- (1) that the document is genuine; and
- (2) that he has no knowledge of any fact which would impair its validity or worth; and
- (3) that his negotiation or transfer is rightful and fully effective with respect to the title to the document and the goods it represents.

(59th Legis., Ch. 721, Sec. 7—507.)

§ 7.508. Warranties of Collecting Bank as to Documents

A collecting bank or other intermediary known to be entrusted with documents on behalf of another or with collection of a draft or other claim against delivery of documents warrants by such delivery of the documents only its own good faith and authority. This rule applies even though the intermediary has purchased or made advances against the claim or draft to be collected. (59th Legis., Ch. 721, Sec. 7—508.)

§ 7.509. Receipt or Bill: When Adequate Compliance With Commercial Contract

The question whether a document is adequate to fulfill the obligations of a contract for sale or the conditions of a credit is governed by the chapters on Sales (Chapter 2) and on Letters of Credit (Chapter 5). (59th Legis., Ch. 721, Sec. 7—509.)

SUBCHAPTER F. WAREHOUSE RECEIPTS AND BILLS OF LADING: MISCELLANEOUS PROVISIONS

§ 7.601. Lost and Missing Documents

(a) If a document has been lost, stolen or destroyed, a court may order delivery of the goods or issuance of a substitute document and the bailee may without liability to any person comply with such order. If the document was negotiable the claimant must post security approved by the court to indemnify any person who may suffer loss as a result of a non-surrender of the document. If the document was not negotiable, such security may be required at the discretion of the court. The court may also in its discretion order payment of the bailee's reasonable costs and counsel fees.

(b) A bailee who without court order delivers goods to a person claiming under a missing negotiable document is liable to any person injured thereby, and if the delivery is not in good faith be-

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comes liable for conversion. Delivery in good faith is not conversion if made in accordance with a filed classification or tariff or, where no classification or tariff is filed, if the claimant posts security with the bailee in an amount at least double the value of the goods at the time of posting to indemnify any person injured by the delivery who files a notice of claim within one year after the delivery. (59th Legis., Ch. 721, Sec. 7—601.)

§ 7.602. Attachment of Goods Covered by a Negotiable Document

Except where the document was originally issued upon delivery of the goods by a person who had no power to dispose of them, no lien attaches by virtue of any judicial process to goods in the possession of a bailee for which a negotiable document of title is outstanding unless the document be first surrendered to the bailee or its negotiation enjoined, and the bailee shall not be compelled to deliver the goods pursuant to process until the document is surrendered to him or impounded by the court. One who purchases the document for value without notice of the process or injunction takes free of the lien imposed by judicial process. (59th Legis., Ch. 721, Sec. 7—602.)

§ 7.603. Conflicting Claims; Interpleader

If more than one person claims title or possession of the goods, the bailee is excused from delivery until he has had a reasonable time to ascertain the validity of the adverse claims or to bring an action to compel all claimants to interplead and may compel such interpleader, either in defending an action for non-delivery of the goods, or by original action, whichever is appropriate. (59th Legis., Ch. 721, Sec. 7—603.)

CHAPTER 8. INVESTMENT SECURITIES

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SUBCHAPTER A. SHORT TITLE AND GENERAL MATTERS

Section 8.101. Short Title

This chapter may be cited as Uniform Commercial Code—Investment Securities. (59th Legis., Ch. 721, Sec. 8—101.)

§ 8.102. Definitions and Index of Definitions

- (a) In this chapter unless the context otherwise requires
 - (1) A “security” is an instrument which
 - (A) is issued in bearer or registered form; and
 - (B) is of a type commonly dealt in upon securities exchanges or markets or commonly recognized in any area in which it is issued or dealt in as a medium for investment; and
 - (C) is either one of a class or series or by its terms is divisible into a class or series of instruments; and
 - (D) evidences a share, participation or other interest in property or in an enterprise or evidences an obligation of the issuer.
 - (2) A writing which is a security is governed by this chapter and not by Uniform Commercial Code—Commercial Paper even though it also meets the requirements of that chapter. This chapter does not apply to money.
 - (3) A security is in “registered form” when it specifies a person entitled to the security or to the rights it evidences and when its transfer may be registered upon books maintained for that purpose by or on behalf of an issuer or the security so states.
 - (4) A security is in “bearer form” when it runs to bearer according to its terms and not by reason of any indorsement.
- (b) A “subsequent purchaser” is a person who takes other than by original issue.

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(c) A "clearing corporation" is a corporation all of the capital stock of which is held by or for a national securities exchange or association registered under a statute of the United States such as the Securities Exchange Act of 1934.

(d) A "custodian bank" is any bank or trust company which is supervised and examined by state or federal authority having supervision over banks and which is acting as custodian for a clearing corporation.

(e) Other definitions applying to this chapter or to specified subchapters thereof and the sections in which they appear are:

"Adverse claim".	Section 8.301.
"Bona fide purchaser".	Section 8.302.
"Broker".	Section 8.303.
"Guarantee of the signature".	Section 8.402.
"Intermediary bank".	Section 4.105.
"Issuer".	Section 8.201.
"Overissue".	Section 8.104.

(f) In addition Chapter 1 contains general definitions and principles of construction and interpretation applicable throughout this chapter. (59th Legis., Ch. 721, Sec. 8—102.)

§ 8.103. Issuer's Lien

A lien upon a security in favor of an issuer thereof is valid against a purchaser only if the right of the issuer to such lien is noted conspicuously on the security. (59th Legis., Ch. 721, Sec. 8—103.)

§ 8.104. Effect of Overissue; "Overissue"

(a) The provisions of this chapter which validate a security or compel its issue or reissue do not apply to the extent that validation, issue or reissue would result in overissue; but

- (1) if an identical security which does not constitute an overissue is reasonably available for purchase, the person entitled to issue or validation may compel the issuer to purchase and deliver such a security to him against surrender of the security, if any, which he holds; or
- (2) if a security is not so available for purchase, the person entitled to issue or validation may recover from the issuer the price he or the last purchaser for value paid for it with interest from the date of his demand.

(b) "Overissue" means the issue of securities in excess of the amount which the issuer has corporate power to issue. (59th Legis., Ch. 721, Sec. 8—104.)

§ 8.105. Securities Negotiable; Presumptions

(a) Securities governed by this chapter are negotiable instruments.

(b) In any action on a security

- (1) unless specifically denied in the pleadings, each signature on the security or in a necessary indorsement is admitted;
- (2) when the effectiveness of a signature is put in issue the burden of establishing it is on the party claiming under the signature but the signature is presumed to be genuine or authorized;
- (3) when signatures are admitted or established production of the instrument entitles a holder to recover on it unless the defendant establishes a defense or a defect going to the validity of the security; and
- (4) after it is shown that a defense or defect exists the plaintiff has the burden of establishing that he or some person under whom he claims is a person against whom the defense or defect is ineffective (Section 8.202).

(59th Legis., Ch. 721, Sec. 8—105.)

§ 8.106. Applicability

The validity of a security and the rights and duties of the issuer with respect to registration of transfer are governed by the law (including the conflict of laws rules) of the jurisdiction of organization of the issuer. (59th Legis., Ch. 721, Sec. 8—106.)

§ 8.107. Securities Deliverable; Action for Price

(a) Unless otherwise agreed and subject to any applicable law or regulation respecting short sales, a person obligated to deliver securities may deliver any security of the specified issue in bearer form or registered in the name of the transferee or indorsed to him or in blank.

(b) When the buyer fails to pay the price as it comes due under a contract of sale the seller may recover the price

- (1) of securities accepted by the buyer; and
- (2) of other securities if efforts at their resale would be unduly burdensome or if there is no readily available market for their resale.

(59th Legis., Ch. 721, Sec. 8—107.)

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SUBCHAPTER B. ISSUE—ISSUER

§ 8.201. “Issuer”

(a) With respect to obligations on or defenses to a security “issuer” includes a person who

- (1) places or authorizes the placing of his name on a security (otherwise than as authenticating trustee, registrar, transfer agent or the like) to evidence that it represents a share, participation or other interest in his property or in an enterprise or to evidence his duty to perform an obligation evidenced by the security; or
- (2) directly or indirectly creates fractional interests in his rights or property which fractional interests are evidenced by securities; or
- (3) becomes responsible for or in place of any other person described as an issuer in this section.

(b) With respect to obligations on or defenses to a security a guarantor is an issuer to the extent of his guaranty whether or not his obligation is noted on the security.

(c) With respect to registration of transfer (Subchapter D of this chapter) “issuer” means a person on whose behalf transfer books are maintained. (59th Legis., Ch. 721, Sec. 8—201.)

§ 8.202. Issuer’s Responsibility and Defenses; Notice of Defect or Defense

(a) Even against a purchaser for value and without notice, the terms of a security include those stated on the security and those made part of the security by reference to another instrument, indenture or document or to a constitution, statute, ordinance, rule, regulation, order or the like to the extent that the terms so referred to do not conflict with the stated terms. Such a reference does not of itself charge a purchaser for value with notice of a defect going to the validity of the security even though the security expressly states that a person accepting it admits such notice.

- (b) (1) A security other than one issued by a government or governmental agency or unit even though issued with a defect going to its validity is valid in the hands of a purchaser for value and without notice of the particular defect unless the defect involves a violation of constitutional provisions in which case the security is valid in the hands of a subsequent purchaser for value and without notice of the defect.
- (2) The rule of Subdivision (1) applies to an issuer which is a government or governmental agency or unit only if either

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there has been substantial compliance with the legal requirements governing the issue or the issuer has received a substantial consideration for the issue as a whole or for the particular security and a stated purpose of the issue is one for which the issuer has power to borrow money or issue the security.

(c) Except as otherwise provided in the case of certain unauthorized signatures on issue (Section 8.205), lack of genuineness of a security is a complete defense even against a purchaser for value and without notice.

(d) All other defenses of the issuer including nondelivery and conditional delivery of the security are ineffective against a purchaser for value who has taken without notice of the particular defense.

(e) Nothing in this section shall be construed to affect the right of a party to a "when, as and if issued" or a "when distributed" contract to cancel the contract in the event of a material change in the character of the security which is the subject of the contract or in the plan or arrangement pursuant to which such security is to be issued or distributed. (59th Legis., Ch. 721, Sec. 8—202.)

§ 8.203. Staleness as Notice of Defects or Defenses

(a) After an act or event which creates a right to immediate performance of the principal obligation evidenced by the security or which sets a date on or after which the security is to be presented or surrendered for redemption or exchange, a purchaser is charged with notice of any defect in its issue or defense of the issuer

(1) if the act or event is one requiring the payment of money or the delivery of securities or both on presentation or surrender of the security and such funds or securities are available on the date set for payment or exchange and he takes the security more than one year after that date; and

(2) if the act or event is not covered by Subdivision (1) and he takes the security more than two years after the date set for surrender or presentation or the date on which such performance became due.

(b) A call which has been revoked is not within Subsection (a). (59th Legis., Ch. 721, Sec. 8—203.)

§ 8.204. Effect of Issuer's Restrictions on Transfer

Unless noted conspicuously on the security a restriction on transfer imposed by the issuer even though otherwise lawful is ineffective except against a person with actual knowledge of it. (59th Legis., Ch. 721, Sec. 8—204.)

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§ 8.205. Effect of Unauthorized Signature on Issue

An unauthorized signature placed on a security prior to or in the course of issue is ineffective except that the signature is effective in favor of a purchaser for value and without notice of the lack of authority if the signing has been done by

- (1) an authenticating trustee, registrar, transfer agent or other person entrusted by the issuer with the signing of the security or of similar securities or their immediate preparation for signing; or
- (2) an employee of the issuer or of any of the foregoing entrusted with responsible handling of the security.

(59th Legis., Ch. 721, Sec. 8—205.)

§ 8.206. Completion or Alteration of Instrument

(a) Where a security contains the signatures necessary to its issue or transfer but is incomplete in any other respect

- (1) any person may complete it by filling in the blanks as authorized; and
- (2) even though the blanks are incorrectly filled in, the security as completed is enforceable by a purchaser who took it for value and without notice of such incorrectness.

(b) A complete security which has been improperly altered even though fraudulently remains enforceable but only according to its original terms. (59th Legis., Ch. 721, Sec. 8—206.)

§ 8.207. Rights of Issuer With Respect to Registered Owners

(a) Prior to due presentment for registration of transfer of a security in registered form the issuer or indenture trustee may treat the registered owner as the person exclusively entitled to vote, to receive notifications and otherwise to exercise all the rights and powers of an owner.

(b) Nothing in this chapter shall be construed to affect the liability of the registered owner of a security for calls, assessments or the like. (59th Legis., Ch. 721, Sec. 8—207.)

§ 8.208. Effect of Signature of Authenticating Trustee, Registrar or Transfer Agent

(a) A person placing his signature upon a security as authenticating trustee, registrar, transfer agent or the like warrants to a purchaser for value without notice of the particular defect that

- (1) the security is genuine; and

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- (2) his own participation in the issue of the security is within his capacity and within the scope of the authorization received by him from the issuer; and
 - (3) he has reasonable grounds to believe that the security is in the form and within the amount the issuer is authorized to issue.
- (b) Unless otherwise agreed, a person by so placing his signature does not assume responsibility for the validity of the security in other respects. (59th Legis., Ch. 721, Sec. 8—208.)

SUBCHAPTER C. PURCHASE

§ 8.301. Rights Acquired by Purchaser; "Adverse Claim"; Title Acquired by Bona Fide Purchaser

(a) Upon delivery of a security the purchaser acquires the rights in the security which his transferor had or had actual authority to convey except that a purchaser who has himself been a party to any fraud or illegality affecting the security or who as a prior holder had notice of an adverse claim cannot improve his position by taking from a later bona fide purchaser. "Adverse claim" includes a claim that a transfer was or would be wrongful or that a particular adverse person is the owner of or has an interest in the security.

(b) A bona fide purchaser in addition to acquiring the rights of a purchaser also acquires the security free of any adverse claim.

(c) A purchaser of a limited interest acquires rights only to the extent of the interest purchased. (59th Legis., Ch. 721, Sec. 8—301.)

§ 8.302. "Bona Fide Purchaser"

A "bona fide purchaser" is a purchaser for value in good faith and without notice of any adverse claim who takes delivery of a security in bearer form or of one in registered form issued to him or indorsed to him or in blank. (59th Legis., Ch. 721, Sec. 8—302.)

§ 8.303. "Broker"

"Broker" means a person engaged for all or part of his time in the business of buying and selling securities, who in the transaction concerned acts for, or buys a security from or sells a security to a customer. Nothing in this chapter determines the capacity in which a person acts for purposes of any other statute or rule to which such person is subject. (59th Legis., Ch. 721, Sec. 8—303.)

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§ 8.304. Notice to Purchaser of Adverse Claims

(a) A purchaser (including a broker for the seller or buyer but excluding an intermediary bank) of a security is charged with notice of adverse claims if

- (1) the security whether in bearer or registered form has been indorsed "for collection" or "for surrender" or for some other purpose not involving transfer; or
- (2) the security is in bearer form and has on it an unambiguous statement that it is the property of a person other than the transferor. The mere writing of a name on a security is not such a statement.

(b) The fact that the purchaser (including a broker for the seller or buyer) has notice that the security is held for a third person or is registered in the name of or indorsed by a fiduciary does not create a duty of inquiry into the rightfulness of the transfer or constitute notice of adverse claims. If, however, the purchaser (excluding an intermediary bank) has knowledge that the proceeds are being used or that the transaction is for the individual benefit of the fiduciary or otherwise in breach of duty, the purchaser is charged with notice of adverse claims. (59th Legis., Ch. 721, Sec. 8—304.)

§ 8.305. Staleness as Notice of Adverse Claims

An act or event which creates a right to immediate performance of the principal obligation evidenced by the security or which sets a date on or after which the security is to be presented or surrendered for redemption or exchange does not of itself constitute any notice of adverse claims except in the case of a purchase

- (1) after one year from any date set for such presentment or surrender for redemption or exchange; or
- (2) after six months from any date set for payment of money against presentation or surrender of the security if funds are available for payment on that date.

(59th Legis., Ch. 721, Sec. 8—305.)

§ 8.306. Warranties on Presentment and Transfer

(a) A person who presents a security for registration of transfer or for payment or exchange warrants to the issuer that he is entitled to the registration, payment or exchange. But a purchaser for value without notice of adverse claims who receives a new, reissued or re-registered security on registration of transfer warrants only that he has no knowledge of any unauthorized signature (Section 8.311) in a necessary indorsement.

(b) A person by transferring a security to a purchaser for value warrants only that

- (1) his transfer is effective and rightful; and
- (2) the security is genuine and has not been materially altered; and
- (3) he knows no fact which might impair the validity of the security.

(c) Where a security is delivered by an intermediary known to be entrusted with delivery of the security on behalf of another or with collection of a draft or other claim against such delivery, the intermediary by such delivery warrants only his own good faith and authority even though he has purchased or made advances against the claim to be collected against the delivery.

(d) A pledgee or other holder for security who redelivers the security received, or after payment and on order of the debtor delivers that security to a third person makes only the warranties of an intermediary under Subsection (c).

(e) A broker gives to his customer and to the issuer and a purchaser the warranties provided in this section and has the rights and privileges of a purchaser under this section. The warranties of and in favor of the broker acting as an agent are in addition to applicable warranties given by and in favor of his customer. (59th Legis., Ch. 721, Sec. 8—306.)

§ 8.307. Effect of Delivery Without Indorsement; Right to Compel Indorsement

Where a security in registered form has been delivered to a purchaser without a necessary indorsement he may become a bona fide purchaser only as of the time the indorsement is supplied, but against the transferor the transfer is complete upon delivery and the purchaser has a specifically enforceable right to have any necessary indorsement supplied. (59th Legis., Ch. 721, Sec. 8—307.)

§ 8.308. Indorsement, How Made; Special Indorsement; Indorser Not a Guarantor; Partial Assignment

(a) An indorsement of a security in registered form is made when an appropriate person signs on it or on a separate document an assignment or transfer of the security or a power to assign or transfer it or when the signature of such person is written without more upon the back of the security.

(b) An indorsement may be in blank or special. An indorsement in blank includes an indorsement to bearer. A special indorsement specifies the person to whom the security is to be transferred, or who

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has power to transfer it. A holder may convert a blank indorsement into a special indorsement.

(c) "An appropriate person" in Subsection (a) means

- (1) the person specified by the security or by special indorsement to be entitled to the security; or
- (2) where the person so specified is described as a fiduciary but is no longer serving in the described capacity,—either that person or his successor; or
- (3) where the security or indorsement so specifies more than one person as fiduciaries and one or more are no longer serving in the described capacity,—the remaining fiduciary or fiduciaries, whether or not a successor has been appointed or qualified; or
- (4) where the person so specified is an individual and is without capacity to act by virtue of death, incompetence, infancy or otherwise,—his executor, administrator, guardian or like fiduciary; or
- (5) where the security or indorsement so specifies more than one person as tenants by the entirety or with right of survivorship and by reason of death all cannot sign,—the survivor or survivors; or
- (6) a person having power to sign under applicable law or controlling instrument; or
- (7) to the extent that any of the foregoing persons may act through an agent,—his authorized agent.

(d) Unless otherwise agreed the indorser by his indorsement assumes no obligation that the security will be honored by the issuer.

(e) An indorsement purporting to be only of part of a security representing units intended by the issuer to be separately transferable is effective to the extent of the indorsement.

(f) Whether the person signing is appropriate is determined as of the date of signing and an indorsement by such a person does not become unauthorized for the purposes of this chapter by virtue of any subsequent change of circumstances.

(g) Failure of a fiduciary to comply with a controlling instrument or with the law of the state having jurisdiction of the fiduciary relationship, including any law requiring the fiduciary to obtain court approval of the transfer, does not render his indorsement unauthorized for the purposes of this chapter. (59th Legis., Ch. 721, Sec. 8—308.)

§ 8.309. Effect of Indorsement Without Delivery

An indorsement of a security whether special or in blank does not constitute a transfer until delivery of the security on which it appears or if the indorsement is on a separate document until delivery of both the document and the security. (59th Legis., Ch. 721, Sec. 8—309.)

§ 8.310. Indorsement of Security in Bearer Form

An indorsement of a security in bearer form may give notice of adverse claims (Section 8.304) but does not otherwise affect any right to registration the holder may possess. (59th Legis., Ch. 721, Sec. 8—310.)

§ 8.311. Effect of Unauthorized Indorsement

Unless the owner has ratified an unauthorized indorsement or is otherwise precluded from asserting its ineffectiveness

- (1) he may assert its ineffectiveness against the issuer or any purchaser other than a purchaser for value and without notice of adverse claims who has in good faith received a new, reissued or re-registered security on registration of transfer; and
- (2) an issuer who registers the transfer of a security upon the unauthorized indorsement is subject to liability for improper registration (Section 8.404).

(59th Legis., Ch. 721, Sec. 8—311.)

§ 8.312. Effect of Guaranteeing Signature or Indorsement

(a) Any person guaranteeing a signature of an indorser of a security warrants that at the time of signing

- (1) the signature was genuine; and
- (2) the signer was an appropriate person to indorse (Section 8.308); and
- (3) the signer had legal capacity to sign.

But the guarantor does not otherwise warrant the rightfulness of the particular transfer.

(b) Any person may guarantee an indorsement of a security and by so doing warrants not only the signature (Subsection (a)) but also the rightfulness of the particular transfer in all respects. But no issuer may require a guarantee of indorsement as a condition to registration of transfer.

(c) The foregoing warranties are made to any person taking or dealing with the security in reliance on the guarantee and the guarantor is liable to such person for any loss resulting from breach of the warranties. (59th Legis., Ch. 721, Sec. 8—312.)

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§ 8.313. When Delivery to the Purchaser Occurs; Purchaser's Broker as Holder

- (a) Delivery to a purchaser occurs when
- (1) he or a person designated by him acquires possession of a security; or
 - (2) his broker acquires possession of a security specially indorsed to or issued in the name of the purchaser; or
 - (3) his broker sends him confirmation of the purchase and also by book entry or otherwise identifies a specific security in the broker's possession as belonging to the purchaser; or
 - (4) with respect to an identified security to be delivered while still in the possession of a third person when that person acknowledges that he holds for the purchaser; or
 - (5) appropriate entries on the books of a clearing corporation are made under Section 8.320.

(b) The purchaser is the owner of a security held for him by his broker, but is not the holder except as specified in Subdivisions (2), (3) and (5) of Subsection (a). Where a security is part of a fungible bulk the purchaser is the owner of a proportionate property interest in the fungible bulk.

(c) Notice of an adverse claim received by the broker or by the purchaser after the broker takes delivery as a holder for value is not effective either as to the broker or as to the purchaser. However, as between the broker and the purchaser the purchaser may demand delivery of an equivalent security as to which no notice of an adverse claim has been received. (59th Legis., Ch. 721, Sec. 8—313.)

§ 8.314. Duty to Deliver, When Completed

(a) Unless otherwise agreed where a sale of a security is made on an exchange or otherwise through brokers

- (1) the selling customer fulfills his duty to deliver when he places such a security in the possession of the selling broker or of a person designated by the broker or if requested causes an acknowledgment to be made to the selling broker that it is held for him; and
- (2) the selling broker including a correspondent broker acting for a selling customer fulfills his duty to deliver by placing the security or a like security in the possession of the buying broker or a person designated by him or by effecting clearance of the sale in accordance with the rules of the exchange on which the transaction took place.

(b) Except as otherwise provided in this section and unless otherwise agreed, a transferor's duty to deliver a security under a contract

of purchase is not fulfilled until he places the security in form to be negotiated by the purchaser in the possession of the purchaser or of a person designated by him or at the purchaser's request causes an acknowledgment to be made to the purchaser that it is held for him. Unless made on an exchange a sale to a broker purchasing for his own account is within this subsection and not within Subsection (a). (59th Legis., Ch. 721, Sec. 8—314.)

§ 8.315. Action Against Purchaser Based Upon Wrongful Transfer

(a) Any person against whom the transfer of a security is wrongful for any reason, including his incapacity, may against anyone except a bona fide purchaser reclaim possession of the security or obtain possession of any new security evidencing all or part of the same rights or have damages.

(b) If the transfer is wrongful because of an unauthorized indorsement, the owner may also reclaim or obtain possession of the security or new security even from a bona fide purchaser if the ineffectiveness of the purported indorsement can be asserted against him under the provisions of this chapter on unauthorized indorsements (Section 8.311).

(c) The right to obtain or reclaim possession of a security may be specifically enforced and its transfer enjoined and the security impounded pending the litigation. (59th Legis., Ch. 721, Sec. 8—315.)

§ 8.316. Purchaser's Right to Requisites for Registration of Transfer on Books

Unless otherwise agreed the transferor must on due demand supply his purchaser with any proof of his authority to transfer or with any other requisite which may be necessary to obtain registration of the transfer of the security but if the transfer is not for value a transferor need not do so unless the purchaser furnishes the necessary expenses. Failure to comply with a demand made within a reasonable time gives the purchaser the right to reject or rescind the transfer. (59th Legis., Ch. 721, Sec. 8—316.)

§ 8.317. Attachment or Levy Upon Security

(a) No attachment or levy upon a security or any share or other interest evidenced thereby which is outstanding shall be valid until the security is actually seized by the officer making the attachment or levy but a security which has been surrendered to the issuer may be attached or levied upon at the source.

(b) A creditor whose debtor is the owner of a security shall be entitled to such aid from courts of appropriate jurisdiction, by injunc-

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tion or otherwise, in reaching such security or in satisfying the claim by means thereof as is allowed at law or in equity in regard to property which cannot readily be attached or levied upon by ordinary legal process. (59th Legis., Ch. 721, Sec. 8—317.)

§ 8.318. No Conversion by Good Faith Delivery

An agent or bailee who in good faith (including observance of reasonable commercial standards if he is in the business of buying, selling or otherwise dealing with securities) has received securities and sold, pledged or delivered them according to the instructions of his principal is not liable for conversion or for participation in breach of fiduciary duty although the principal had no right to dispose of them. (59th Legis., Ch. 721, Sec. 8—318.)

§ 8.319. Statute of Frauds

A contract for the sale of securities is not enforceable by way of action or defense unless

- (1) there is some writing signed by the party against whom enforcement is sought or by his authorized agent or broker sufficient to indicate that a contract has been made for sale of a stated quantity of described securities at a defined or stated price; or
- (2) delivery of the security has been accepted or payment has been made but the contract is enforceable under this provision only to the extent of such delivery or payment; or
- (3) within a reasonable time a writing in confirmation of the sale or purchase and sufficient against the sender under Subdivision (1) has been received by the party against whom enforcement is sought and he has failed to send written objection to its contents within ten days after its receipt; or
- (4) the party against whom enforcement is sought admits in his pleading, testimony or otherwise in court that a contract was made for sale of a stated quantity of described securities at a defined or stated price.

(59th Legis., Ch. 721, Sec. 8—319.)

§ 8.320. Transfer or Pledge within a Central Depository System

- (a) If a security
 - (1) is in the custody of a clearing corporation or of a custodian bank or a nominee of either subject to the instructions of the clearing corporation; and
 - (2) is in bearer form or indorsed in blank by an appropriate person or registered in the name of the clearing corporation or custodian bank or a nominee of either; and

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(3) is shown on the account of a transferor or pledgor on the books of the clearing corporation; then, in addition to other methods, a transfer or pledge of the security or any interest therein may be effected by the making of appropriate entries on the books of the clearing corporation reducing the account of the transferor or pledgor and increasing the account of the transferee or pledgee by the amount of the obligation or the number of shares or rights transferred or pledged.

(b) Under this section entries may be with respect to like securities or interests therein as a part of a fungible bulk and may refer merely to a quantity of a particular security without reference to the name of the registered owner, certificate or bond number or the like and, in appropriate cases, may be on a net basis taking into account other transfers or pledges of the same security.

(c) A transfer or pledge under this section has the effect of a delivery of a security in bearer form or duly indorsed in blank (Section 8.301) representing the amount of the obligation or the number of shares or rights transferred or pledged. If a pledge or the creation of a security interest is intended, the making of entries has the effect of a taking of delivery by the pledgee or a secured party (Sections 9.304 and 9.305). A transferee or pledgee under this section is a holder.

(d) A transfer or pledge under this section does not constitute a registration of transfer under Subchapter D of this chapter.

(e) That entries made on the books of the clearing corporation as provided in Subsection (a) are not appropriate does not affect the validity or effect of the entries nor the liabilities or obligations of the clearing corporation to any person adversely affected thereby. (59th Legis., Ch. 721, Sec. 8—320.)

SUBCHAPTER D. REGISTRATION

§ 8.401. Duty of Issuer to Register Transfer

(a) Where a security in registered form is presented to the issuer with a request to register transfer, the issuer is under a duty to register the transfer as requested if

- (1) the security is indorsed by the appropriate person or persons (Section 8.308); and
- (2) reasonable assurance is given that those indorsements are genuine and effective (Section 8.402); and
- (3) the issuer has no duty to inquire into adverse claims or has discharged any such duty (Section 8.403); and

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(4) any applicable law relating to the collection of taxes has been complied with; and

(5) the transfer is in fact rightful or is to a bona fide purchaser.

(b) Where an issuer is under a duty to register a transfer of a security the issuer is also liable to the person presenting it for registration or his principal for loss resulting from any unreasonable delay in registration or from failure or refusal to register the transfer. (59th Legis., Ch. 721, Sec. 8—401.)

§ 8.402. Assurance That Indorsements Are Effective

(a) The issuer may require the following assurance that each necessary indorsement (Section 8.308) is genuine and effective

(1) in all cases, a guarantee of the signature (Subsection (a) of Section 8.312) of the person indorsing; and

(2) where the indorsement is by an agent, appropriate assurance of authority to sign;

(3) where the indorsement is by a fiduciary, appropriate evidence of appointment or incumbency;

(4) where there is more than one fiduciary, reasonable assurance that all who are required to sign have done so;

(5) where the indorsement is by a person not covered by any of the foregoing, assurance appropriate to the case corresponding as nearly as may be to the foregoing.

(b) A “guarantee of the signature” in Subsection (a) means a guarantee signed by or on behalf of a person reasonably believed by the issuer to be responsible. The issuer may adopt standards with respect to responsibility provided such standards are not manifestly unreasonable.

(c) “Appropriate evidence of appointment or incumbency” in Subsection (a) means

(1) in the case of a fiduciary appointed or qualified by a court, a certificate issued by or under the direction or supervision of that court or an officer thereof and dated within sixty days before the date of presentation for transfer; or

(2) in any other case, a copy of a document showing the appointment or a certificate issued by or on behalf of a person reasonably believed by the issuer to be responsible or, in the absence of such a document or certificate, other evidence reasonably deemed by the issuer to be appropriate. The issuer may adopt standards with respect to such evidence provided such standards are not manifestly unreasonable. The issuer is not charged with notice of the contents of any document obtained pursuant to this Subdivision (2) except to the

extent that the contents relate directly to the appointment or incumbency.

(d) The issuer may elect to require reasonable assurance beyond that specified in this section but if it does so and for a purpose other than that specified in Subsection (c) (2) both requires and obtains a copy of a will, trust, indenture, articles of co-partnership, by-laws or other controlling instrument it is charged with notice of all matters contained therein affecting the transfer. (59th Legis., Ch. 721, Sec. 8—402.)

§ 8.403. Limited Duty of Inquiry

(a) An issuer to whom a security is presented for registration is under a duty to inquire into adverse claims if

- (1) a written notification of an adverse claim is received at a time and in a manner which affords the issuer a reasonable opportunity to act on it prior to the issuance of a new, re-issued or re-registered security and the notification identifies the claimant, the registered owner and the issue of which the security is a part and provides an address for communications directed to the claimant; or
- (2) the issuer is charged with notice of an adverse claim from a controlling instrument which it has elected to require under Subsection (d) of Section 8.402.

(b) The issuer may discharge any duty of inquiry by any reasonable means, including notifying an adverse claimant by registered or certified mail at the address furnished by him or if there be no such address at his residence or regular place of business that the security has been presented for registration of transfer by a named person, and that the transfer will be registered unless within thirty days from the date of mailing the notification, either

- (1) an appropriate restraining order, injunction or other process issues from a court of competent jurisdiction; or
- (2) an indemnity bond sufficient in the issuer's judgment to protect the issuer and any transfer agent, registrar or other agent of the issuer involved, from any loss which it or they may suffer by complying with the adverse claim is filed with the issuer.

(c) Unless an issuer is charged with notice of an adverse claim from a controlling instrument which it has elected to require under Subsection (d) of Section 8.402 or receives notification of an adverse claim under Subsection (a) of this section, where a security presented for registration is indorsed by the appropriate person or persons the issuer is under no duty to inquire into adverse claims: In particular

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- (1) an issuer registering a security in the name of a person who is a fiduciary or who is described as a fiduciary is not bound to inquire into the existence, extent, or correct description of the fiduciary relationship and thereafter the issuer may assume without inquiry that the newly registered owner continues to be the fiduciary until the issuer receives written notice that the fiduciary is no longer acting as such with respect to the particular security;
- (2) an issuer registering transfer on an indorsement by a fiduciary is not bound to inquire whether the transfer is made in compliance with a controlling instrument or with the law of the state having jurisdiction of the fiduciary relationship, including any law requiring the fiduciary to obtain court approval of the transfer; and
- (3) the issuer is not charged with notice of the contents of any court record or file or other recorded or unrecorded document even though the document is in its possession and even though the transfer is made on the indorsement of a fiduciary to the fiduciary himself or to his nominee.

(59th Legis., Ch. 721, Sec. 8—403.)

§ 8.404. Liability and Non-Liability for Registration

(a) Except as otherwise provided in any law relating to the collection of taxes, the issuer is not liable to the owner or any other person suffering loss as a result of the registration of a transfer of a security if

- (1) there were on or with the security the necessary indorsements (Section 8.308); and
- (2) the issuer had no duty to inquire into adverse claims or has discharged any such duty (Section 8.403).

(b) Where an issuer has registered a transfer of a security to a person not entitled to it the issuer on demand must deliver a like security to the true owner unless

- (1) the registration was pursuant to Subsection (a); or
- (2) the owner is precluded from asserting any claim for registering the transfer under Subsection (a) of the following section; or
- (3) such delivery would result in overissue, in which case the issuer's liability is governed by Section 8.104.

(59th Legis., Ch. 721, Sec. 8—404.)

§ 8.405. Lost, Destroyed and Stolen Securities

(a) Where a security has been lost, apparently destroyed or wrongfully taken and the owner fails to notify the issuer of that fact within a reasonable time after he has notice of it and the issuer registers a transfer of the security before receiving such a notification, the owner is precluded from asserting against the issuer any claim for registering the transfer under the preceding section or any claim to a new security under this section.

(b) Where the owner of a security claims that the security has been lost, destroyed or wrongfully taken, the issuer must issue a new security in place of the original security if the owner

- (1) so requests before the issuer has notice that the security has been acquired by a bona fide purchaser; and
- (2) files with the issuer a sufficient indemnity bond; and
- (3) satisfies any other reasonable requirements imposed by the issuer.

(c) If, after the issue of the new security, a bona fide purchaser of the original security presents it for registration of transfer, the issuer must register the transfer unless registration would result in overissue, in which event the issuer's liability is governed by Section 8.104. In addition to any rights on the indemnity bond, the issuer may recover the new security from the person to whom it was issued or any person taking under him except a bona fide purchaser. (59th Legis., Ch. 721, Sec. 8—405.)

§ 8.406. Duty of Authenticating Trustee, Transfer Agent or Registrar

(a) Where a person acts as authenticating trustee, transfer agent, registrar, or other agent for an issuer in the registration of transfers of its securities or in the issue of new securities or in the cancellation of surrendered securities

- (1) he is under a duty to the issuer to exercise good faith and due diligence in performing his functions; and
- (2) he has with regard to the particular functions he performs the same obligation to the holder or owner of the security and has the same rights and privileges as the issuer has in regard to those functions.

(b) Notice to an authenticating trustee, transfer agent, registrar or other such agent is notice to the issuer with respect to the functions performed by the agent. (59th Legis., Ch. 721, Sec. 8—406.)

CHAPTER 9. SECURED TRANSACTIONS; SALES OF ACCOUNTS, CONTRACT RIGHTS AND CHATTEL PAPER

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**SUBCHAPTER A. SHORT TITLE, APPLICABILITY
AND DEFINITIONS**

Section 9.101. Short Title

This chapter may be cited as Uniform Commercial Code—Secured Transactions. (59th Legis., Ch. 721, Sec. 9—101.)

§ 9.102. Policy and Scope of Chapter

(a) Except as otherwise provided in Section 9.103 on multiple state transactions and in Section 9.104 on excluded transactions, this chapter applies so far as concerns any personal property and fixtures within the jurisdiction of this state.

(1) to any transaction (regardless of its form) which is intended to create a security interest in personal property or fixtures including goods, documents, instruments, general intangibles, chattel paper, accounts or contract rights; and also

(2) to any sale of accounts, contract rights or chattel paper.

(b) This chapter applies to security interests created by contract including pledge, assignment, chattel mortgage, chattel trust, trust deed, factor's lien, equipment trust, conditional sale, trust receipt, other lien or title retention contract and lease or consignment intended as security. This chapter does not apply to statutory liens except as provided in Section 9.310.

(c) The application of this chapter to a security interest in a secured obligation is not affected by the fact that the obligation is itself secured by a transaction or interest to which this chapter does not apply. (59th Legis., Ch. 721, Sec. 9—102.)

§ 9.103. Accounts, Contract Rights, General Intangibles and Equipment Relating to Another Jurisdiction; and Incoming Goods Already Subject to a Security Interest

(a) If the office where the assignor of accounts or contract rights keeps his records concerning them is in this state, the validity and perfection of a security interest therein and the possibility and effect of proper filing is governed by this chapter; otherwise by the law (including the conflict of laws rules) of the jurisdiction where such office is located.

(b) If the chief place of business of a debtor is in this state, this chapter governs the validity and perfection of a security interest and the possibility and effect of proper filing with regard to general intangibles or with regard to goods of a type which are normally

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used in more than one jurisdiction (such as automotive equipment, rolling stock, airplanes, road building equipment, commercial harvesting equipment, construction machinery and the like) if such goods are classified as equipment or classified as inventory by reason of their being leased by the debtor to others. Otherwise, the law (including the conflict of laws rules) of the jurisdiction where such chief place of business is located shall govern. If the chief place of business is located in a jurisdiction which does not provide for perfection of the security interest by filing or recording in that jurisdiction, then the security interest may be perfected by filing in this state. For the purpose of determining the validity and perfection of a security interest in an airplane, the chief place of business of a debtor who is a foreign air carrier under the Federal Aviation Act of 1958, as amended, is the designated office of the agent upon whom service of process may be made on behalf of the debtor.

(c) If personal property other than that governed by Subsections (a) and (b) is already subject to a security interest when it is brought into this state, the validity of the security interest in this state is to be determined by the law (including the conflict of laws rules) of the jurisdiction where the property was when the security interest attached. However, if the parties to the transaction understood at the time that the security interest attached that the property would be kept in this state and it was brought into this state within 30 days after the security interest attached for purposes other than transportation through this state, then the validity of the security interest in this state is to be determined by the law of this state. If the security interest was already perfected under the law of the jurisdiction where the property was when the security interest attached and before being brought into this state, the security interest continues perfected in this state for four months and also thereafter if within the four month period it is perfected in this state. The security interest may also be perfected in this state after the expiration of the four month period; in such case perfection dates from the time of perfection in this state. If the security interest was not perfected under the law of the jurisdiction where the property was when the security interest attached and before being brought into this state, it may be perfected in this state; in such case perfection dates from the time of perfection in this state.

(d) Notwithstanding Subsections (b) and (c), if personal property is covered by certificate of title issued under a statute of this state or any other jurisdiction which requires indication on a certificate of title of any security interest in the property as a condition of perfection, then the perfection is governed by the law of the jurisdiction which issued the certificate.

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(e) Notwithstanding Subsection (a) and Section 9.302, if the office where the assignor of accounts or contract rights keeps his records concerning them is not located in a jurisdiction which is a part of the United States, its territories or possessions, and the accounts or contract rights are within the jurisdiction of this state or the transaction which creates the security interest otherwise bears an appropriate relation to this state, this chapter governs the validity and perfection of the security interest and the security interest may only be perfected by notification to the account debtor. (59th Legis., Ch. 721, Sec. 9—103.)

§ 9.104. Transactions Excluded From Chapter

This chapter does not apply

- (1) to a security interest subject to any statute of the United States such as the Ship Mortgage Act, 1920, to the extent that such statute governs the rights of parties to and third parties affected by transactions in particular types of property; or
- (2) to a landlord's lien; or
- (3) to a lien given by statute or other rule of law for services or materials except as provided in Section 9.310 on priority of such liens; or
- (4) to a transfer of a claim for wages, salary or other compensation of an employee; or
- (5) to an equipment trust covering railway rolling stock; or
- (6) to a sale of accounts, contract rights or chattel paper as part of a sale of the business out of which they arose, or an assignment of accounts, contract rights or chattel paper which is for the purpose of collection only, or a transfer of a contract right to an assignee who is also to do the performance under the contract; or
- (7) to a transfer of an interest or claim in or under any policy of insurance; or
- (8) to a right represented by a judgment; or
- (9) to any right of set-off; or
- (10) except to the extent that provision is made for fixtures in Section 9.313, to the creation or transfer of an interest in or lien on real estate, including a lease or rents thereunder; or
- (11) to a transfer in whole or in part of any of the following: any claim arising out of tort; any deposit, savings, pass-book or like account maintained with a bank, savings and loan association, credit union or like organization.

(59th Legis., Ch. 721, Sec. 9—104.)

§ 9.105. Definitions and Index of Definitions

(a) In this chapter unless the context otherwise requires:

- (1) "Account debtor" means the person who is obligated on an account, chattel paper, contract right or general intangible;
- (2) "Chattel paper" means a writing or writings which evidence both a monetary obligation and a security interest in or a lease of specific goods. When a transaction is evidenced both by such a security agreement or a lease and by an instrument or a series of instruments, the group of writings taken together constitutes chattel paper;
- (3) "Collateral" means the property subject to a security interest, and includes accounts, contract rights and chattel paper which have been sold;
- (4) "Debtor" means the person who owes payment or other performance of the obligation secured, whether or not he owns or has rights in the collateral, and includes the seller of accounts, contract rights or chattel paper. Where the debtor and the owner of the collateral are not the same person, the term "debtor" means the owner of the collateral in any provision of the chapter dealing with the collateral, the obligor in any provision dealing with the obligation, and may include both where the context so requires;
- (5) "Document" means document of title as defined in the general definitions of Chapter 1 (Section 1.201);
- (6) "Goods" includes all things which are movable at the time the security interest attaches or which are fixtures (Section 9.313), but does not include money, documents, instruments, accounts, chattel paper, general intangibles, contract rights and other things in action. "Goods" also include the unborn young of animals and growing crops;
- (7) "Instrument" means a negotiable instrument (defined in Section 3.104), or a security (defined in Section 8.102) or any other writing which evidences a right to the payment of money and is not itself a security agreement or lease and is of a type which is in ordinary course of business transferred by delivery with any necessary indorsement or assignment;
- (8) "Security agreement" means an agreement which creates or provides for a security interest;
- (9) "Secured party" means a lender, seller or other person in whose favor there is a security interest, including a person to whom accounts, contract rights or chattel paper have been sold. When the holders of obligations issued under an in-

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denture of trust, equipment trust agreement or the like are represented by a trustee or other person, the representative is the secured party.

(b) Other definitions applying to this chapter and the sections in which they appear are:

"Account".	Section 9.106.
"Consumer goods".	Section 9.109(1).
"Contract right".	Section 9.106.
"Equipment".	Section 9.109(2).
"Farm products".	Section 9.109(3).
"General intangibles".	Section 9.106.
"Inventory".	Section 9.109(4).
"Lien creditor".	Section 9.301(c).
"Proceeds".	Section 9.306(a).
"Purchase money security interest".	Section 9.107.

(c) The following definitions in other chapters apply to this chapter:

"Check".	Section 3.104.
"Contract for sale".	Section 2.106.
"Holder in due course".	Section 3.302.
"Note".	Section 3.104.
"Sale".	Section 2.106.

(d) In addition Chapter 1 contains general definitions and principles of construction and interpretation applicable throughout this chapter. (59th Legis., Ch. 721, Sec. 9—105.)

§ 9.106. Definitions: "Account"; "Contract Right"; "General Intangibles"

"Account" means any right to payment for goods sold or leased or for services rendered which is not evidenced by an instrument or chattel paper. "Contract right" means any right to payment under a contract not yet earned by performance and not evidenced by an instrument or chattel paper. "General intangibles" means any personal property (including things in action) other than goods, accounts, contract rights, chattel paper, documents and instruments. (59th Legis., Ch. 721, Sec. 9—106.)

§ 9.107. Definitions: "Purchase Money Security Interest"

A security interest is a "purchase money security interest" to the extent that it is

- (1) taken or retained by the seller of the collateral to secure all or part of its price; or

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- (2) taken by a person who by making advances or incurring an obligation gives value to enable the debtor to acquire rights in or the use of collateral if such value is in fact so used.

(59th Legis., Ch. 721, Sec. 9—107.)

§ 9.108. When After-Acquired Collateral Not Security for Antecedent Debt

Where a secured party makes an advance, incurs an obligation, releases a perfected security interest, or otherwise gives new value which is to be secured in whole or in part by after-acquired property his security interest in the after-acquired collateral shall be deemed to be taken for new value and not as security for an antecedent debt if the debtor acquires his rights in such collateral either in the ordinary course of his business or under a contract of purchase made pursuant to the security agreement within a reasonable time after new value is given. (59th Legis., Ch. 721, Sec. 9—108.)

§ 9.109. Classification of Goods; “Consumer Goods”; “Equipment”; “Farm Products”; “Inventory”

Goods are

- (1) “consumer goods” if they are used or bought for use primarily for personal, family or household purposes;
- (2) “equipment” if they are used or bought for use primarily in business (including farming or a profession) or by a debtor who is a non-profit organization or a governmental subdivision or agency or if the goods are not included in the definitions of inventory, farm products or consumer goods;
- (3) “farm products” if they are crops or livestock or supplies used or produced in farming operations or if they are products of crops or livestock in their unmanufactured states (such as ginned cotton, wool-clip, maple syrup, milk and eggs), and if they are in the possession of a debtor engaged in raising, fattening, grazing or other farming operations. If goods are farm products they are neither equipment nor inventory;
- (4) “inventory” if they are held by a person who holds them for sale or lease or to be furnished under contracts of service or if he has so furnished them, or if they are raw materials, work in process or materials used or consumed in a business. Inventory of a person is not to be classified as his equipment.

(59th Legis., Ch. 721, Sec. 9—109.)

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§ 9.110. Sufficiency of Description

For the purposes of this chapter any description of personal property or real estate is sufficient whether or not it is specific if it reasonably identifies what is described. (59th Legis., Ch. 721, Sec. 9—110.)

§ 9.111. Applicability of Bulk Transfer Laws

The creation of a security interest is not a bulk transfer under Chapter 6 (see Section 6.103). (59th Legis., Ch. 721, Sec. 9—111.)

§ 9.112. Where Collateral Is Not Owned by Debtor

Unless otherwise agreed, when a secured party knows that collateral is owned by a person who is not the debtor, the owner of the collateral is entitled to receive from the secured party any surplus under Section 9.502(b) or under Section 9.504(a), and is not liable for the debt or for any deficiency after resale, and he has the same right as the debtor

- (1) to receive statements under Section 9.208;
- (2) to receive notice of and to object to a secured party's proposal to retain the collateral in satisfaction of the indebtedness under Section 9.505;
- (3) to redeem the collateral under Section 9.506;
- (4) to obtain injunctive or other relief under Section 9.507(a); and
- (5) to recover losses caused to him under Section 9.208(b).

(59th Legis., Ch. 721, Sec. 9—112.)

§ 9.113. Security Interests Arising Under Chapter on Sales

A security interest arising solely under the chapter on Sales (Chapter 2) is subject to the provisions of this chapter except that to the extent that and so long as the debtor does not have or does not lawfully obtain possession of the goods

- (1) no security agreement is necessary to make the security interest enforceable; and
- (2) no filing is required to perfect the security interest; and
- (3) the rights of the secured party on default by the debtor are governed by the chapter on Sales (Chapter 2).

(59th Legis., Ch. 721, Sec. 9—113.)

**SUBCHAPTER B. VALIDITY OF SECURITY AGREEMENT
AND RIGHTS OF PARTIES THERETO****§ 9.201. General Validity of Security Agreement**

Except as otherwise provided by this title a security agreement is effective according to its terms between the parties, against purchasers of the collateral and against creditors. Nothing in this chapter validates any charge or practice illegal under any statute or regulation thereunder governing usury, small loans, retail installment sales, or the like, or extends the application of any such statute or regulation to any transaction not otherwise subject thereto. (59th Legis., Ch. 721, Sec. 9—201.)

§ 9.202. Title to Collateral Immaterial

Each provision of this chapter with regard to rights, obligations and remedies applies whether title to collateral is in the secured party or in the debtor. (59th Legis., Ch. 721, Sec. 9—202.)

§ 9.203. Enforceability of Security Interest; Proceeds, Formal Requisites

(a) Subject to the provisions of Section 4.208 on the security interest of a collecting bank and Section 9.113 on a security interest arising under the chapter on Sales, a security interest is not enforceable against the debtor or third parties unless

- (1) the collateral is in the possession of the secured party; or
- (2) the debtor has signed a security agreement which contains a description of the collateral and in addition, when the security interest covers crops or oil, gas or minerals to be extracted or timber to be cut, a description of the land concerned. In describing collateral, the word "proceeds" is sufficient without further description to cover proceeds of any character.

(b) A transaction, although subject to this chapter, is also subject to the Texas Regulatory Loan Act, Texas Laws, 1963, Chap. 205, p. 550 (compiled as Vern.Tex.Civ.Stat.Ann., Art. 6165b), and in the case of conflict between the provisions of this chapter and any such statute, the provisions of such statute control. Failure to comply with any applicable statute has only the effect which is specified therein. (59th Legis., Ch. 721, Sec. 9—203.)

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§ 9.204. When Security Interest Attaches; After-Acquired Property; Future Advances

(a) A security interest cannot attach until there is agreement (Subdivision (3) of Section 1.201) that it attach and value is given and the debtor has rights in the collateral. It attaches as soon as all of the events in the preceding sentence have taken place unless explicit agreement postpones the time of attaching.

(b) For the purposes of this section the debtor has no rights

- (1) in crops until they are planted or otherwise become growing crops, in the young of livestock until they are conceived;
- (2) in fish until caught, in oil, gas or minerals until they are extracted, in timber until it is cut;
- (3) in a contract right until the contract has been made;
- (4) in an account until it comes into existence.

(c) Except as provided in Subsection (d) a security agreement may provide that collateral, whenever acquired, shall secure all obligations covered by the security agreement.

(d) No security interest attaches under an after-acquired property clause

- (1) to crops which become such more than three years after the security agreement is executed except that a security interest in crops which is given in conjunction with a lease or a land purchase or improvement transaction evidenced by a contract, mortgage or deed of trust may if so agreed attach to crops to be grown on the land concerned during the period of such real estate transaction;
- (2) to consumer goods other than accessions (Section 9.314) when given as additional security unless the debtor acquires rights in them within ten days after the secured party gives value.

(e) Obligations covered by a security agreement may include future advances or other value whether or not the advances or value are given pursuant to commitment. (59th Legis., Ch. 721, Sec. 9—204.)

§ 9.205. Use or Disposition of Collateral Without Accounting Permissible

A security interest is not invalid or fraudulent against creditors by reason of liberty in the debtor to use, commingle or dispose of all or part of the collateral (including returned or repossessed goods) or to collect or compromise accounts, contract rights or chattel paper, or to accept the return of goods or make repossessions, or to use, commingle or dispose of proceeds, or by reason of the failure of the secured party

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to require the debtor to account for proceeds or replace collateral. This section does not relax the requirements of possession where perfection of a security interest depends upon possession of the collateral by the secured party or by a bailee. (59th Legis., Ch. 721, Sec. 9—205.)

**§ 9.206. Agreement Not to Assert Defenses Against Assignee;
 Modification of Sales Warranties Where Security
 Agreement Exists**

(a) Subject to any statute or decision which establishes a different rule for buyers or lessees of consumer goods, an agreement by a buyer or lessee that he will not assert against an assignee any claim or defense which he may have against the seller or lessor is enforceable by an assignee who takes his assignment for value, in good faith and without notice of a claim or defense, except as to defenses of a type which may be asserted against a holder in due course of a negotiable instrument under the chapter on Commercial Paper (Chapter 3). A buyer who as part of one transaction signs both a negotiable instrument and a security agreement makes such an agreement.

(b) When a seller retains a purchase money security interest in goods the chapter on Sales (Chapter 2) governs the sale and any disclaimer, limitation or modification of the seller's warranties. (59th Legis., Ch. 721, Sec. 9—206.)

**§ 9.207. Rights and Duties When Collateral is in Secured Party's
 Possession**

(a) A secured party must use reasonable care in the custody and preservation of collateral in his possession. In the case of an instrument or chattel paper reasonable care includes taking necessary steps to preserve rights against prior parties unless otherwise agreed.

(b) Unless otherwise agreed, when collateral is in the secured party's possession

- (1) reasonable expenses (including the cost of any insurance and payment of taxes or other charges) incurred in the custody, preservation, use or operation of the collateral are chargeable to the debtor and are secured by the collateral;
- (2) the risk of accidental loss or damage is on the debtor to the extent of any deficiency in any effective insurance coverage;
- (3) the secured party may hold as additional security any increase or profits (except money) received from the collateral, but money so received, unless remitted to the debtor, shall be applied in reduction of the secured obligation;

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(4) the secured party must keep the collateral identifiable but fungible collateral may be commingled;

(5) the secured party may repledge the collateral upon terms which do not impair the debtor's right to redeem it.

(c) A secured party is liable for any loss caused by his failure to meet any obligation imposed by the preceding subsections but does not lose his security interest.

(d) A secured party may use or operate the collateral for the purpose of preserving the collateral or its value or pursuant to the order of a court of appropriate jurisdiction or, except in the case of consumer goods, in the manner and to the extent provided in the security agreement. (59th Legis., Ch. 721, Sec. 9—207.)

§ 9.208. Request for Statement of Account or List of Collateral

(a) A debtor may sign a statement indicating what he believes to be the aggregate amount of unpaid indebtedness as of a specified date and may send it to the secured party with a request that the statement be approved or corrected and returned to the debtor. When the security agreement or any other record kept by the secured party identifies the collateral a debtor may similarly request the secured party to approve or correct a list of the collateral.

(b) The secured party must comply with such a request within two weeks after receipt by sending a written correction or approval. If the secured party claims a security interest in all of a particular type of collateral owned by the debtor he may indicate that fact in his reply and need not approve or correct an itemized list of such collateral. If the secured party without reasonable excuse fails to comply he is liable for any loss caused to the debtor thereby; and if the debtor has properly included in his request a good faith statement of the obligation or a list of the collateral or both the secured party may claim a security interest only as shown in the statement against persons misled by his failure to comply. If he no longer has an interest in the obligation or collateral at the time the request is received he must disclose the name and address of any successor in interest known to him and he is liable for any loss caused to the debtor as a result of failure to disclose. A successor in interest is not subject to this section until a request is received by him.

(c) A debtor is entitled to such a statement once every six months without charge. The secured party may require payment of a charge not exceeding \$10 for each additional statement furnished. (59th Legis., Ch. 721, Sec. 9—208.)

SUBCHAPTER C. RIGHTS OF THIRD PARTIES; PERFECTED
AND UNPERFECTED SECURITY INTERESTS;
RULES OF PRIORITY

§ 9.301. **Persons Who Take Priority Over Unperfected Security
Interests; "Lien Creditor"**

(a) Except as otherwise provided in Subsection (b), an unperfected security interest is subordinate to the rights of

- (1) persons entitled to priority under Section 9.312;
- (2) a person who becomes a lien creditor without knowledge of the security interests and before it is perfected;
- (3) in the case of goods, instruments, documents, and chattel paper, a person who is not a secured party and who is a transferee in bulk or other buyer not in ordinary course of business to the extent that he gives value and receives delivery of the collateral without knowledge of the security interest and before it is perfected;
- (4) in the case of accounts, contract rights, and general intangibles, a person who is not a secured party and who is a transferee to the extent that he gives value without knowledge of the security interest and before it is perfected.

(b) If the secured party files with respect to a purchase money security interest before or within ten days after the collateral comes into possession of the debtor, he takes priority over the rights of a transferee in bulk or of a lien creditor which arise between the time the security interest attaches and the time of filing:

(c) A "lien creditor" means a creditor who has acquired a lien on the property involved by attachment, levy or the like and includes an assignee for benefit of creditors from the time of assignment, and a trustee in bankruptcy from the date of the filing of the petition or a receiver in equity from the time of appointment. Unless all the creditors represented had knowledge of the security interests such a representative of creditors is a lien creditor without knowledge even though he personally has knowledge of the security interest. (59th Legis., Ch. 721, Sec. 9—301.)

§ 9.302. **When Filing Is Required to Perfect Security Interest;
Security Interests to Which Filing Provisions of This
Chapter Do Not Apply**

(a) A financing statement must be filed to perfect all security interests except the following:

- (1) a security interest in collateral in possession of the secured party under Section 9.305;

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- (2) a security interest temporarily perfected in instruments or documents without delivery under Section 9.304 or in proceeds for a 10 day period under Section 9.306;
- (3) a purchase money security interest in farm equipment having a purchase price not in excess of \$2500; but filing is required for a fixture under Section 9.313 or for a motor vehicle required to be licensed;
- (4) a purchase money security interest in consumer goods; but filing is required for a fixture under Section 9.313 or for a motor vehicle required to be licensed;
- (5) an assignment of accounts or contract rights which does not alone or in conjunction with other assignments to the same assignee transfer a significant part of the outstanding accounts or contract rights of the assignor;
- (6) a security interest of a collecting bank (Section 4.208) or arising under the chapter on Sales (see Section 9.113) or covered in Subsection (c) of this section.

(b) If a secured party assigns a perfected security interest, no filing under this chapter is required in order to continue the perfected status of the security interest against creditors of and transferees from the original debtor.

(c) The filing provisions of this chapter do not apply to a security interest in property subject to a statute

- (1) of the United States which provides for a national registration or filing of all security interests in such property; or
- (2) of this state which provides for central filing of, or which requires indication on a certificate of title of, such security interests in such property.

(d) A security interest in property covered by a statute described in Subsection (c) can be perfected only by registration or filing under that statute or by indication of the security interest on a certificate of title or a duplicate thereof by a public official.

(e) Where the debtor is a utility as defined in Section 35.01 of this code, a security interest granted by or on behalf of the debtor may be perfected by filing in the place and manner described in Section 35.02 or 35.03 of this code. (59th Legis., Ch. 721, Sec. 9—302.)

Amendment of former U.C.C. § 9—302, see Acts 1967, 60th Leg., ch. 735, §§ 1—3.

§ 9.303. When Security Interest Is Perfected; Continuity of Perfection

(a) A security interest is perfected when it has attached and when all of the applicable steps required for perfection have been tak-

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en. Such steps are specified in Sections 9.302, 9.304, 9.305 and 9.306. If such steps are taken before the security interest attaches, it is perfected at the time when it attaches.

(b) If a security interest is originally perfected in any way permitted under this chapter and is subsequently perfected in some other way under this chapter, without an intermediate period when it was unperfected, the security interest shall be deemed to be perfected continuously for the purposes of this chapter. (59th Legis., Ch. 721, Sec. 9—303.)

§ 9.304. Perfection of Security Interest in Instruments, Documents and Goods Covered by Documents; Perfection by Permissive Filing; Temporary Perfection Without Filing or Transfer of Possession

(a) A security interest in chattel paper or negotiable documents may be perfected by filing. A security interest in instruments (other than instruments which constitute part of chattel paper) can be perfected only by the secured party's taking possession, except as provided in Subsections (d) and (e).

(b) During the period that goods are in the possession of the issuer of a negotiable document therefor, a security interest in the goods is perfected by perfecting a security interest in the document, and any security interest in the goods otherwise perfected during such period is subject thereto.

(c) A security interest in goods in the possession of a bailee other than one who has issued a negotiable document therefor is perfected by issuance of a document in the name of the secured party or by the bailee's receipt of notification of the secured party's interest or by filing as to the goods.

(d) A security interest in instruments or negotiable documents is perfected without filing or the taking of possession for a period of 21 days from the time it attaches to the extent that it arises for new value given under a written security agreement.

(e) A security interest remains perfected for a period of 21 days without filing where a secured party having a perfected security interest in an instrument, a negotiable document or goods in possession of a bailee other than one who has issued a negotiable document therefor

- (1) makes available to the debtor the goods or documents representing the goods for the purpose of ultimate sale or exchange or for the purpose of loading, unloading, storing, shipping, transshipping, manufacturing, processing or otherwise dealing with them in a manner preliminary to their sale or exchange; or

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(2) delivers the instrument to the debtor for the purpose of ultimate sale or exchange or of presentation, collection, renewal or registration of transfer.

(f) After the 21 day period in Subsections (d) and (e) perfection depends upon compliance with applicable provisions of this chapter. (59th Legis., Ch. 721, Sec. 9—304.)

§ 9.305. When Possession by Secured Party Perfects Security Interest Without Filing

A security interest in letters of credit and advices of credit (Subsection (b) (1) of Section 5.116), goods, instruments, negotiable documents or chattel paper may be perfected by the secured party's taking possession of the collateral. If such collateral other than goods covered by a negotiable document is held by a bailee, the secured party is deemed to have possession from the time the bailee receives notification of the secured party's interest. A security interest is perfected by possession from the time possession is taken without relation back and continues only so long as possession is retained, unless otherwise specified in this chapter. The security interest may be otherwise perfected as provided in this chapter before or after the period of possession by the secured party. (59th Legis., Ch. 721, Sec. 9—305.)

§ 9.306. "Proceeds"; Secured Party's Rights on Disposition of Collateral

(a) "Proceeds" includes whatever is received when collateral or proceeds is sold, exchanged, collected or otherwise disposed of. The term also includes the account arising when the right to payment is earned under a contract right. Money, checks and the like are "cash proceeds". All other proceeds are "non-cash proceeds".

(b) Except where this chapter otherwise provides, a security interest continues in collateral notwithstanding sale, exchange or other disposition thereof by the debtor unless his action was authorized by the secured party in the security agreement or otherwise, and also continues in any identifiable proceeds including collections received by the debtor.

(c) The security interest in proceeds is a continuously perfected security interest if the interest in the original collateral was perfected but it ceases to be a perfected security interest and becomes unperfected ten days after receipt of the proceeds by the debtor unless

- (1) a filed financing statement covering the original collateral also covers proceeds; or
- (2) the security interest in the proceeds is perfected before the expiration of the ten day period.

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(d) In the event of insolvency proceedings instituted by or against a debtor, a secured party with a perfected security interest in proceeds has a perfected security interest

- (1) in identifiable non-cash proceeds;
- (2) in identifiable cash proceeds in the form of money which is not commingled with other money or deposited in a bank account prior to the insolvency proceedings;
- (3) in identifiable cash proceeds in the form of checks and the like which are not deposited in a bank account prior to the insolvency proceedings; and
- (4) in all cash and bank accounts of the debtor, if other cash proceeds have been commingled or deposited in a bank account, but the perfected security interest under this Subdivision (4) is
 - (A) subject to any right of set-off; and
 - (B) limited to an amount not greater than the amount of any cash proceeds received by the debtor within ten days before the institution of the insolvency proceedings and commingled or deposited in a bank account prior to the insolvency proceedings less the amount of cash proceeds received by the debtor and paid over to the secured party during the ten day period.

(e) If a sale of goods results in an account or chattel paper which is transferred by the seller to a secured party, and if the goods are returned to or are repossessed by the seller or the secured party, the following rules determine priorities:

- (1) If the goods were collateral at the time of sale for an indebtedness of the seller which is still unpaid, the original security interest attaches again to the goods and continues as a perfected security interest if it was perfected at the time when the goods were sold. If the security interest was originally perfected by a filing which is still effective, nothing further is required to continue the perfected status; in any other case, the secured party must take possession of the returned or repossessed goods or must file.
- (2) An unpaid transferee of the chattel paper has a security interest in the goods against the transferor. Such security interest is prior to a security interest asserted under Subdivision (1) to the extent that the transferee of the chattel paper was entitled to priority under Section 9.308.
- (3) An unpaid transferee of the account has a security interest in the goods against the transferor. Such security interest is subordinate to a security interest asserted under Subdivision (1).

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- (4) A security interest of an unpaid transferee asserted under Subdivision (2) or (3) must be perfected for protection against creditors of the transferor and purchasers of the returned or repossessed goods.

(59th Legis., Ch. 721, Sec. 9—306.)

§ 9.307. Protection of Buyers of Goods

(a) A buyer in ordinary course of business (Subdivision (9) of Section 1.201) other than a person buying farm products from a person engaged in farming operations takes free of a security interest created by his seller even though the security interest is perfected and even though the buyer knows of its existence.

(b) In the case of consumer goods and in the case of farm equipment having an original purchase price not in excess of \$2500 (other than fixtures, see Section 9.313), a buyer takes free of a security interest even though perfected if he buys without knowledge of the security interest, for value and for his own personal, family or household purposes or his own farming operations unless prior to the purchase the secured party has filed a financing statement covering such goods. (59th Legis., Ch. 721, Sec. 9—307.)

§ 9.308. Purchase of Chattel Paper and Non-Negotiable Instruments

A purchaser of chattel paper or a non-negotiable instrument who gives new value and takes possession of it in the ordinary course of his business and without knowledge that the specific paper or instrument is subject to a security interest has priority over a security interest which is perfected under Section 9.304 (permissive filing and temporary perfection). A purchaser of chattel paper who gives new value and takes possession of it in the ordinary course of his business has priority over a security interest in chattel paper which is claimed merely as proceeds of inventory subject to a security interest (Section 9.306), even though he knows that the specific paper is subject to the security interest. (59th Legis., Ch. 721, Sec. 9—308.)

§ 9.309. Protection of Purchasers of Instruments and Documents

Nothing in this chapter limits the rights of a holder in due course of a negotiable instrument (Section 3.302) or a holder to whom a negotiable document of title has been duly negotiated (Section 7.501) or a bona fide purchaser of a security (Section 8.301) and such holders or purchasers take priority over an earlier security interest even though perfected. Filing under this chapter does not constitute notice of the security interest to such holders or purchasers. (59th Legis., Ch. 721, Sec. 9—309.)

§ 9.310. Priority of Certain Liens Arising by Operation of Law

When a person in the ordinary course of his business furnishes services or materials with respect to goods subject to a security interest, a lien upon goods in the possession of such person given by statute or rule of law for such materials or services takes priority over a perfected security interest unless the lien is statutory and the statute expressly provides otherwise. (59th Legis., Ch. 721, Sec. 9—310.)

§ 9.311. Alienability of Debtor's Rights: Judicial Process

The debtor's rights in collateral may be voluntarily or involuntarily transferred (by way of sale, creation of a security interest, attachment, levy, garnishment or other judicial process) notwithstanding a provision in the security agreement prohibiting any transfer or making the transfer constitute a default. (59th Legis., Ch. 721, Sec. 9—311.)

§ 9.312. Priorities Among Conflicting Security Interests in the Same Collateral

(a) The rules of priority stated in the following sections shall govern where applicable: Section 4.208 with respect to the security interest of collecting banks in items being collected, accompanying documents and proceeds; Section 9.301 on certain priorities; Section 9.304 on goods covered by documents; Section 9.306 on proceeds and repossessions; Section 9.307 on buyers of goods; Section 9.308 on possessory against non-possessory interests in chattel paper or non-negotiable instruments; Section 9.309 on security interests in negotiable instruments, documents or securities; Section 9.310 on priorities between perfected security interests and liens by operation of law; Section 9.313 on security interests in fixtures as against interests in real estate; Section 9.314 on security interests in accessions as against interest in goods; Section 9.315 on conflicting security interests where goods lose their identity or become part of a product; and Section 9.316 on contractual subordination.

(b) A perfected security interest in crops for new value given to enable the debtor to produce the crops during the production season and given not more than three months before the crops become growing crops by planting or otherwise takes priority over an earlier perfected security interest to the extent that such earlier interest secures obligations due more than six months before the crops become growing crops by planting or otherwise, even though the person giving new value had knowledge of the earlier security interest.

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(c) A purchase money security interest in inventory collateral has priority over a conflicting security interest in the same collateral if

- (1) the purchase money security interest is perfected at the time the debtor receives possession of the collateral; and
- (2) any secured party whose security interest is known to the holder of the purchase money security interest or who, prior to the date of the filing made by the holder of the purchase money security interest, had filed a financing statement covering the same items or type of inventory, has received notification of the purchase money security interest before the debtor receives possession of the collateral covered by the purchase money security interest; and
- (3) such notification states that the person giving the notice has or expects to acquire a purchase money security interest in inventory of the debtor, describing such inventory by item or type.

(d) A purchase money security interest in collateral other than inventory has priority over a conflicting security interest in the same collateral if the purchase money security interest is perfected at the time the debtor receives possession of the collateral or within ten days thereafter.

(e) In all cases not governed by other rules stated in this section (including cases of purchase money security interests which do not qualify for the special priorities set forth in Subsections (c) and (d) of this section), priority between conflicting security interests in the same collateral shall be determined as follows:

- (1) in the order of filing if both are perfected by filing, regardless of which security interest attached first under Section 9.204(a) and whether it attached before or after filing;
- (2) in the order of perfection unless both are perfected by filing, regardless of which security interest attached first under Section 9.204(a) and, in the case of a filed security interest whether it attached before or after filing; and
- (3) in the order of attachment under Section 9.204(a) so long as neither is perfected.

(f) For the purpose of the priority rules of the immediately preceding subsection, a continuously perfected security interest shall be treated at all times as if perfected by filing if it was originally so perfected and it shall be treated at all times as if perfected otherwise than by filing if it was originally perfected otherwise than by filing. (59th Legis., Ch. 721, Sec. 9—312.)

§ 9.313. Priority of Security Interests in Fixtures

(a) The rules of this section do not apply to goods incorporated into a structure in the manner of lumber, bricks, tile, cement, glass, metal work and the like and no security interest in them exists under this chapter unless the structure remains personal property under applicable law. The law of this state other than this title determines whether and when other goods become fixtures. This title does not prevent creation of an encumbrance upon fixtures or real estate pursuant to the law applicable to real estate.

(b) A security interest which attaches to goods before they become fixtures takes priority as to the goods over the claims of all persons who have an interest in the real estate except as stated in Subsection (d).

(c) A security interest which attaches to goods after they become fixtures is valid against all persons subsequently acquiring interests in the real estate except as stated in Subsection (d) but is invalid against any person with an interest in the real estate at the time the security interest attaches to the goods who has not in writing consented to the security interest or disclaimed an interest in the goods as fixtures.

(d) The security interests described in Subsections (b) and (c) do not take priority over

- (1) a subsequent purchaser for value of any interest in the real estate; or
- (2) a creditor with a lien on the real estate subsequently obtained by judicial proceedings; or
- (3) a creditor with a prior encumbrance of record on the real estate to the extent that he makes subsequent advances if the subsequent purchase is made, the lien by judicial proceedings is obtained, or the subsequent advance under the prior encumbrance is made or contracted for without knowledge of the security interest and before it is perfected. A purchaser of the real estate at a foreclosure sale other than an encumbrancer purchasing at his own foreclosure sale is a subsequent purchaser within this section.

(e) When under Subsections (b) or (c) and (d) a secured party has priority over the claims of all persons who have interests in the real estate, he may, on default, subject to the provisions of Subchapter E, remove his collateral from the real estate but he must reimburse any encumbrancer or owner of the real estate who is not the debtor and who has not otherwise agreed for the cost of repair of any physical injury, but not for any diminution in value of the real estate caused by the absence of the goods removed or by any necessity for replacing them. A person entitled to reimbursement may refuse per-

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mission to remove until the secured party gives adequate security for the performance of this obligation. (59th Legis., Ch. 721, Sec. 9—313.)

§ 9.314. Accessions

(a) A security interest in goods which attaches before they are installed in or affixed to other goods takes priority as to the goods installed or affixed (called in this section "accessions") over the claims of all persons to the whole except as stated in Subsection (c) and subject to Section 9.315(a).

(b) A security interest which attaches to goods after they become part of a whole is valid against all persons subsequently acquiring interests in the whole except as stated in Subsection (c) but is invalid against any person with an interest in the whole at the time the security interest attaches to the goods who has not in writing consented to the security interest or disclaimed an interest in the goods as part of the whole.

(c) The security interests described in Subsections (a) and (b) do not take priority over

- (1) a subsequent purchaser for value of any interest in the whole; or
- (2) a creditor with a lien on the whole subsequently obtained by judicial proceedings; or
- (3) a creditor with a prior perfected security interest in the whole to the extent that he makes subsequent advances if the subsequent purchase is made, the lien by judicial proceedings obtained or the subsequent advance under the prior perfected security interest is made or contracted for without knowledge of the security interest and before it is perfected. A purchaser of the whole at a foreclosure sale other than the holder of a perfected security interest purchasing at his own foreclosure sale is a subsequent purchaser within this section.

(d) When under Subsections (a) or (b) and (c) a secured party has an interest in accessions which has priority over the claims of all persons who have interests in the whole, he may on default subject to the provisions of Subchapter E remove his collateral from the whole but he must reimburse any encumbrancer or owner of the whole who is not the debtor and who has not otherwise agreed for the cost of repair of any physical injury but not for any diminution in value of the whole caused by the absence of the goods removed or by any necessity for replacing them. A person entitled to reimbursement may refuse permission to remove until the secured party gives adequate security for the performance of this obligation. (59th Legis., Ch. 721, Sec. 9—314.)

§ 9.315. Priority When Goods Are Commingled or Processed

(a) If a security interest in goods was perfected and subsequently the goods or a part thereof have become part of a product or mass, the security interest continues in the product or mass if

- (1) the goods are so manufactured, processed, assembled or commingled that their identity is lost in the product or mass;
or
- (2) a financing statement covering the original goods also covers the product into which the goods have been manufactured, processed or assembled.

In a case to which Subdivision (2) applies, no separate security interest in that part of the original goods which has been manufactured, processed or assembled into the product may be claimed under Section 9.314.

(b) When under Subsection (a) more than one security interest attaches to the product or mass, they rank equally according to the ratio that the cost of the goods to which each interest originally attached bears to the cost of the total product or mass. (59th Legis., Ch. 721, Sec. 9—315.)

§ 9.316. Priority Subject to Subordination

Nothing in this chapter prevents subordination by agreement by any person entitled to priority. (59th Legis., Ch. 721, Sec. 9—316.)

§ 9.317. Secured Party Not Obligated on Contract of Debtor

The mere existence of a security interest or authority given to the debtor to dispose of or use collateral does not impose contract or tort liability upon the secured party for the debtor's acts or omissions. (59th Legis., Ch. 721, Sec. 9—317.)

§ 9.318. Defenses Against Assignee; Modification of Contract After Notification of Assignment; Term Prohibiting Assignment Ineffective; Identification and Proof of Assignment

(a) Unless an account debtor has made an enforceable agreement not to assert defenses or claims arising out of a sale as provided in Section 9.206 the rights of an assignee are subject to

- (1) all the terms of the contract between the account debtor and assignor and any defense or claim arising therefrom; and
- (2) any other defense or claim of the account debtor against the assignor which accrues before the account debtor receives notification of the assignment.

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(b) So far as the right to payment under an assigned contract right has not already become an account, and notwithstanding notification of the assignment, any modification of or substitution for the contract made in good faith and in accordance with reasonable commercial standards is effective against an assignee unless the account debtor has otherwise agreed but the assignee acquires corresponding rights under the modified or substituted contract. The assignment may provide that such modification or substitution is a breach by the assignor.

(c) The account debtor is authorized to pay the assignor until the account debtor receives notification that the account has been assigned and that payment is to be made to the assignee. A notification which does not reasonably identify the rights assigned is ineffective. If requested by the account debtor, the assignee must seasonably furnish reasonable proof that the assignment has been made and unless he does so the account debtor may pay the assignor.

(d) A term in any contract between an account debtor and an assignor which prohibits assignment of an account or contract right to which they are parties is ineffective. (59th Legis., Ch. 721, Sec. 9—318.)

SUBCHAPTER D. FILING

§ 9.401. Place of Filing; Erroneous Filing; Removal of Collateral

(a) The proper place to file in order to perfect a security interest is as follows:

- (1) when the collateral is equipment used in farming operations, or farm products, or accounts, contract rights or general intangibles arising from or relating to the sale of farm products by a farmer, or consumer goods, then in the office of the County Clerk in the county of the debtor's residence or if the debtor is not a resident of this state then in the office of the County Clerk in the county where the goods are kept, and in addition when the collateral is crops in the office of the County Clerk in the county where the land on which the crops are growing or to be grown is located;
- (2) when the collateral is goods which at the time the security interest attaches are or are to become fixtures, then in the office where a mortgage on the real estate concerned would be filed or recorded;
- (3) in all other cases, in the office of the Secretary of State.

(b) A filing which is made in good faith in an improper place or not in all of the places required by this section is nevertheless

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effective with regard to any collateral as to which the filing complied with the requirements of this chapter and is also effective with regard to collateral covered by the financing statement against any person who has knowledge of the contents of such financing statement.

(c) A filing which is made in the proper county continues effective for four months after a change to another county of the debtor's residence or place of business or the location of the collateral, whichever controlled the original filing. It becomes ineffective thereafter unless a copy of the financing statement signed by the secured party is filed in the new county within said period. The security interest may also be perfected in the new county after the expiration of the four-month period; in such case perfection dates from the time of perfection in the new county. A change in the use of the collateral does not impair the effectiveness of the original filing.

(d) If collateral is brought into this state from another jurisdiction, the rules stated in Section 9.103 determine whether filing is necessary in this state. (59th Legis., Ch. 721, Sec. 9—401.)

*Amendment of former U.C.C. § 9—401, see Acts 1967,
60th Leg., ch. 735, § 4.*

§ 9.402. Formal Requisites of Financing Statement; Amendments

(a) A financing statement is sufficient if it is signed by the debtor and the secured party, gives an address of the secured party from which information concerning the security interest may be obtained, gives a mailing address of the debtor and contains a statement indicating the types, or describing the items, of collateral. A financing statement may be filed before a security agreement is made or a security interest otherwise attaches. When the financing statement covers crops growing or to be grown or goods which are or are to become fixtures, the statement must also contain a description of the real estate concerned. A copy of the security agreement is sufficient as a financing statement if it contains the above information and is signed by both parties.

(b) A financing statement which otherwise complies with Subsection (a) is sufficient although it is signed only by the secured party when it is filed to perfect a security interest in

- (1) collateral already subject to a security interest in another jurisdiction when it is brought into this state. Such a financing statement must state that the collateral was brought into this state under such circumstances.

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(2) proceeds under Section 9.306 if the security interest in the original collateral was perfected. Such a financing statement must describe the original collateral.

(c) A form substantially as follows is sufficient to comply with Subsection (a):

- Name of debtor (or assignor)
- Address
- Name of secured party (or assignee)
- Address
- 1. This financing statement covers the following types (or items) of property:
 - (Describe)
- 2. (If collateral is crops) The above described crops are growing or are to be grown on:
 - (Describe Real Estate)
- 3. (If collateral is goods which are or are to become fixtures) The above described goods are affixed or to be affixed to:
 - (Describe Real Estate)
- 4. If proceeds or products of collateral are claimed) Proceeds —Products of the collateral are also covered.
 - Signature of Debtor (or Assignor)
 - Signature of Secured Party (or Assignee)

(d) The term "financing statement" as used in this chapter means the original financing statement and any amendments but if any amendment adds collateral, it is effective as to the added collateral only from the filing date of the amendment.

(e) A financing statement substantially complying with the requirements of this section is effective even though it contains minor errors which are not seriously misleading. (59th Legis., Ch. 721, Sec. 9—402.)

Amendment of former U.C.C. § 9—402, see Acts 1967, 60th Leg., ch. 735, §§ 5, 6.

§ 9.403. What Constitutes Filing; Duration of Filing; Effect of Lapsed Filing; Duties of Filing Officer

(a) Presentation for filing of a financing statement and tender of the filing fee or acceptance of the statement by the filing officer constitutes filing under this chapter.

(b) A filed financing statement which states a maturity date of the obligation secured of five years or less is effective until such

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maturity date and thereafter for a period of sixty days. Any other filed financing statement is effective for a period of five years from the date of filing. The effectiveness of a filed financing statement lapses on the expiration of such sixty day period after a stated maturity date or on the expiration of such five year period, as the case may be, unless a continuation statement is filed prior to the lapse. Upon such lapse the security interest becomes unperfected. A filed financing statement which states that the obligation secured is payable on demand is effective for five years from the date of filing.

(c) A continuation statement may be filed by the secured party (1) within six months before and sixty days after a stated maturity date of five years or less, and (2) otherwise within six months prior to the expiration of the five year period specified in Subsection (b). Any such continuation statement must be signed by the secured party, identify the original statement by file number and state that the original statement is still effective. Upon timely filing of the continuation statement, the effectiveness of the original statement is continued for five years after the last date to which the filing was effective whereupon it lapses in the same manner as provided in Subsection (b) unless another continuation statement is filed prior to such lapse. Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the original statement. Unless a statute on disposition of public records provides otherwise, the filing officer may remove a lapsed statement from the files and destroy it.

(d) A filing officer shall mark each statement with a consecutive file number and with the date and hour of filing and shall hold the statement for public inspection. In addition the filing officer shall index the statements according to the name of the debtor and shall note in the index the file number and the address of the debtor given in the statement.

(e) The uniform fee for filing, indexing and furnishing filing data for an original or a continuation statement shall be \$1.00. (59th Legis., Ch. 721, Sec. 9—403.)

Amendment of former U.C.C. § 9—403, see Acts 1967, 60th Leg., ch. 735, § 7.

§ 9.404. Termination Statement

(a) Whenever there is no outstanding secured obligation and no commitment to make advances, incur obligations or otherwise give value, the secured party must on written demand by the debtor send the debtor a statement that he no longer claims a security interest under the financing statement, which shall be identified by file number. A termination statement signed by a person other than the secured party of record must include or be accompanied by the assign-

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ment or a statement by the secured party of record that he has assigned the security interest to the signer of the termination statement. The uniform fee for filing and indexing such an assignment or statement thereof shall be \$0.75. If the affected secured party fails to send such a termination statement within ten days after proper demand thereof he shall be liable to the debtor for \$100, and in addition for any loss caused to the debtor by such failure.

(b) On presentation to the filing officer of such a termination statement he must note it in the index. The filing officer shall remove from the files, mark "terminated" and send or deliver to the secured party the financing statement and any continuation statement, statement of assignment or statement of release pertaining thereto.

(c) The uniform fee for filing and indexing a termination statement including sending or delivering the financing statement shall be \$1.00. (59th Legis., Ch. 721, Sec. 9—404.)

§ 9.405. Assignment of Security Interest: Duties of Filing Officer; Fees

(a) A financing statement may disclose an assignment of a security interest in the collateral described in the statement by indication in the statement of the name and address of the assignee or by an assignment itself or a copy thereof on the face or back of the statement. Either the original secured party or the assignee may sign this statement as the secured party. On presentation to the filing officer of such a financing statement the filing officer shall mark the same as provided in Section 9.403(d). The uniform fee for filing, indexing and furnishing filing data for a financing statement so indicating an assignment shall be \$1.50.

(b) A secured party may assign of record all or a part of his rights under a financing statement by the filing of a separate written statement of assignment signed by the secured party of record and setting forth the name of the secured party of record and the debtor, the file number and the date of filing of the financing statement and the name and address of the assignee and containing a description of the collateral assigned. A copy of the assignment is sufficient as a separate statement if it complies with the preceding sentence. On presentation to the filing officer of such a separate statement, the filing officer shall mark such separate statement with the date and hour of the filing. He shall note the assignment on the index of the financing statement. The uniform fee for filing, indexing and furnishing filing data about such a separate statement of assignment shall be \$1.00.

(c) After the disclosure or filing of an assignment under this section, the assignee is the secured party of record. (59th Legis., Ch. 721, Sec. 9—405.)

§ 9.406. Release of Collateral; Duties of Filing Officer; Fees

A secured party of record may by his signed statement release all or a part of any collateral described in a filed financing statement. The statement of release is sufficient if it contains a description of the collateral being released, the name and address of the debtor, the name and address of the secured party, and the file number of the financing statement. Upon presentation of such a statement to the filing officer he shall mark the statement with the hour and date of filing and shall note the same upon the margin of the index of the filing of the financing statement. The uniform fee for filing and noting such a statement of release shall be \$1.00. (59th Legis., Ch. 721, Sec. 9—406.)

§ 9.407. Information From Filing Officer

(a) If the person filing any financing statement, termination statement, statement of assignment, or statement of release, furnishes the filing officer a copy thereof, the filing officer shall upon request note upon the copy the file number and date and hour of the filing of the original and deliver or send the copy to such person.

(b) Upon request of any person, the filing officer shall issue his certificate showing whether there is on file on the date and hour stated therein, any presently effective financing statement naming a particular debtor and any statement of assignment thereof and if there is, giving the date and hour of filing of each such statement and the names and addresses of each secured party therein. The uniform fee for such a certificate shall be \$1.00 plus \$1.00 for each financing statement and for each statement of assignment reported therein. Upon request the filing officer shall furnish a copy of any filed financing statement or statement of assignment for a uniform fee of \$1.00 per page. (59th Legis., Ch. 721, Sec. 9—407.)

§ 9.408. Prescribed Forms

(a) The Secretary of State may prescribe the forms to be used in making any filing or in requesting any information of the filing officer under this chapter. Where the Secretary of State has prescribed the form and a person fails to use this form, the fee shall be twice that specified in the preceding sections.

(b) The filing and other fees paid to the Secretary of State under this chapter shall be deposited in the General Revenue Fund of the State Treasury. (59th Legis., Ch. 721, Sec. 9—408.)

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SUBCHAPTER E. DEFAULT

§ 9.501. Default; Procedure When Security Agreement Covers Both Real and Personal Property

(a) When a debtor is in default under a security agreement, a secured party has the rights and remedies provided in this subchapter and except as limited by Subsection (c) those provided in the security agreement. He may reduce his claim to judgment, foreclose or otherwise enforce the security interest by any available judicial procedure. If the collateral is documents the secured party may proceed either as to the documents or as to the goods covered thereby. A secured party in possession has the rights, remedies and duties provided in Section 9.207. The rights and remedies referred to in this subsection are cumulative.

(b) After default, the debtor has the rights and remedies provided in this subchapter, those provided in the security agreement and those provided in Section 9.207.

(c) To the extent that they give rights to the debtor and impose duties on the secured party, the rules stated in the subsections referred to below may not be waived or varied except as provided with respect to compulsory disposition of collateral (Subsection (a) of Section 9.505) and with respect to redemption of collateral (Section 9.506) but the parties may by agreement determine the standards by which the fulfillment of these rights and duties is to be measured if such standards are not manifestly unreasonable:

- (1) Subsection (b) of Section 9.502 and Subsection (b) of Section 9.504 insofar as they require accounting for surplus proceeds of collateral;
- (2) Subsection (c) of Section 9.504 and Subsection (a) of Section 9.505 which deal with disposition of collateral;
- (3) Subsection (b) of Section 9.505 which deals with acceptance of collateral as discharge of obligation;
- (4) Section 9.506 which deals with redemption of collateral; and
- (5) Subsection (a) of Section 9.507 which deals with the secured party's liability for failure to comply with this subchapter.

(d) If the security agreement covers both real and personal property, the secured party may proceed under this subchapter as to the personal property or he may proceed as to both the real and the personal property in accordance with his rights and remedies in respect of the real property in which case the provisions of this subchapter do not apply.

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(e) When a secured party has reduced his claim to judgment the lien of any levy which may be made upon his collateral by virtue of any execution based upon the judgment shall relate back to the date of the perfection of the security interest in such collateral. A judicial sale, pursuant to such execution, is a foreclosure of security interest by judicial procedure within the meaning of this section, and the secured party may purchase at the sale and thereafter hold the collateral free of any other requirements of this chapter. (59th Legis., Ch. 721, Sec. 9—501.)

§ 9.502. Collection Rights of Secured Party

(a) When so agreed and in any event on default the secured party is entitled to notify an account debtor or the obligor on an instrument to make payment to him whether or not the assignor was theretofore making collections on the collateral, and also to take control of any proceeds to which he is entitled under Section 9.306.

(b) A secured party who by agreement is entitled to charge back uncollected collateral or otherwise to full or limited recourse against the debtor and who undertakes to collect from the account debtors or obligors must proceed in a commercially reasonable manner and may deduct his reasonable expenses of realization from the collections. If the security agreement secures an indebtedness, the secured party must account to the debtor for any surplus, and unless otherwise agreed, the debtor is liable for any deficiency. But, if the underlying transaction was a sale of accounts, contract rights, or chattel paper, the debtor is entitled to any surplus or is liable for any deficiency only if the security agreement so provides. (59th Legis., Ch. 721, Sec. 9—502.)

§ 9.503. Secured Party's Right to Take Possession After Default

Unless otherwise agreed a secured party has on default the right to take possession of the collateral. In taking possession a secured party may proceed without judicial process if this can be done without breach of the peace or may proceed by action. If the security agreement so provides the secured party may require the debtor to assemble the collateral and make it available to the secured party at a place to be designated by the secured party which is reasonably convenient to both parties. Without removal a secured party may render equipment unusable, and may dispose of collateral on the debtor's premises under Section 9.504. (59th Legis., Ch. 721, Sec. 9—503.)

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§ 9.504. Secured Party's Right to Dispose of Collateral After Default; Effect of Disposition

(a) A secured party after default may sell, lease or otherwise dispose of any or all of the collateral in its then condition or following any commercially reasonable preparation or processing. Any sale of goods is subject to the chapter on Sales (Chapter 2). The proceeds of disposition shall be applied in the order following to

- (1) the reasonable expenses of retaking, holding, preparing for sale, selling and the like and, to the extent provided for in the agreement and not prohibited by law, the reasonable attorneys' fees and legal expenses incurred by the secured party;
- (2) the satisfaction of indebtedness secured by the security interest under which the disposition is made;
- (3) the satisfaction of indebtedness secured by any subordinate security interest in the collateral if written notification of demand therefor is received before distribution of the proceeds is completed. If requested by the secured party, the holder of a subordinate security interest must seasonably furnish reasonable proof of his interest, and unless he does so, the secured party need not comply with his demand.

(b) If the security interest secures an indebtedness, the secured party must account to the debtor for any surplus, and, unless otherwise agreed, the debtor is liable for any deficiency. But if the underlying transaction was a sale of accounts, contract rights, or chattel paper, the debtor is entitled to any surplus or is liable for any deficiency only if the security agreement so provides.

(c) Disposition of the collateral may be by public or private proceedings and may be made by way of one or more contracts. Sale or other disposition may be as a unit or in parcels and at any time and place and on any terms but every aspect of the disposition including the method, manner, time, place and terms must be commercially reasonable. Unless collateral is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market, reasonable notification of the time and place of any public sale or reasonable notification of the time after which any private sale or other intended disposition is to be made shall be sent by the secured party to the debtor, and except in the case of consumer goods to any other person who has a security interest in the collateral and who has duly filed a financing statement indexed in the name of the debtor in this state or who is known by the secured party to have a security interest in the collateral. The secured party may buy at any public sale and if the collateral is of a type customarily sold in a recognized market or is of a type which is the subject of widely distributed standard price quotations he may buy at private sale.

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(d) When collateral is disposed of by a secured party after default, the disposition transfers to a purchaser for value all of the debtor's rights therein, discharges the security interest under which it is made and any security interest or lien subordinate thereto. The purchaser takes free of all such rights and interests even though the secured party fails to comply with the requirements of this subchapter or of any judicial proceedings

- (1) in the case of a public sale, if the purchaser has no knowledge of any defects in the sale and if he does not buy in collusion with the secured party, other bidders or the person conducting the sale; or
- (2) in any other case, if the purchaser acts in good faith.

(e) A person who is liable to a secured party under a guaranty, indorsement, repurchase agreement or the like and who receives a transfer of collateral from the secured party or is subrogated to his rights has thereafter the rights and duties of the secured party. Such a transfer of collateral is not a sale or disposition of the collateral under this chapter. (59th Legis., Ch. 721, Sec. 9—504.)

§ 9.505. Compulsory Disposition of Collateral; Acceptance of the Collateral as Discharge of Obligation

(a) If the debtor has paid sixty per cent of the cash price in the case of a purchase money security interest in consumer goods or sixty per cent of the loan in the case of another security interest in consumer goods, and has not signed after default a statement renouncing or modifying his rights under this subchapter a secured party who has taken possession of collateral must dispose of it under Section 9.504 and if he fails to do so within ninety days after he takes possession the debtor at his option may recover in conversion or under Section 9.507(a) on secured party's liability.

(b) In any other case involving consumer goods or any other collateral a secured party in possession may, after default, propose to retain the collateral in satisfaction of the obligation. Written notice of such proposal shall be sent to the debtor and except in the case of consumer goods to any other secured party who has a security interest in the collateral and who has duly filed a financing statement indexed in the name of the debtor in this state or is known by the secured party in possession to have a security interest in it. If the debtor or other person entitled to receive notification objects in writing within thirty days from the receipt of the notification or if any other secured party objects in writing within thirty days after the secured party obtains possession the secured party must dispose of the collateral under Section 9.504. In the absence of such written objection the secured party may retain the collateral in satisfaction of the debtor's obligation. (59th Legis., Ch. 721, Sec. 9—505.)

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§ 9.506. Debtor's Right to Redeem Collateral

At any time before the secured party has disposed of collateral or entered into a contract for its disposition under Section 9.504 or before the obligation has been discharged under Section 9.505(b) the debtor or any other secured party may unless otherwise agreed in writing after default redeem the collateral by tendering fulfillment of all obligations secured by the collateral as well as the expenses reasonably incurred by the secured party in retaking, holding and preparing the collateral for disposition, in arranging for the sale, and to the extent provided in the agreement and not prohibited by law, his reasonable attorneys' fees and legal expenses. (59th Legis., Ch. 721, Sec. 9—506.)

§ 9.507. Secured Party's Liability for Failure to Comply With This Subchapter

(a) If it is established that the secured party is not proceeding in accordance with the provisions of this subchapter disposition may be ordered or restrained on appropriate terms and conditions. If the disposition has occurred the debtor or any person entitled to notification or whose security interest has been made known to the secured party prior to the disposition has a right to recover from the secured party any loss caused by a failure to comply with the provisions of this subchapter. If the collateral is consumer goods, the debtor has a right to recover in any event an amount not less than the credit service charge plus ten per cent of the principal amount of the debt or the time price differential plus ten per cent of the cash price.

(b) The fact that a better price could have been obtained by a sale at a different time or in a different method from that selected by the secured party is not of itself sufficient to establish that the sale was not made in a commercially reasonable manner. If the secured party either sells the collateral in the usual manner in any recognized market therefor or if he sells at the price current in such market at the time of his sale or if he has otherwise sold in conformity with reasonable commercial practices among dealers in the type of property sold he has sold in a commercially reasonable manner. The principles stated in the two preceding sentences with respect to sales also apply as may be appropriate to other types of disposition. A disposition which has been approved in any judicial proceeding or by any bona fide creditors' committee or representative of creditors shall conclusively be deemed to be commercially reasonable, but this sentence does not indicate that any such approval must be obtained in any case nor does it indicate that any disposition not so approved is not commercially reasonable. (59th Legis., Ch. 721, Sec. 9—507.)

[Chapters 10–14 reserved for expansion]

TITLE 2. COMPETITION AND TRADE PRACTICES

CHAPTER 15. MONOPOLIES, TRUSTS, AND CONSPIRACIES IN RESTRAINT OF TRADE

SUBCHAPTER A. DEFINITIONS AND PROHIBITIONS

Section

- 15.01. Monopoly Defined.
- 15.02. Trust Defined.
- 15.03. Conspiracy in Restraint of Trade Defined.
- 15.04. Monopoly, Trust, and Conspiracy in Restraint of Trade Prohibited; Agreement Violating Prohibition Void.
- 15.05. Public Utility Prohibited from Injuring Competition or Discriminating in Rates.
- 15.06. Publication Tying Arrangement Prohibited.

[Sections 15.07–15.11 reserved for expansion]

SUBCHAPTER B. PROCEDURE AND EVIDENCE

- 15.12. Declaratory Judgment Action.
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- 15.14. Discovery Procedure.
- 15.15. Party to Suit May Subpoena Witness.
- 15.16. State May Compel Attendance of Defendant and Production of Documentary Evidence.
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- 15.18. Service of Written Notice.
- 15.19. Special Commissioner Appointed to Take Evidence.
- 15.20. Immunity of State's Witness.
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- 15.22. Witness Fees.

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SUBCHAPTER C. CIVIL AND CRIMINAL PENALTIES

- 15.28. Definitions.
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- 15.30. Foreign Corporation Enjoined from Doing Business.
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- 15.32. Monetary Penalty.
- 15.33. Criminal Penalties.
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§ 15.01 BUSINESS AND COMMERCE CODE

SUBCHAPTER A. DEFINITIONS AND PROHIBITIONS

Section 15.01. Monopoly Defined

A "monopoly" is a combination or consolidation of two or more corporations effected by

- (1) bringing the direction of their affairs under common management or control to create, or where the common management or control tends to create, a trust as defined in Section 15.02 of this code; or
- (2) one corporation acquiring (in whole or part and whether directly, through trustees, or otherwise) the stock, bonds, franchise or other rights, or physical property of one or more other corporations to prevent or lessen, or where the acquisition tends to prevent or lessen, competition.

(R.S. Art. 7427; P.C. Art. 1633.)

§ 15.02. Trust Defined

(a) In this section, unless the context requires a different definition, "person" does not include municipal corporation. (No source citation.)

(b) A "trust" is a combination of capital, skill, or acts by two or more persons to

- (1) restrict, or tend to restrict, trade, commerce, aids to commerce, the preparation of tangible personal property for market or transportation, or the free pursuit of a lawful business; or
- (2) fix, maintain, increase, or reduce the price of tangible personal property, the cost of insurance, or the cost of preparing tangible personal property for market or transportation; or
- (3) prevent or lessen competition in
 - (A) the manufacture, transportation, sale, or purchase of tangible personal property;
 - (B) the business of insurance;
 - (C) aids to commerce; or
 - (D) preparing tangible personal property for market or transportation; or
- (4) affect, control, or establish the price of tangible personal property, or the cost of transportation, insurance, or preparing tangible personal property for market or transportation; or

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(5) agree

- (A) not to sell, dispose of, transport, or prepare tangible personal property for market or transportation, or not to make an insurance contract, at a price below a common standard or figure;
 - (B) to maintain the price of tangible personal property, the charge for transportation or insurance, or the cost of preparing tangible personal property for market or transportation at a fixed or graded figure;
 - (C) to affect or maintain the price of tangible personal property or the cost of transportation, insurance, or preparing tangible personal property for market or transportation in order to preclude free competition between or among themselves or others in the sale or transportation of tangible personal property, in the business of transportation or insurance, or in preparing tangible personal property for market or transportation; or
 - (D) to pool, combine, or unite an interest they have in the sale or purchase of tangible personal property, or in the charge for transportation, insurance, or preparing tangible personal property for market or transportation, so that the price of the tangible personal property, or charge for transportation, insurance, or preparing tangible personal property for market or transportation, might be in any manner affected; or
- (6) regulate, fix, or limit the output of tangible personal property, or the amount of insurance undertaken, or the amount of work performed in preparing tangible personal property for market or transportation; or
- (7) refrain from engaging in business, or from buying or selling tangible personal property, partially or entirely in this state. (R.S. Art. 7426; P.C. Art. 1632.)

§ 15.03. Conspiracy in Restraint of Trade Defined

- (a) It is a conspiracy in restraint of trade for
- (1) two or more persons engaged in buying or selling tangible personal property to agree not to buy from or sell to another person tangible personal property;
 - (2) two or more persons to agree to boycott, or threaten not to buy from or sell to, a person because that person buys from or sells to another person; (R.S. Art. 7428, subdiv. 1 and 2; P.C. Art. 1634, subdiv. 1 and 2.)

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- (3) two or more persons to agree to boycott, or not to deal with, the tangible personal property of another person; or (R.S. Art. 7428, subdiv. 3 (part), amd. by 50th Legis., Ch. 310, Sec. 1; P.C. Art. 1634, subdiv. 3 (part), amd. by 50th Legis., Ch. 310, Sec. 1.)
- (4) an employer and labor union or other organization to agree or combine so that
 - (A) a person is denied the right to work for an employer because of membership or nonmembership in the labor union or other organization; or
 - (B) membership or nonmembership in the labor union or other organization is made a condition of obtaining or keeping a job with the employer. (R.S. Art. 7428—1.)
- (b) It is not a conspiracy in restraint of trade for
 - (1) employees to agree to quit their employment, or to refuse to deal with tangible personal property of their immediate employer, unless their refusal to deal with tangible personal property of their immediate employer is intended to induce, or has the effect of inducing, that employer to refrain from buying or otherwise acquiring tangible personal property from a person; or (R.S. Art. 7428, subdiv. 3 (part), amd. by 50th Legis., Ch. 310, Sec. 1; P.C. Art. 1634, subdiv. 3 (part), amd. by 50th Legis., Ch. 310, Sec. 1.)
 - (2) persons to agree to refer for employment a migratory farm worker who works on seasonal crops if the referral is made irrespective of whether or not the worker belongs to a labor union or other organization. (52nd Legis., Ch. 494, Sec. 2.)

§ 15.04. Monopoly, Trust, and Conspiracy in Restraint of Trade Prohibited; Agreement Violating Prohibition Void

(a) Every monopoly, trust, and conspiracy in restraint of trade, as defined in Sections 15.01, 15.02, and 15.03 of this code, respectively, is illegal and prohibited. (R.S. Art. 7429.)

(b) An agreement violating the prohibition against a monopoly, trust, or conspiracy in restraint of trade contained in Subsection (a) of this section is void and unenforceable in law or equity. (R.S. Art. 7437.)

§ 15.05. Public Utility Prohibited from Injuring Competition or Discriminating in Rates

(a) In this section, unless the context requires a different definition, "utility" means an individual, company, partnership, or corporation in the business of transporting or selling natural gas, electric cur-

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rent and power, telephone or telegraph service, or a similar public utility. (44th Legis., Ch. 44, Sec. 1.)

(b) No utility may intentionally prevent or hinder legitimate competition among utilities. No utility doing business in more than one municipality or county may discriminate between or among persons in rates, prices, or kinds of service for the purpose of injuring a competitor or preventing or hindering competition among utilities. (44th Legis., Ch. 44, Sec. 2.)

(c) For purposes of this section,

- (1) "subsidiary utility" means a utility that is controlled by another individual, company, partnership, or corporation;
- (2) "controlling company" means an individual, company, partnership, or corporation that controls a subsidiary utility;
- (3) the act of a subsidiary utility is the act of its controlling company and of every other subsidiary utility of that controlling company;
- (4) the act of a controlling company is the act of each of its subsidiary utilities; and
- (5) the costs of production and transportation shall be considered in determining whether or not discrimination in rates, prices, or kinds of service exists. (44th Legis., Ch. 44, Sec. 3 and 4.)

(d) A utility's reduction of rates or prices below those required by an ordinance or proposed in a petition is prima facie evidence of an intent to prevent competition or injure a competitor if

- (1) a municipality has required by ordinance, or its governing body, a majority of its citizens, or a majority of the residents of a community served by the utility has requested by petition, that the utility lower the rates or prices charged for its services;
- (2) the petition proposes rates or prices for the utility to charge which the municipality, its citizens, or the residents believe to be fair and reasonable;
- (3) the utility first refuses or fails to reduce its rates or prices;
- (4) within 12 months after the refusal or failure another utility begins, or attempts to begin, serving the municipality or community; and
- (5) the reduction is made after the other utility began, or attempted to begin, serving the municipality or community. (44th Legis., Ch. 44, Sec. 5, sen. 1.)

(e) It is not prima facie evidence of an intent to prevent competition or injure a competitor for a utility to reduce its rates or prices to the level of those charged by the municipality or a competing utility,

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even though the reduced rates or prices are below those required by the ordinance or requested in the petition. (44th Legis., Ch. 44, Sec. 5, sen. 2.)

(f) A utility adjudged guilty of violating a provision of Subsection (b) of this section forfeits its charter or articles of incorporation (or permit or certificate of authority) and right to do business in this state. The attorney general on learning of the violation shall file suit, or institute quo warranto proceedings, in a district court in any county in this state to obtain the forfeiture. (44th Legis., Ch. 44, Sec. 6.)

§ 15.06. Publication Tying Arrangement Prohibited

(a) No wholesale distributor or news agency, or its agent or employee, may require or demand that a retailer purchase or accept from the wholesale distributor or news agency a particular publication so that the retailer can obtain another publication from the wholesale distributor or news agency.

(b) A wholesale distributor or news agency, or its agent or employee, who violates a provision of Subsection (a) of this section is guilty of a misdemeanor and upon conviction is punishable by imprisonment in the county jail for not more than six months or by a fine of not more than \$1,000 or by both. (54th Legis., Ch. 453, Sec. 1.)

[Sections 15.07-15.11 reserved for expansion]

SUBCHAPTER B. PROCEDURE AND EVIDENCE

§ 15.12. Declaratory Judgment Action

(a) A person (other than a foreign corporation not having a permit or certificate of authority to do business in this state) uncertain of whether or not his action or proposed action violates or will violate the prohibition contained in Section 15.04 of this code may file suit against the state for declaratory judgment, citing this section as authority, in one of the Travis County district courts.

(b) Citation and all process in the suit shall be served on the attorney general, who shall represent the state. The petition shall describe in detail the person's action, or proposed action, and all other relevant facts, and the court in its declaratory judgment shall fully recite the action, or proposed action, and other facts considered.

(c) A declaratory judgment granted under this section which rules that action or proposed action does not violate the prohibition contained in Section 15.04 of this code

(1) shall be strictly construed and may not be extended by implication to an action or fact not recited in the judgment;

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- (2) does not bind the state with reference to a person not a party to the suit in which the judgment was granted; and
- (3) does not estop the state from subsequently establishing a violation of the prohibition contained in Section 15.04 of this code based on an action or fact not recited in the declaratory judgment, which action or fact, when combined with an action or fact recited in the judgment, constitutes a violation of the prohibition contained in Section 15.04 of this code.
- (d) A person filing suit under this section shall pay all costs of the suit (R.S. Art. 7436a, Sec. 1—4.)

§ 15.13. Attorney General's Assistants

An assistant attorney general, county attorney, district attorney, or criminal district attorney acting under the attorney general's direction has the powers and duties of the attorney general set out in Sections 15.14–15.17 of this code. (No source citation.)

§ 15.14. Discovery Procedure

(a) If the attorney general believes that a person knows of a violation of the prohibition contained in Section 15.04 of this code, he may apply to the county judge or to a justice of the peace in the county where the person is located to compel the examination of the person.

(b) Upon receipt of the application, the county judge or justice of the peace shall

- (1) summon the person as in a criminal case;
- (2) administer an oath to him;
- (3) transcribe his statement;
- (4) have him swear to and sign his statement; and
- (5) deliver his statement to the attorney general.

(c) A person summoned under Subsection (b) of this section is guilty of contempt of court if he fails to

- (1) appear in response to the summons;
- (2) make a sworn statement of the facts he knows; or
- (3) sign his written statement.

(d) A person guilty of contempt under Subsection (c) of this section may be

- (1) fined not more than \$100; and
- (2) attached and imprisoned in the county jail until he makes a full statement about the facts he knows.

(R.S. Art. 7439; see also P.C. Art. 1636.)

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§ 15.15. Party to Suit May Subpoena Witness

(a) A party to a suit brought to enforce the prohibition contained in Section 15.04 of this code, or to enforce the laws conserving natural resources, may apply to the clerk of the court in which the suit is pending to subpoena a witness located anywhere in the state. On receipt of the application, the clerk shall issue the subpoena applied for but may not issue more than five subpoenas each for state witnesses and defense witnesses without first obtaining the court's written approval. (42nd Legis., 1st C.S., Ch. 44, Sec. 1, sen. 1 and 2.)

(b) A witness subpoenaed under Subsection (a) of this section who fails to appear and testify in compliance with the subpoena is guilty of contempt of court and may be

- (1) fined not more than \$100; and
- (2) attached and imprisoned in the county jail until he appears in court and testifies about the facts he knows. (42nd Legis., 1st C.S., Ch. 44, Sec. 1, sen. 3 (part).)

§ 15.16. State May Compel Attendance of Defendant and Production of Documentary Evidence

(a) In this section, unless the context requires a different definition,

- (1) "witness" includes
 - (A) director, officer, agent, and employee of a defendant corporation or joint stock association;
 - (B) member of a defendant partnership; and
 - (C) individual defendant; and
- (2) "court" includes special commissioner appointed under Section 15.19 of this code. (No source citation.)

(b) The attorney general in a suit brought to enforce the prohibition contained in Section 15.04 of this code, or to enforce the laws regulating corporations, may request the appearance and testimony of a witness, and his production of documentary evidence, at a place in or out of the state by written application to the court in term time or vacation.

- (c) The attorney general in the application shall
 - (1) state the name and address of each witness whose testimony he wishes to take;
 - (2) describe in a general way the documentary evidence he wishes produced; and
 - (3) state the place where and the time when the witness is to appear and testify or produce documentary evidence. (R.S. Arts. 7440 and 7441, sen. 1.)

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(d) On receipt of the attorney general's application, the court shall immediately issue a written notice, directed to the witness and defendant or his attorney, requiring the defendant or his attorney to notify the witness of the place where and the time when he is to appear and testify or produce documentary evidence. (R.S. Art. 7441, sen. 2.)

(e) A defendant or his attorney notified by written notice issued under Subsection (d) of this section

(1) that a witness is wanted to testify shall immediately inform the witness of the place where and time when he is required to appear and testify; and (R.S. Art. 7443, sen. 1.)

(2) to produce documentary evidence shall produce the evidence if it belongs to the defendant or is under his control at the place and time specified in the notice. (R.S. Art. 7442, sen. 1.)

(f) A witness notified under Subsection (e) of this section shall remain in attendance before the court from day to day until discharged by the court. (R.S. Arts. 7445, sen. 2, and 7441, sen. 3.)

§ 15.17. Sanction for Failure to Appear or Produce Documentary Evidence

(a) The court on motion of the attorney general and after a hearing shall strike all of the defendant's pleadings and render default judgment against him if a witness fails or refuses to appear and testify or produce documentary evidence in compliance with a written notice issued under Section 15.16(d) of this code. (R.S. Art. 7443, sen. 2 and 3 (part).)

(b) A defendant's pleadings may not be stricken, nor default judgment rendered against him, if the defendant

(1) files with the court a sworn statement that

(A) a witness's failure or refusal to attend and testify was due to no act or fault of the defendant;

(B) documentary evidence demanded was not in defendant's possession or control and could not be produced; and

(C) defendant complied with the written notice to the best of his ability; and

(2) the court after a hearing is satisfied that the defendant's statement is true. (R.S. Art. 7443, sen. 3 (part).)

(c) The court after the hearing provided in Subsection (b) (2) of this section may make additional orders concerning evidence that it considers necessary. (R.S. Art. 7443, sen. 3 (part).)

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§ 15.18. Service of Written Notice

(a) Written notice issued under Section 15.16(d) of this code must allow the witness named in the notice at least 10 days after the day of service before he is required to appear and testify or produce documentary evidence in compliance with the written notice. (R.S. Art. 7445, sen. 1.)

(b) Written notice issued under Section 15.16(d) of this code may be served, and the return completed for it, by a sheriff, constable, or a disinterested person competent to make oath of the fact of service. The person serving the written notice shall deliver a copy to the person to be served, or to his attorney, shall endorse (either on the original notice or on an attachment to it) the date, time, and manner of service and the name of the person served, and shall sign the return. If the person serving the written notice is not a sheriff or constable, he shall swear to the return before someone authorized to administer an oath. (R.S. Art. 7445, sen. 3-5.)

§ 15.19. Special Commissioner Appointed to Take Evidence

(a) A party to a suit brought to enforce the prohibition contained in Section 15.04 of this code, or to enforce the laws regulating corporations, may apply in term time or vacation to the court in which the suit is pending for appointment of a special commissioner to take evidence at a location in or out of the state as designated in the application. Upon receipt of the application, the court shall appoint a disinterested person as special commissioner, who shall qualify by taking the constitutional oath of office. (R.S. Art. 7444, sen. 1 and 3 (part).)

(b) A special commissioner appointed under Subsection (a) of this section may

(1) issue

(A) a written notice under Section 15.16(d) of this code, or a subpoena, to compel the attendance and testimony of a witness or the production of documentary evidence; and

(B) an attachment for a witness;

(2) punish for contempt of court to the extent provided by law for the court appointing him;

(3) administer an oath to a witness; and

(4) have a witness examined orally and his testimony transcribed, sworn to, and signed by the witness. (R.S. Art. 7444, sen. 2.)

(c) The special commissioner shall

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- (1) note and reserve each objection to the evidence taken for the court hearing the suit and may not exclude evidence;
- (2) with all convenient speed certify and return the evidence taken to the court appointing him. (R.S. Art. 7444, sen. 4, 5, and 3 (part).)
- (d) Evidence taken by a special commissioner is admissible in the suit for which it was taken, subject to objection made at the time it is offered in the suit. (R.S. Art. 7444, sen. 6.)
- (e) When filed with the court appointing him, a special commissioner's certificate, showing the failure or refusal of a witness to appear and testify or produce documentary evidence, is prima facie evidence of the failure or refusal. (R.S. Art. 7443, sen. 4.)
- (f) A special commissioner appointed under Subsection (a) of this section is entitled to be reimbursed for his actual travel expenses and to the fee allowed by law to a notary public for taking a deposition. A special commissioner's travel expenses and fee are taxed as costs in the suit and collected as in a civil case. (R.S. Art. 7444, sen. 7.)

§ 15.20. Immunity of State's Witness

A person testifying or producing documentary evidence for the state in a discovery procedure under Section 15.14 of this code, in a suit brought to enforce the prohibition contained in Section 15.04 of this code, or in a suit brought to enforce the laws regulating corporations, is immune from indictment and prosecution for anything about which he truthfully testifies or produces documentary evidence. (R.S. Art. 7446.)

§ 15.21. Priority of Civil Suits and Cumulative Effect of Subchapter

- (a) A civil suit filed by the state under Section 15.29, 15.30, or 15.32 of this code has priority over all other court business, civil or criminal, except a criminal prosecution in which the defendant is in jail. (R.S. Art. 7438.)
- (b) The provisions of Sections 15.14 and 15.16-15.20 of this code
 - (1) are cumulative of and do not repeal other law relating to securing evidence; and
 - (2) provide additional means of securing evidence to enforce the prohibition contained in Section 15.04 of this code and the laws regulating corporations. (R.S. Art. 7447.)

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§ 15.22. Witness Fees

(a) A witness residing outside the county in which a suit is pending, before he need comply with a subpoena issued under Section 15.15 (a) of this code, must be tendered by the party calling him his anticipated expenses, not to exceed four cents a mile and \$2 a day, for going to, attending, and returning from court. In the case of a state witness, these expenses shall be paid in the same manner as in a felony case. (42nd Legis., 1st C.S., Ch. 44, Sec. 1, sen. 3 (part) and 4.)

(b) A person complying with a written notice or summons issued under Section 15.16(d) or 15.14 of this code, respectively, is entitled to four cents a mile and \$1 a day for going to, attending, and returning from court. A person shall file a sworn claim for his mileage and per diem with the court, and the mileage and per diem shall be taxed as costs and collected as in a civil case. (R.S. Art. 7443, sen. 5 and 6.)

[Sections 15.23–15.27 reserved for expansion]

SUBCHAPTER C. CIVIL AND CRIMINAL PENALTIES

§ 15.28. Definitions

In Sections 15.29–15.31 of this code, unless the context requires a different definition,

- (1) “domestic corporation” means a corporation organized under the law of this state;
- (2) “foreign corporation” means a corporation organized under the law of another state or country; and
- (3) “successor” means a corporation to which another corporation has transferred its property and business or which has assumed payment of its obligations. (No source citation.)

§ 15.29. Charter of Domestic Corporation Forfeited

(a) When he believes the public interest requires it, the attorney general shall file suit to forfeit the charter or articles of incorporation of a domestic corporation which has violated or is violating the prohibition contained in Section 15.04 of this code. The attorney general may file suit under this subsection in a district court in any county in the state. (R.S. Art. 7431.)

(b) To the extent consistent with this chapter, the law governing quo warranto applies to a suit filed under Subsection (a) of this section. (R.S. Art. 7434.)

(c) If he finds the public interest requires it, in a suit filed under Subsection (a) of this section, the court may forfeit the charter or

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articles of incorporation of a domestic corporation adjudged guilty of violating the prohibition contained in Section 15.04 of this code. The forfeiture is in addition to other penalties provided by law. (R.S. Art. 7430.)

(d) The successor to a domestic corporation whose charter or articles of incorporation has been forfeited under Subsection (c) of this section may not incorporate or do business in this state. (R.S. Art. 7432.)

§ 15.30. Foreign Corporation Enjoined From Doing Business

(a) If a foreign corporation has violated or is violating the prohibition contained in Section 15.04 of this code, the attorney general may file suit in a district court in Travis County to permanently enjoin the foreign corporation from doing business or incorporating in this state.

(b) If the court finds the public interest requires it, in a suit filed under Subsection (a) of this section, it shall permanently enjoin from doing business or incorporating in this state a foreign corporation adjudged guilty of violating the prohibition contained in Section 15.04 of this code. The injunction is in addition to other penalties provided by law. (R.S. Art. 7433.)

(c) The successor to a foreign corporation permanently enjoined from doing business in this state may not incorporate or do business in this state. (No source citation.)

§ 15.31. Reinstatement of Enjoined Foreign Corporation

(a) Five or more years after being enjoined from doing business in this state under Section 15.30(b) of this code, a foreign corporation or its successor may apply for reinstatement to the district court originally granting the injunction. The corporation shall have a copy of the application, and all other papers, served on the attorney general, who shall represent the state in the reinstatement proceeding. (R.S. Art. 7435, sen. 3, 1, and 7.)

(b) On receipt of the application, the court shall hold a hearing on it, may compel the production of documentary evidence, and may appoint a special commissioner under Section 15.19 of this code to take testimony either in or out of the state. (R.S. Art. 7435, sen. 5, 6, and 8.)

(c) The court after the hearing may modify the original injunction and permit the foreign corporation or its successor to incorporate or secure a certificate of authority to do business in this state, if the

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corporation or its successor has established that the enjoined corporation

- (1) fully obeyed the injunction and paid all fines adjudged against it; (Based on R.S. Art. 7435, sen. 5 (part) and 1 part.)
- (2) has organized or reorganized its affairs so that it may do business in this state without violating a state law; and
- (3) is not itself violating, and is not connected with a person who is violating, the prohibition contained in Section 15.04 of this code. (R.S. Art. 7435, sen. 2.)

(d) If the court modifies the original injunction in a reinstatement proceeding, it shall retain jurisdiction over the proceeding. The attorney general for good cause shall apply to the court to set aside the modification. If the attorney general establishes that the reinstated foreign corporation or its successor has violated or is violating, or is connected with a person who is violating, the prohibition contained in Section 15.04 of this code, the court shall set aside the modification and permanently enjoin the foreign corporation or its successor from doing business or incorporating in this state. If the modification is set aside, all proceedings based on it are void. (R.S. Art. 7435, sen. 10 and 11.)

(e) The clerk of the court shall forward to the secretary of state a certified copy of the court's judgment in a reinstatement proceeding, and the secretary of state shall comply with the judgment. (Based on R.S. Art. 7435, sen. 5 (part).)

(f) A foreign corporation or its successor seeking reinstatement shall pay all expenses of the proceeding, including a reasonable attorney's fee fixed by the court. The attorney general shall deposit the attorney's fee in the state treasury to the credit of the general revenue fund. (R.S. Art. 7435, sen. 9.)

(g) A foreign corporation or its successor adjudged guilty a second time of violating the prohibition contained in Section 15.04 of this code may not apply for reinstatement under Subsection (a) of this section. (R.S. Art. 7435, sen. 4.)

§ 15.32. Monetary Penalty

(a) A person adjudged guilty of violating the prohibition contained in Section 15.04 of this code shall pay a fine to the state of not less than \$50 nor more than \$1,500 for each day of violation. The attorney general, or a district, criminal district, or county attorney acting under his direction, shall represent the state in a suit filed to collect this fine. (R.S. Art. 7436, sen. 1 and 3.)

(b) Each district court in this state has jurisdiction and venue over a suit filed under Subsection (a) of this section, and once suit is

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filed, it may not be transferred to another county except on order of the court. (R.S. Art. 7436, sen. 2.)

(c) A district, criminal district, or county attorney representing the state in a suit filed to enforce the prohibition contained in Section 15.04 of this code, or to collect a fine under Subsection (a) of this section, is entitled to a fee equal to

- (1) 10 percent of the amount collected up to and including \$50,000; and
- (2) five percent of the amount collected over \$50,000; or
- (3) one-half of the percentages specified in Subdivisions (1) and (2) of this subsection, if the suit is compromised before final judgment in the trial court. (R.S. Art. 7436, sen. 4 and 8.)

(d) The fee specified in Subsection (c) of this section may be retained by the district, criminal district, or county attorney collecting it and is in addition to other fees allowed him by law. (Based on R.S. Art. 7436, sen. 4 (part).)

(e) A district, criminal district, or county attorney representing the state, who ceases to hold office before a fine is collected, is entitled to share equally with his successor in the fee specified in Subsection (c) of this section. A contract hiring special counsel to assist in representing the state is binding on the district, criminal district, or county attorney making the contract and subsequently retiring from office. (R.S. Art. 7436, sen. 6 and 7.)

§ 15.33. Criminal Penalties

(a) A person may not agree to form, form, be a party to the formation of, or aid a monopoly, trust, or conspiracy in restraint of trade, as defined in Sections 15.01, 15.02, and 15.03(a) (1)–(3) of this code, respectively. (P.C. Art. 1637.)

(b) A person acting as a member, agent, employee, officer, director, or stockholder of a business, firm, corporation, or association may not

- (1) sell, purchase, contract, do business or any other act for, or form or operate, the business, firm, corporation, or association in violation of the prohibition against a monopoly, trust, and conspiracy in restraint of trade, as defined in Sections 15.01, 15.02, and 15.03(a) (1)–(3) of this code, respectively; or
- (2) in this state, with an intent to drive out competition or financially injure a competitor,
 - (A) sell a product below the cost of its manufacture or production;
 - (B) give away a product; or

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(C) give a secret rebate on the sale price of a product. (P. C. Art. 1638.)

(c) A person who forms outside this state a monopoly, trust, or conspiracy in restraint of trade, as defined in Sections 15.01, 15.02, and 15.03(a) (1)–(3) of this code, respectively, may not, with respect to the monopoly, trust, or conspiracy in restraint of trade,

(1) cause or permit it to do business, operate, or have an effect in this state;

(2) aid it to do business in this state or otherwise violate the prohibition against a monopoly, trust, or conspiracy in restraint of trade, as defined in Sections 15.01, 15.02, and 15.03(a) (1)–(3) of this code, respectively; or

(3) buy, sell, or contract for it.

(P.C. Art. 1639 (part).)

(d) A person who violates a provision of Subsection (a), (b), or (c) of this section is guilty of a felony and upon conviction is punishable by imprisonment in the penitentiary for not less than 2 nor more than 10 years. (P.C. Art. 1639 (part).)

(e) A criminal prosecution under this section may be brought in Travis or any other county in which a monopoly, trust, or conspiracy in restraint of trade is allegedly operating. (P.C. Art. 1641.)

§ 15.34. Exemption From Criminal Penalties

Section 15.33 of this code does not apply to agricultural products or livestock while in the hands of the producer or raiser. (P.C. Art. 1642.)

CHAPTER 16. TRADEMARKS

SUBCHAPTER A. GENERAL PROVISIONS

Section

- 16.01. Definitions.
- 16.02. When Mark Considered to be Used.
[Sections 16.03–16.07 reserved for expansion]

SUBCHAPTER B. REGISTRATION OF MARK

- 16.08. Registrable Marks.
- 16.09. Classes of Goods and Services.
- 16.10. Application for Registration.
- 16.11. Registration by Secretary of State.
- 16.12. Term of Registration.
- 16.13. Notice of Expiration of Registration.
- 16.14. Renewal of Registration and Reregistration.
- 16.15. Record, Notice, and Proof of Registration.
- 16.16. Cancellation of Registration.
- 16.17. Assignment of Mark and Registration.
- 16.18. Recordation of Assignment and its Effect.
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SUBCHAPTER C. COURT ACTION

- 16.24. Review of Secretary of State's Decisions.
- 16.25. Suit to Cancel Registration.
- 16.26. Infringement of Registered Mark.
- 16.27. Exceptions to Liability for Infringement.
- 16.28. Procuring Application or Registration by Fraud.

SUBCHAPTER A. GENERAL PROVISIONS

Section 16.01. Definitions

- (a) In this chapter, unless the context requires a different definition, (57th Legis., 3rd C.S., Ch. 24, Sec. 1 (part).)
 - (1) "applicant" means the person applying for registration of a mark under this chapter and includes his legal representative, successor, assignee, and predecessor in title to the mark sought to be registered; (57th Legis., 3rd C.S., Ch. 24, Sec. 1(c).)
 - (2) "mark" includes service mark and trademark;
 - (3) "registrant" means the person to whom a registration has been issued under this chapter and includes his legal representative, successor, assignee, and predecessor in title to the registration;

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- (4) "service mark" means a word, name, symbol, device, slogan or any combination thereof which, whether registered or not, has been adopted and used by a person to identify his services and distinguish them from the services of others, and includes the titles, designations, character names, and distinctive features of broadcast or other advertising;
- (5) "trademark" means a word, name, symbol, device, slogan or any combination thereof which, whether registered or not, has been adopted and used by a person to identify his goods and distinguish them from the goods manufactured or sold by others; and
- (6) "trade name" includes individual name, surname, firm name, corporate name, and lawfully adopted name or title used by a person to identify his business, vocation, or occupation. (57th Legis., 3rd C.S., Ch. 24, Sec. 1(a), sen. 2, 3, (d), (f).)

(b) This chapter does not apply to the registration or use of live-stock brands or other indicia of ownership of goods which do not qualify as a "mark" as defined in this chapter. (57th Legis., 3rd C.S., Ch. 24, Sec. 14, sen. 2 (part).)

§ 16.02. When Mark Considered to be Used

(a) A mark is considered to be used in this state in connection with goods when

- (1) it is placed on
 - (A) the goods;
 - (B) containers of the goods;
 - (C) displays associated with the goods; or
 - (D) tags or labels affixed to the goods; and
- (2) the goods are sold, displayed for sale, or otherwise publicly distributed in this state.

(b) A mark is considered to be used in this state in connection with services when

- (1) it is used or displayed in this state in connection with selling or advertising the services; and
- (2) the services are rendered in this state. (57th Legis., 3rd C.S., Ch. 24, Sec. 1(e).)

[Sections 16.03–16.07 reserved for expansion]

SUBCHAPTER B. REGISTRATION OF MARK

§ 16.08. Registrable Marks

(a) A mark in actual use in connection with the applicant's goods or services, which distinguishes his goods or services from those of others, is registrable unless it

- (1) is, or includes matter which is, immoral, deceptive, or scandalous;
- (2) may disparage, or falsely suggest a connection with, or bring into contempt or disrepute
 - (A) a person, whether living or dead;
 - (B) an institution;
 - (C) a belief; or
 - (D) a national symbol;
- (3) depicts or simulates the flag, coat of arms, or other insignia of
 - (A) the United States;
 - (B) a state;
 - (C) a municipality; or
 - (D) a foreign nation;
- (4) is or includes the name, signature, or portrait of a living individual who has not consented in writing to its registration;
- (5) is
 - (A) merely descriptive or deceptively misdescriptive of the applicant's goods or services;
 - (B) primarily geographically descriptive or deceptively misdescriptive of the applicant's goods or services; or
 - (C) primarily merely a surname; or (57th Legis., 3rd C.S., Ch. 24, Sec. 2(a)-(d), (e), sen. 1 (part).)
- (6) is likely to cause confusion or mistake, or to deceive, because, when applied to the applicant's goods or services, it resembles another person's unabandoned mark registered in this state. (57th Legis., 3rd C.S., Ch. 24, Sec. 2(f).)

(b) Subsection (a) (5) of this section does not prevent the registration of a mark that has become distinctive as applied to the applicant's goods or services. The secretary of state may accept as evidence that a mark has become distinctive as applied to the applicant's goods or services proof of substantially exclusive and continuous use of the mark by the applicant in this state for the five years next preceding

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the date on which the applicant filed his application for registration. (57th Legis., 3rd C.S., Ch. 24, Sec. 2(e), sen. 1 (part), 2.)

(c) A trade name is not registrable under this chapter. However, if a trade name is also a service mark or trademark, as defined in this chapter, it is registrable as a service mark or trademark. (No source citation.)

§ 16.09. Classes of Goods and Services

(a) An applicant may include in a single application for registration of a mark all goods or services in connection with which the mark is actually being used and which are in a single class. An applicant may not include in a single application for registration goods or services which are not in a single class. (57th Legis., 3rd C.S., Ch. 24, Sec. 12, sen. 2, 3.)

(b) The classes of goods are:

- (1) Class 1: raw or partly prepared materials;
- (2) Class 2: receptacles;
- (3) Class 3: baggage, animal equipments, portfolios, and pocketbooks;
- (4) Class 4: abrasives and polishing materials;
- (5) Class 5: adhesives;
- (6) Class 6: chemicals and chemical compositions;
- (7) Class 7: cordage;
- (8) Class 8: smokers' articles, not including tobacco products;
- (9) Class 9: explosives, firearms, equipments, and projectiles;
- (10) Class 10: fertilizers;
- (11) Class 11: inks and inking materials;
- (12) Class 12: construction materials;
- (13) Class 13: hardware, and plumbing and steam-fitting supplies;
- (14) Class 14: metals, and metal castings and forgings;
- (15) Class 15: oils and greases;
- (16) Class 16: protective and decorative coatings;
- (17) Class 17: tobacco products;
- (18) Class 18: medicines and pharmaceutical preparations;
- (19) Class 19: vehicles;
- (20) Class 20: linoleum and oilcloth;
- (21) Class 21: electrical apparatus, machines, and supplies;
- (22) Class 22: games, toys, and sporting goods;

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- (23) Class 23: cutlery, machinery, and tools and parts thereof;
 - (24) Class 24: laundry appliances and machines;
 - (25) Class 25: locks and safes;
 - (26) Class 26: measuring and scientific appliances;
 - (27) Class 27: horological instruments;
 - (28) Class 28: jewelry and precious metalware;
 - (29) Class 29: brooms, brushes, and dusters;
 - (30) Class 30: crockery, earthenware, and porcelain;
 - (31) Class 31: filters and refrigerators;
 - (32) Class 32: furniture and upholstery;
 - (33) Class 33: glassware;
 - (34) Class 34: heating, lighting, and ventilating apparatus;
 - (35) Class 35: belting, hose, machinery packing, and non-metallic tires;
 - (36) Class 36: musical instruments and supplies;
 - (37) Class 37: paper and stationery;
 - (38) Class 38: prints and publications;
 - (39) Class 39: clothing;
 - (40) Class 40: fancy goods, furnishings, and notions;
 - (41) Class 41: canes, parasols, and umbrellas;
 - (42) Class 42: knitted, netted, and textile fabrics, and substitutes therefor;
 - (43) Class 43: thread and yarn;
 - (44) Class 44: dental, medical, and surgical appliances;
 - (45) Class 45: soft drinks and carbonated waters;
 - (46) Class 46: foods and ingredients of foods;
 - (47) Class 47: wines;
 - (48) Class 48: malt beverages and liquors;
 - (49) Class 49: distilled alcoholic liquors;
 - (50) Class 50: merchandise not otherwise classified;
 - (51) Class 51: cosmetics and toilet preparations; and
 - (52) Class 52: detergents and soaps.
- (c) The classes of services are:
- (1) Class 100: miscellaneous;
 - (2) Class 101: advertising and business;
 - (3) Class 102: insurance and financial;
 - (4) Class 103: construction and repair;

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- (5) Class 104: communication;
- (6) Class 105: transportation and storage;
- (7) Class 106: material treatment; and
- (8) Class 107: education and entertainment.

(57th Legis., 3rd C.S., Ch. 24, Sec. 12 (part).)

(d) The classes of goods and services enumerated in Subsections (b) and (c) of this section are established for the convenient administration of this chapter and do not limit or expand an applicant's or registrant's rights. The secretary of state may amend the classes of goods and services to conform to those now or later established by the U.S. Patent Office. (57th Legis., 3rd C.S., Ch. 24, Sec. 12, sen. 1, 4.)

§ 16.10. Application for Registration

(a) A person shall file his application to register a mark in the office of the secretary of state on a form prescribed by the secretary of state.

(b) The applicant shall include in the application

- (1) the name and business address of the applicant;
- (2) the state of incorporation of the applicant if the applicant is a corporation;
- (3) an appointment of the secretary of state as the applicant's agent for service of process only in suits relating to the registration which may be issued if the applicant
 - (A) is or becomes a
 - (i) nonresident individual, partnership, or association; or
 - (ii) foreign corporation without a certificate of authority to do business in this state; or
 - (B) cannot be found in this state;
- (4) the names or a description of the goods or services in connection with which the mark is being used;
- (5) the manner in which the mark is being used in connection with the goods or services;
- (6) the class in which the applicant believes the goods or services belong;
- (7) the date on which the applicant first used the mark anywhere in connection with the goods or services;
- (8) the date on which the applicant first used the mark in this state in connection with the goods or services;
- (9) a statement that the applicant believes he is the owner of the mark and that, to the best of his knowledge, no other person is entitled to use the mark in this state

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- (A) in the identical form used by the applicant; or
 - (B) in a form that is likely, when used in connection with the goods or services, to cause confusion or mistake, or to deceive, because of its resemblance to the mark used by the applicant; and (57th Legis., 3rd C.S., Ch. 24, Sec. 3, sen. 1.)
- (10) such additional information or documents as the secretary of state may reasonably require. (No source citation.)
- (c) The applicant shall
- (1) prepare and file the application with the secretary of state in duplicate originals; and (57th Legis., 3rd C.S., Ch. 24, Sec. 4, sen. 1.)
 - (2) submit as part of the application to the secretary of state
 - (A) two identical specimens or facsimiles of the mark as actually used, one specimen or facsimile with each duplicate original application; and
 - (B) a filing fee of \$10 payable to the secretary of state. (57th Legis., 3rd C.S., Ch. 24, Sec. 3, sen. 3, 4.)
- (d) The applicant or his agent shall sign and verify the application. (57th Legis., 3rd C.S., Ch. 24, Sec. 3, sen. 2.)

§ 16.11. Registration by Secretary of State

If the application satisfies the requirements of this chapter, and the filing fee is paid, the secretary of state shall

- (1) endorse on each duplicate original application
 - (A) the word "filed"; and
 - (B) the date on which the application was filed;
- (2) file one of the duplicate original applications in his office;
- (3) issue a certificate of registration evidencing registration on the date on which the application was filed;
- (4) attach the other duplicate original application to the certificate of registration; and
- (5) deliver the certificate of registration with the attached duplicate original application to the applicant. (57th Legis., 3rd C.S., Ch. 24, Sec. 4 (part).)

§ 16.12. Term of Registration

- (a) The registration of a mark under this chapter is effective for a term of 10 years from the date of registration. (57th Legis., 3rd C.S., Ch. 24, Sec. 7, sen. 1 (part).)
- (b) A registration in force before May 2, 1962, expires 10 years from the date of registration. (57th Legis., 3rd C.S., Ch. 24, Sec. 7, sen. 5 (part).)

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§ 16.13. Notice of Expiration of Registration

(a) During the period beginning 12 months and ending 6 months before the day a registration expires, the secretary of state shall, by writing to the last known address of the registrant under this chapter or under a prior act, notify the registrant of the necessity for renewing or reregistering under Section 16.14 of this code.

(b) Neither the secretary of state's failure to notify a registrant nor the registrant's nonreceipt of a notice under Subsection (a) of this section

- (1) extends the term of a registration; or
- (2) excuses the registrant's failure to renew or reregister. (57th Legis., 3rd C.S., Ch. 24, Sec. 7, sen. 6, 7.)

§ 16.14. Renewal of Registration and Reregistration

(a) The registration of a mark under this chapter may be renewed for an additional 10-year term by filing a renewal application within six months before the day the registration expires on a form prescribed by the secretary of state. The registrant shall submit as part of his renewal application to the secretary of state

- (1) an affidavit stating that
 - (A) the mark is still in use in this state; or
 - (B) nonuse of the mark in this state
 - (i) is due to special circumstances which excuse the nonuse; and
 - (ii) is not due to an intention to abandon the mark in this state; and
- (2) a renewal fee of \$10 payable to the secretary of state.

(b) A registrant may renew a registration under Subsection (a) of this section for successive terms of 10 years. (57th Legis., 3rd C.S., Ch. 24, Sec. 7, sen. 1 (part), 2, 3, 4.)

(c) A mark for which a registration was in force before May 2, 1962, may be reregistered by filing an original application under Section 16.10 of this code within six months before the day the registration expires. (57th Legis., 3rd C.S., Ch. 24, Sec. 7, sen. 5 (part).)

§ 16.15. Record, Notice, and Proof of Registration

(a) The secretary of state shall keep for public examination a record of all

- (1) marks registered, reregistered, or renewed under this chapter; and
- (2) assignments recorded under Section 16.18 of this code. (57th Legis., 3rd C.S., Ch. 24, Sec. 9.)

(b) Registration of a mark under this chapter is constructive notice throughout this state of the registrant's claim of ownership of the mark throughout this state. (57th Legis., 3rd C.S., Ch. 24, Sec. 5.)

(c) A certificate of registration issued by the secretary of state under this chapter, or a copy of it certified by the secretary of state, is admissible in evidence as prima facie proof of

- (1) the validity of the registration;
- (2) the registrant's ownership of the mark; and
- (3) the registrant's exclusive right to use the mark in commerce in this state in connection with the goods or services specified in the certificate, subject to any conditions and limitations stated in the certificate. (57th Legis., 3rd C.S., Ch. 24, Sec. 4 (part).)

§ 16.16. Cancellation of Registration

(a) The secretary of state shall cancel

- (1) all registrations in force before May 2, 1962, which are more than 10 years old and which have not been reregistered under Section 16.14(c) of this code;
- (2) a registration on receipt of a voluntary request for cancellation from the registrant under this chapter or under a prior act as identified by the records of the secretary of state;
- (3) registrations granted under this chapter and not renewed under Section 16.14(a) of this code;
- (4) a registration concerning which a district or appellate court has rendered a final judgment, which has become unappealable, cancelling the registration or finding that
 - (A) the registered mark has been abandoned;
 - (B) the registrant under this chapter or under a prior act is not the owner of the mark;
 - (C) the registration was granted contrary to the provisions of this chapter;
 - (D) the registration was obtained fraudulently; or
 - (E) the registered mark has become incapable of serving as a mark. (57th Legis., 3rd C.S., Ch. 24, Sec. 10.)

(b) The clerk of the court whose final judgment cancels a registration or makes any of the findings specified in Subsection (a) (4) of this section shall, when the judgment becomes unappealable, transmit a certified copy of it to the secretary of state. (57th Legis., 3rd C.S., Ch. 24, Sec. 11, sen. 5.)

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§ 16.17. Assignment of Mark and Registration

(a) A mark and its registration under this chapter are assignable with the goodwill of the business in which the mark is used, or with that part of the goodwill connected with the use of, and symbolized by, the mark.

(b) An assignment shall be made by duly executed written instrument. (57th Legis., 3rd C.S., Ch. 24, Sec. 8, sen. 1, 2 (part).)

§ 16.18. Recordation of Assignment and Its Effect

(a) An assignment made under Section 16.17 of this code may be recorded with the secretary of state by

- (1) filing with him
 - (A) the original assignment; and
 - (B) a duplicate original or legible photocopy on durable paper of the assignment; and
- (2) paying him a fee of \$3.

(b) If an assignment has been properly filed for record under Subsection (a) of this section, the secretary of state shall

- (1) issue in the assignee's name a new certificate of registration for the remainder of the term of the mark's registration, re-registration, or last renewal;
- (2) endorse on the original and duplicate original assignment or photocopy the
 - (A) words "Filed for record in the office of the Secretary of State, State of Texas"; and
 - (B) date on which the assignment was filed for record;
- (3) file the duplicate original or photocopy of the assignment in his office; and
- (4) return the endorsed original assignment to the assignee or his representative. (57th Legis., 3rd C.S., Ch. 24, Sec. 8, sen. 2 (part), 4, 5.)

(c) The assignment of a mark registered under this chapter is void against a purchaser who purchases the mark for value after the assignment is made and without notice of it unless the assignment is recorded by the secretary of state

- (1) within three months after the date of the assignment; or
- (2) before the mark is purchased. (57th Legis., 3rd C.S., Ch. 24, Sec. 8, sen. 3.)

[Sections 16.19–16.23 reserved for expansion]

SUBCHAPTER C. COURT ACTION

§ 16.24. Review of Secretary of State's Decisions

(a) Final action taken or a final decision made by the secretary of state under this chapter may be reviewed by a suit filed in one of the Travis County district courts.

(b) A suit filed under Subsection (a) of this section is tried de novo, as an appeal from a justice court to a county court, and

- (1) every decision or action concerning an issue in the suit made or taken by the secretary of state before the suit was filed is void;
- (2) the district court shall determine the issues in the suit as if no decision had been made or action taken by the secretary of state; and
- (3) the district court may not apply in any form the substantial evidence rule in reviewing a decision or action of the secretary of state.

(c) The legislature declares that

- (1) this section is not severable from the other sections of this chapter;
- (2) it would not have enacted this chapter without this section; and
- (3) this chapter is void if a court in a final judgment which becomes unappealable invalidates this section in whole or part. (57th Legis., 3rd C.S., Ch. 24, Sec. 6.)

§ 16.25. Suit to Cancel Registration

(a) A person who believes that he is or will be damaged by a registration under this chapter may sue to cancel the registration in a district court having venue. (57th Legis., 3rd C.S., Ch. 24, Sec. 11, sen. 1, 2 (part).)

(b) The clerk of a court in which suit is filed under Subsection (a) of this section shall transmit notice of the suit to the secretary of state, who shall place the notice in the registration file with proper notations and endorsements. (57th Legis., 3rd C.S., Ch. 24, Sec. 11, sen. 3.)

(c) When the registrant's agent for service of process is the secretary of state, the secretary of state shall forward notice of the suit by registered mail to the registrant at his last address of record. (57th Legis., 3rd C.S., Ch. 24, Sec. 11, sen. 2 (part).)

(d) If the court finds that the losing party in a suit filed under Subsection (a) of this section should have known his position was

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without merit, the court may award the successful party his reasonable attorneys' fees and charge them as part of the costs against the losing party. (57th Legis., 3rd C.S., Ch. 24, Sec. 11, sen. 4.)

§ 16.26. Infringement of Registered Mark

(a) Subject to Section 16.27 of this code, a person commits an infringement if, without the registrant's consent, he

- (1) uses anywhere in this state a reproduction, counterfeit, copy, or colorable imitation of a mark registered under this chapter in connection with selling, offering for sale, or advertising goods or services when the use is likely to deceive or cause confusion or mistake as to the source or origin of the goods or services; or
- (2) reproduces, counterfeits, copies, or colorably imitates a mark registered under this chapter and applies the reproduction, counterfeit, copy, or colorable imitation to a label, sign, print, package, wrapper, receptacle, or advertisement intended to be used in selling, leasing, distributing, or rendering goods or services in this state when the use is likely to deceive or cause confusion or mistake as to the source or origin of the goods or services. (57th Legis., 3rd C.S., Ch. 24, Sec. 15, sen. 1.)

(b) A registrant may sue for damages and to enjoin an infringement proscribed by Subsection (a) of this section in a district court having venue.

(c) If the district court determines that there has been an infringement, it shall enjoin the act of infringement and may

- (1) require the infringer to pay the registrant all damages resulting from the acts of infringement and occurring from and after the date two years before the day the suit was filed; and
- (2) order that the infringing reproductions, counterfeits, copies, or colorable imitations in the possession or under the control of the infringer be
 - (A) delivered to an officer of the court;
 - (B) delivered to the registrant; or
 - (C) destroyed.

(d) A registrant is entitled to recover damages under Subsection (c) (1) of this section only for an infringement that occurred during the period of time the infringer had actual knowledge of the registrant's mark. (57th Legis., 3rd C.S., Ch. 24, Sec. 16.)

§ 16.27. Exceptions to Liability for Infringement

(a) No registration under this chapter adversely affects common law rights acquired prior to registration under this chapter. However, during any period when the registration of a mark under this chapter is in force and the registrant has not abandoned the mark, no common law rights as against the registrant of the mark may be acquired. (57th Legis., 3rd C.S., Ch. 24, Sec. 14, sen. 1, 2 (part).)

(b) The owner or operator of a radio or television station, or the owner or publisher of a newspaper, magazine, directory, or other publication, is not liable in that business under Section 16.26 of this code for the use of a registered mark furnished by one of his advertisers or customers. (57th Legis., 3rd C.S., Ch. 24, Sec. 15, sen. 2.)

§ 16.28. Procuring Application or Registration by Fraud

(a) No person may procure for himself or another the filing of an application or the registration of a mark under this chapter by knowingly making a false or fraudulent representation or declaration, oral or written, or by any other fraudulent means.

(b) A person injured by the false or fraudulent procurement of an application or registration may sue the person who violated Subsection (a) of this section in a district court having venue and

- (1) recover from him damages resulting from use of the fraudulently registered mark, plus costs of suit, including attorneys' fees; and
- (2) have the registration cancelled. (57th Legis., 3rd C.S., Ch. 24, Sec. 13.)

CHAPTER 17. DECEPTIVE TRADE PRACTICES

SUBCHAPTER A. GENERAL PROVISIONS

Section

17.01. Definitions.

[Sections 17.02–17.06 reserved for expansion]

SUBCHAPTER B. DECEPTIVE ADVERTISING, PACKING, SELLING, AND EXPORTING

- 17.07. Using Representation of Texas Flag in Advertising and Selling.
- 17.08. Using Representation of Great Seal of Texas in Advertising.
- 17.09. Packing, Selling, or Exporting Tangible Personal Property of Inferior Quality or Value.
- 17.10. Deceptive Sale of Rebuilt Automobile Storage Battery.
- 17.11. Deceptive Wholesale and Going-Out-Of-Business Advertising.
- 17.12. Deceptive Advertising.

[Sections 17.13–17.17 reserved for expansion]

SUBCHAPTER C. REGULATING THE SALE OR TRANSFER OF SECONDHAND WATCHES

- 17.18. Applicability of Subchapter to Secondhand Watches.
- 17.19. Labeling Secondhand Watches.
- 17.20. Content of Invoice for Secondhand Watch.
- 17.21. Advertising Watch as Secondhand.
- 17.22. Criminal Penalty.

[Sections 17.23–17.27 reserved for expansion]

SUBCHAPTER D. COUNTERFEITING OR CHANGING A REQUIRED MARK; MISUSE OF CONTAINER BEARING MARK

- 17.28. Counterfeiting or Changing a Mark Required by State Law.
- 17.29. Misusing Container; Evidence of Misuse and Container's Ownership.
- 17.30. Misusing Dairy Container Bearing Proprietary Mark.

SUBCHAPTER A. GENERAL PROVISIONS

Section 17.01. Definitions

In this chapter, unless the context requires a different definition,

- (1) "container" includes bale, barrel, bottle, box, cask, keg, and package; and
- (2) "proprietary mark" includes word, name, symbol, device, and any combination of them in any form or arrangement, used by a person to identify his tangible personal property

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and distinguish it from the tangible personal property of another.

(No source citation.)

[Sections 17.02–17.06 reserved for expansion]

**SUBCHAPTER B. DECEPTIVE ADVERTISING, PACKING,
SELLING, AND EXPORTING**

§ 17.07. Using Representation of Texas Flag in Advertising and Selling

(a) No person may use a representation of the Texas flag

(1) to advertise or publicize tangible personal property or a commercial undertaking; or

(2) for a trade or commercial purpose. (P.C. Art. 150, sen. 1.)

(b) No person may offer to sell tangible personal property bearing a representation of the Texas flag. (P.C. Art. 151, sen. 1.)

(c) Subsection (a) of this section does not apply to a fraternal or patriotic organization using the Texas flag for an emblem. (P.C. Art. 150, sen. 3.)

(d) A person who violates a provision of Subsection (a) of this section is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$50 nor more than \$100. (P.C. Art. 150, sen. 2.)

(e) A person who violates Subsection (b) of this section is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$25 nor more than \$50. (P.C. Art. 151, sen. 2.)

(f) A person who violates Subsection (a) or (b) of this section commits a separate offense each day he violates a provision of either subsection. (P.C. Art. 151, sen. 3.)

§ 17.08. Using Representation of Great Seal of Texas in Advertising

(a) No person may use a representation of the Great Seal of Texas

(1) to advertise or publicize tangible personal property or a commercial undertaking; or

(2) for a commercial purpose. (54th Legis., Ch. 350, Sec. 1, sen. 1.)

(b) A person who reproduces an official document bearing the Great Seal of Texas does not violate Subsection (a) of this section if the document is

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- (1) reproduced in complete form; and
- (2) used for a purpose related to the purpose for which the document was issued by the state. (54th Legis., Ch. 350, Sec. 1, sen. 3.)

(c) A person who violates a provision of Subsection (a) of this section is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$50 nor more than \$100. (54th Legis., Ch. 350, Sec. 1, sen. 2 (part).)

(d) A person who violates Subsection (a) of this section commits a separate offense each day he violates a provision of that subsection. (54th Legis., Ch. 350, Sec. 1, sen. 2 (part).)

§ 17.09. Packing, Selling, or Exporting Tangible Personal Property of Inferior Quality or Value

- (a) No person may with intent to defraud
 - (1) pack in a container containing tangible personal property usually sold by weight other tangible personal property worth less than the tangible personal property with which the container appears to be filled;
 - (2) sell, offer for sale, exchange, or export a container containing tangible personal property usually sold by weight in which is concealed other tangible personal property worth less than the tangible personal property with which the container appears to be filled; or (P.C. Art. 1114 (part).)
 - (3) conceal in a container containing tangible personal property other tangible personal property inferior in quality to the tangible personal property with which the container appears to be filled. (P.C. Art. 1115 (part).)

(b) A person who violates Subsection (a) (1) or (2) of this section is guilty of a misdemeanor and upon conviction is punishable by imprisonment in the county jail for not more than one year or by a fine of not more than \$1,000. (P.C. Art. 1114 (part).)

(c) A person who violates Subsection (a) (3) of this section is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$500. (P.C. Art. 1115 (part).)

§ 17.10. Deceptive Sale of Rebuilt Automobile Storage Battery

(a) No person may rebuild an automobile electric storage battery from used battery parts and sell or offer to sell the rebuilt battery in Texas unless he brands the word "rebuilt" on the battery case in letters at least one inch high and one-half inch wide.

(b) A person who violates a provision of Subsection (a) of this section is guilty of a misdemeanor and upon conviction is punishable

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§ 17.12

For Annotations and Historical Notes, see V.A.T.S.

by imprisonment in the county jail for not more than 30 days or by a fine of not more than \$100 or by both. (43rd Legis., Ch. 226, Sec. 1.)

§ 17.11. Deceptive Wholesale and Going-Out-Of-Business Advertising

(a) In Subsection (b) of this section, unless the context requires a different definition, "wholesaler" means a person who sells for the purpose of resale and not directly to a consuming purchaser. (56th Legis., Ch. 234, Sec. 1, sen. 2.)

(b) No person may wilfully misrepresent the nature of his business by using in selling or advertising the word manufacturer, wholesaler, retailer, or other word of similar meaning. (56th Legis., Ch. 234, Sec. 1, sen. 1.)

(c) No person may wilfully misrepresent the ownership of a business for the purpose of holding a liquidation sale, auction sale, or other sale which represents that the business is going out of business. A person who advertises a liquidation sale, auction sale, or going-out-of-business sale shall state the correct name and permanent address of the owner of the business in the advertising. (56th Legis., Ch. 234, Sec. 1a.)

(d) A person who violates a provision of Subsection (b) or (c) of this section is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$100 nor more than \$500. (56th Legis., Ch. 234, Sec. 2.)

§ 17.12. Deceptive Advertising

(a) No person may disseminate a statement he knows materially misrepresents the cost or character of tangible personal property, a security, service, or anything he may offer for the purpose of

(1) selling, contracting to sell, otherwise disposing of, or contracting to dispose of the tangible personal property, security, service, or anything he may offer; or

(2) inducing a person to contract with regard to the tangible personal property, security, service, or anything he may offer. (P.C. Art. 1554, sen. 1 (part).)

(b) A person's proprietary mark appearing on or in a statement described in Subsection (a) of this section is prima facie evidence that the person disseminated the statement. (P.C. Art. 1554, sen. 2 (part).)

(c) A person who violates a provision of Subsection (a) of this section is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$10 nor more than \$200. (P.C. Art. 1554, sen. 1 (part).)

[Sections 17.13-17.17 reserved for expansion]

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**SUBCHAPTER C. REGULATING THE SALE OR
TRANSFER OF SECONDHAND WATCHES**

§ 17.18. Applicability of Subchapter to Secondhand Watches

- (a) A watch is secondhand if its
 - (1) case, movement, or case and movement as a unit, has been previously sold or transferred to a person for his own use or the use of another; (47th Legis., Ch. 314, Sec. 4(a) (part).)
 - (2) serial number, movement number, or other identification mark or number has been removed, altered, or covered up; or (47th Legis., Ch. 314, Sec. 4(b).)
 - (3) movement is more than one year old and has been repaired even though the watch has been returned to the seller or transferor for exchange or credit as described in Subsection (b) (1) of this section. (47th Legis., Ch. 314, Sec. 4(c), sen. 1.)
- (b) A watch is not secondhand if
 - (1) after the sale or transfer described in Subsection (a) (1) of this section,
 - (A) the purchaser or transferee returns the watch to the seller or transferor for exchange or credit within one year from the date of sale or transfer to him;
 - (B) the seller or transferor keeps a written record showing
 - (i) the purchaser's or transferee's name;
 - (ii) the date of sale or transfer;
 - (iii) the serial number on the case and movement, if present; and
 - (iv) any proprietary mark;
 - (C) the record is kept for at least five years from the date of sale or transfer; and
 - (D) the record is open for inspection at the seller's or transferor's business address during business hours by
 - (i) the county or district attorney of the county in which the seller or transferor does business; or
 - (ii) his duly authorized representative; or (47th Legis., Ch. 314, Sec. 4(a) (part).)
 - (2) its movement is merely cleaned, oiled, or recased. (47th Legis., Ch. 314, Sec. 4(c), sen. 2.)
- (c) The provisions of Subsections (a) and (b) of this section do not apply to a pawnbroker's auction sale of unredeemed pledges. (47th Legis., Ch. 314, Sec. 6.)

§ 17.19. Labeling Secondhand Watches

No person in the business of buying or selling watches may sell or exchange, offer to sell or exchange, possess, or display with intent to sell or exchange a secondhand watch unless he

- (1) fastens to the watch a clearly written or printed tag bearing the word "secondhand"; and
- (2) places the tag so the word "secondhand" is in plain sight at all times. (47th Legis., Ch. 314, Sec. 1.)

§ 17.20. Content of Invoice for Secondhand Watch

(a) No person in the business of buying or selling watches may sell or transfer a secondhand watch unless he gives the purchaser or transferee a written invoice

- (1) bearing the words "secondhand watch" in letters larger than any other letters on the invoice, except those of the letterhead; and
- (2) listing the following items:
 - (A) the seller's or transferor's name and address;
 - (B) the purchaser's or transferee's name and address;
 - (C) the date of sale or transfer;
 - (D) the name of the watch or its manufacturer; and
 - (E) the serial number or proprietary mark on the watch or, if the serial number or proprietary mark has been removed, altered, or covered up, a statement to that effect.

(b) The seller or transferor shall keep on file a duplicate of the invoice required by Subsection (a) of this section for at least five years from the date of sale or transfer.

(c) The county or district attorney, or his authorized representative, of the county in which the seller or transferor does business may inspect the duplicate invoice described in Subsection (b) of this section

- (1) during the seller's or transferor's business hours; and
- (2) at the seller's or transferor's business address. (47th Legis., Ch. 314, Sec. 2.)

§ 17.21. Advertising Watch as Secondhand

No person may advertise or display a secondhand watch for sale or exchange unless he clearly states in the advertisement or display that the watch is secondhand. (47th Legis., Ch. 314, Sec. 3.)

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§ 17.22. Criminal Penalty

A person, or his agent or employee, who violates a provision of Section 17.19, 17.20, or 17.21 of this code is guilty of a misdemeanor and upon conviction is punishable by imprisonment in the county jail for not more than 100 days or by a fine of not more than \$500 or by both. (47th Legis., Ch. 314, Sec. 5.)

[Sections 17.23–17.27 reserved for expansion]

**SUBCHAPTER D. COUNTERFEITING OR CHANGING A
REQUIRED MARK; MISUSE OF CONTAINER
BEARING MARK**

**§ 17.28. Counterfeiting or Changing a Mark Required by State
Law**

(a) No person may counterfeit or change a mark, brand, or stamp required by state law to be put on

- (1) tangible personal property; or
- (2) a container containing tangible personal property.

(b) A person who violates a provision of Subsection (a) of this section is guilty of a misdemeanor and upon conviction is punishable by imprisonment in the county jail for not more than one year or by a fine of not more than \$1,000. (P.C. Art. 1113.)

**§ 17.29. Misusing Container; Evidence of Misuse and Container's
Ownership**

(a) In this section, unless the context requires a different definition, "container" also includes drink-dispensing fountain. (No source citation.)

(b) Unless the owner of a reusable container bearing a proprietary mark (or one acting with the owner's written permission) agrees, no person may

- (1) fill the container for sale or other commercial purpose;
- (2) deface, cover up, or remove the proprietary mark from the container; or
- (3) refuse to return the container to the owner if he requests its return. (P.C. Art. 1058, sen. 2, amd. by 57th Legis., 3rd C.S., Ch. 24, Sec. 17; R.S. Art. 843, sen. 2, amd. by 57th Legis., 3rd C.S., Ch. 24, Sec. 18.)

(c) A person's wilful

- (1) possession of a full or empty reusable container without the owner's permission is prima facie evidence of his violating a provision of Subsection (b) of this section;

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(2) use, purchase, sale, or other disposition of a full or empty reusable container without the owner's permission is prima facie evidence of his violating a provision of Subsection (b) of this section; and

(3) breaking, damaging, or destroying a full or empty reusable container is prima facie evidence of his violating a provision of Subsection (b) of this section. (P.C. Art. 1059.)

(d) In an action in which the ownership of a reusable container is in issue, a person's proprietary mark on the container is prima facie evidence that the person or his licensee owns the container. (P.C. Art. 1058, sen. 1, amd. by 57th Legis., 3rd C.S., Ch. 24, Sec. 17; R.S. Art. 843, sen. 1, amd. by 57th Legis., 3rd C.S., Ch. 24, Sec. 18.)

(e) A person who violates a provision of Subsection (b) of this section is guilty of a misdemeanor and upon conviction is punishable by

(1) a fine of not less than \$25 nor more than \$50 for each violation concerning a drink-dispensing fountain; or

(2) a fine of not less than \$5 nor more than \$10 for each violation concerning any other container. (P.C. Art. 1060.)

§ 17.30. Misusing Dairy Container Bearing Proprietary Mark

(a) In this section, unless the context requires a different definition, "dairy container" includes butter box, ice cream can, ice cream tub, milk bottle, milk bottle case, milk can, and milk jar.

(b) Without the owner's consent, no person may

(1) fill with milk, cream, butter, or ice cream; damage; mutilate; or destroy a dairy container bearing the owner's commonly used proprietary mark; or

(2) wilfully refuse to return on request to the owner a dairy container bearing his commonly used proprietary mark. (P.C. Art. 1063, amd. by 45th Legis., Ch. 218, Sec. 1.)

(c) Without the owner's written consent, no person may

(1) deface or remove an owner's proprietary mark from a dairy container; or

(2) substitute on a dairy container his proprietary mark for that of the owner. (P.C. Art. 1064 (part), amd. by 45th Legis., Ch. 218, Sec. 2.)

(d) A person's commonly used proprietary mark on a dairy container is prima facie evidence of that person's ownership of the container. (P.C. Art. 1065, amd. by 45th Legis., Ch. 218, Sec. 3.)

(e) A person who violates a provision of Subsection (b) or (c) of this section is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$10 nor more than \$100. (P.C. Art. 1064 (part), amd. by 45th Legis., Ch. 218, Sec. 2.)

[Chapters 18-22 reserved for expansion]

TITLE 3. INSOLVENCY, FRAUDULENT TRANSFERS, AND FRAUD

CHAPTER 23. ASSIGNMENTS FOR THE BENEFIT OF CREDITORS

SUBCHAPTER A. GENERAL PROVISIONS

Section

23.01. Definitions.

23.02. Nature and Effect of Assignment.

[Sections 23.03–23.07 reserved for expansion]

SUBCHAPTER B. THE ASSIGNMENT

23.08. Form and Content of Assignment.

23.09. Fraud Does Not Defeat Assignment.

23.10. Assignment Discharges Debtor.

[Sections 23.11–23.15 reserved for expansion]

SUBCHAPTER C. DUTIES AND RIGHTS OF ASSIGNEE

23.16. Assignee's Qualifications, Duty to Record Assignment, and Bond.

23.17. Notice of Assignee's Appointment.

23.18. Replacement of Assignee.

23.19. Assignee's Duty to Distribute Assigned Estate.

23.20. Discount of Claim Not Due and Allowance of Secured Claim.

23.21. Assignee's Entitlement to Compensation.

23.22. Examination of Debtor or other Person.

23.23. Assignee's Final Report and Discharge.

23.24. Time Limit on Bringing Action Against Assignee.

[Sections 23.25–23.29 reserved for expansion]

SUBCHAPTER D. DUTIES AND RIGHTS OF CREDITORS

23.30. Creditor's Consent to Assignment.

23.31. Creditor's Proof and Assignee's Allowance of Claim.

23.32. Creditor's Suit on Disputed Claim.

23.33. Nonconsenting Creditor's Right to Surplus.

SUBCHAPTER A. GENERAL PROVISIONS

Section 23.01. Definitions

In this chapter, unless the context requires a different definition,

- (1) "assigned estate" means all the real and personal estate of an assigning debtor passing to the consenting creditors under an assignment by virtue of Section 23.02 or 23.09(b) of this code;

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- (2) "assignee" means an assignee for the benefit of creditors;
- (3) "assigning debtor" means a person executing an assignment;
- (4) "assignment" means a general assignment for the benefit of creditors made under this chapter;
- (5) "consenting creditor" means a creditor who has consented to an assignment in one of the ways provided by Section 23.30 of this code; and
- (6) "real and personal estate" does not include property exempt by law from execution. (No source citation.)

§ 23.02. Nature and Effect of Assignment

(a) A debtor may assign his real and personal estate under this chapter to an assignee for the benefit of the debtor's creditors. (No source citation.)

(b) An assigning debtor shall provide in the assignment for distribution of all his real and personal estate to each consenting creditor in proportion to each consenting creditor's claim.

(c) Regardless of an expression to the contrary, an assignment passes all an assigning debtor's real and personal estate to each consenting creditor in proportion to each consenting creditor's claim. (R.S. Art. 261.)

[Sections 23.03–23.07 reserved for expansion]

SUBCHAPTER B. THE ASSIGNMENT

§ 23.08. Form and Content of Assignment

- (a) For an assignment to be valid,
 - (1) the assigning debtor must make the assignment in writing; and
 - (2) it must be proved or acknowledged and recorded in the manner provided by law for the conveyance of real estate.
- (b) The assigning debtor shall attach to his assignment an inventory containing the following information:
 - (1) a list naming each creditor of the assigning debtor;
 - (2) the resident address, if known, of each creditor;
 - (3) the amount owed each creditor and the type of debt;
 - (4) the consideration for the debt and the place where the debt arose;
 - (5) a description of each existing judgment or security for the payment of the debt;

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- (6) a schedule of all the assigning debtor's real and personal estate at the date of the assignment;
- (7) a description of
 - (A) each encumbrance on the real and personal estate; and
 - (B) each voucher and security relating to the estate; and
- (8) the value of the estate.

(c) The assigning debtor shall sign the inventory required by Subsection (b) of this section and swear that it is just and true. (R. S. Art. 262.)

§ 23.09. Fraud Does Not Defeat Assignment

(a) An assignment is not affected and a consenting creditor is not deprived of his proportionate share of the assigned estate by the fraudulent act or intent of the assigning debtor or assignee. A consenting creditor is a proper party to a suit filed to enforce a right under an assignment, or to protect an interest in an assigned estate. (R.S. Art. 267.)

(b) Except as to an innocent purchaser for value, a transfer of property made in contemplation of an assignment with an intent to defeat, delay, defraud, or give preference to a creditor is void and the property passes under the assignment rather than by the transfer.

(c) An assignee may sue to recover property transferred with an intent described in Subsection (b) of this section, and when the property is recovered, the assignee shall apply it for the benefit of the assigning debtor's creditors along with property belonging to the assigned estate already in the assignee's possession. If an assignee neglects or refuses to sue to recover property transferred with an intent described in Subsection (b) of this section, a creditor, after securing the assignee against cost or liability, may sue in the assignee's name to recover the property. (R.S. Art. 268.)

§ 23.10. Assignment Discharges Debtor

If an assigning debtor makes an assignment, he is discharged from liability on the claim of a consenting creditor unless the consenting creditor does not receive at least one-third of the amount allowed on his claim against the assigned estate. (R.S. Art. 263.)

[Sections 23.11–23.15 reserved for expansion]

SUBCHAPTER C. DUTIES AND RIGHTS OF ASSIGNEE

§ 23.16. Assignee's Qualifications, Duty to Record Assignment, and Bond

(a) An assignee shall be a resident of this state and a resident of the county in which the assigning debtor resides, or in which the assigning debtor's principal business was conducted.

(b) Immediately after the assignment instrument is executed and delivered to him, the assignee shall record it in the county of his residence and in each county in which there is real property conveyed to the assignee by the assignment.

(c) Within five days after delivery to him of the assignment instrument, the assignee shall execute a bond

- (1) with a surety who must be approved by the judge of either the county or district court in the county of the assignee's residence;
- (2) conditioned that he will perform faithfully his duties as assignee and distribute proportionately the net proceeds of the assigned estate to the consenting creditors entitled to it under the assignment;
- (3) in an amount fixed by the county or district judge;
- (4) payable to the state; and
- (5) which inures to the benefit of the assigning debtor and each of the creditors.

(d) The assignee shall file the bond with the county clerk of the county in which the assigning debtor resides and then the assignee shall take possession of the assigned estate and carry out the assignment.

(e) An assignment is valid as against an assigning debtor or his creditors even though the assignee fails to execute and file a bond as required by Subsections (c) and (d) of this section. (R.S. Art. 266, sen. 1, 2, 3.)

§ 23.17. Notice of Assignee's Appointment

(a) Within 30 days after an assignment is executed, the assignee shall publish notice of his appointment as assignee in a newspaper published in the county

- (1) where the assigning debtor resides or where he operated his principal business before the assignment; or
- (2) nearest the assigning debtor's residence or principal business if a newspaper is not published in the county of the assigning debtor's residence or principal business.

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(b) The assignee shall publish notice of his appointment as assignee once each week for three consecutive weeks.

(c) The assignee shall notify by mail each of the assigning debtor's listed creditors of his appointment as assignee. (R.S. Art. 264.)

§ 23.18. Replacement of Assignee

(a) A county or district court of the county in which the assignee resides shall remove or replace the assignee on application of the assigning debtor or a creditor, or on its own motion,

- (1) if the court is satisfied that the assignee has not executed and filed the bond required by Sections 23.16(c) and (d) of this code;
- (2) if the assignee refuses or fails to serve for any reason; or
- (3) for good cause.

(b) On removal, resignation, or death of the assignee, the court shall appoint in writing a new assignee in term time or vacation.

(c) As soon as the new assignee executes and files a bond as required by Sections 23.16(c) and (d) of this code, he shall take possession of the assigned estate and carry out the assignment. (R.S. Art. 266, sen. 4, 5.)

§ 23.19. Assignee's Duty to Distribute Assigned Estate

Each time an assignee has enough money to pay 10 percent of the assigning debtor's debts, he shall distribute the money among the creditors entitled to receive it in proportion to their claims allowed under Section 23.31(b) of this code. (R.S. Art. 270 (part).)

§ 23.20. Discount of Claim Not Due and Allowance of Secured Claim

(a) The assignee may allow a claim which is not due at its present value by discounting it at the legal rate.

(b) If a creditor holds collateral to secure his claim worth less than his claim, the assignee may estimate the value of the collateral and allow the creditor as a claim against the assigned estate only the difference between the value of the collateral and the amount of the claim. (R.S. Art. 273.)

§ 23.21. Assignee's Entitlement to Compensation

An assignee is entitled to reasonable compensation for his services and reimbursement for his necessary expenses, including an attorney's fee, all of which shall be fixed by the county or district court

who approved his bond. The compensation, expenses, and attorney's fee fixed by the county or district court shall be paid out of the assigned estate. (R.S. Art. 270 (part).)

§ 23.22. Examination of Debtor or Other Person

(a) The court in which a proceeding involving an assigned estate has been filed may, after reasonable notice to each person concerned, compel any person to answer questions under oath on

- (1) application of a creditor of the assigning debtor; or
- (2) its own motion.

(b) The court may compel attendance and an answer to any question concerning the assigned estate by writ or order as in other cases. Questions asked and answers given during the examination shall be in writing, the person examined shall swear to and sign his answers before the clerk, and the questions and answers shall be filed with the clerk for use by anyone interested in the proceeding.

(c) The court shall charge the cost of the examination against the applicant or the assigned estate, as the court deems proper.

(d) The assigning debtor may not be prosecuted or punished for an answer given by him during the examination. (R.S. Art. 272.)

§ 23.23. Assignee's Final Report and Discharge

(a) An assignee wishing to be discharged from his appointment shall prepare and file for record with the county clerk of the county in which his assignment is recorded a sworn report describing

- (1) all property which came into his possession under the assignment; and
- (2) how and to whom he distributed the property.

(b) The assignee shall also deposit in the registry of the court who approved his bond money belonging to the assigned estate still in his possession at the time he files his report under Subsection (a) of this section. The court shall distribute the money under this chapter to the consenting creditors and assignee and, in the case of surplus, to the nonconsenting creditors and assigning debtor. (R.S. Art. 274, sen. 1, 2, 3 (part).)

§ 23.24. Time Limit on Bringing Action Against Assignee

An action against an assignee based on his conduct in carrying out the assignment, as shown in his report filed under Section 23.23 (a) of this code, must be brought within 12 months after the report is filed or the action is barred. (R.S. Art. 274, sen. 3 (part).)

[Sections 23.25-23.29 reserved for expansion]

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SUBCHAPTER D. DUTIES AND RIGHTS OF CREDITORS

§ 23.30. Creditor's Consent to Assignment

(a) A creditor must inform the assignee in writing of his consent to the assignment within four months after the assignee gives the notice required by Section 23.17 of this code.

(b) If a creditor is not given actual notice of an assignment, but subsequently learns of the assignment, he may consent to the assignment at any time before the first distribution of the assigned estate is begun.

(c) Receipt by a creditor of payment for part of his claim from the assignee is conclusive evidence of the creditor's consent to the assignment. (R.S. Art. 265, sen. 1, 3, 4.)

(d) If a creditor does not consent to an assignment, he is not entitled to receive any of the assigned estate under the assignment. (R.S. Art. 265, sen. 2.)

§ 23.31. Creditor's Proof and Assignee's Allowance of Claim

(a) Within six months after the first publication of notice of appointment required by Section 23.17 of this code, a consenting creditor must file with the assignee a statement, sworn to by the creditor, his agent, or attorney,

- (1) describing the nature and amount of the creditor's claim against the assigning debtor; and
- (2) stating that
 - (A) the claim is true;
 - (B) the debt is just; and
 - (C) all proper credits or offsets have been allowed against the claim.

(b) The assignee shall allow a claim filed under Subsection (a) of this section against the assigned estate unless he has good reason to believe the claim is not just and true.

(c) If a creditor does not file a statement in the time required by Subsection (a) of this section, he is not entitled to receive any of the assigned estate. (R.S. Art. 269, sen. 1, 2.)

§ 23.32. Creditor's Suit on Disputed Claim

(a) The assignee shall give any creditor a copy of any statement of claim filed under Section 23.31(a) of this code if the creditor requests a copy. (R.S. Art. 269, sen. 4.)

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§ 23.33

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(b) Within eight months after the first publication of notice required by Section 23.17 of this code, an assigning debtor or creditor may sue to

- (1) set aside an allowance made on a claim by the assignee; and
- (2) restrain payment of the claim by the assignee. (R.S. Art. 269, sen. 3.)

§ 23.33. Nonconsenting Creditor's Right to Surplus

If a creditor does not consent to an assignment, he may garnishee the assignee for the excess of the assigned estate remaining in the assignee's possession after the assignee has paid

- (1) each consenting creditor the amount of his claim allowed under Section 23.31(b) of this code; and
- (2) the expense of carrying out the assignment. (R.S. Art. 271.)

CHAPTER 24. FRAUDULENT TRANSFERS

Section

- 24.01. Definition of Transfer.
- 24.02. Transfer to Defraud is Void.
- 24.03. Debtor's Transfer not for Value is Void.
- 24.04. Fraudulent Gift of Tangible Personal Property is Void.
- 24.05. Pretended Loan of Tangible Personal Property is Ineffective.

Section 24.01. Definition of Transfer

In this chapter, unless the context requires a different definition, "transfer" includes conveyance, gift, assignment, and charge. (R.S. Art. 3996 (part), amd. by 40th Legis., Ch. 30, Sec. 1.)

§ 24.02. Transfer to Defraud Is Void

(a) A transfer of real or personal property, a suit, a decree, judgment, or execution, or a bond or other writing is void with respect to a creditor, purchaser, or other interested person if the transfer, suit, decree, judgment, execution, or bond or other writing was intended to

- (1) delay or hinder any creditor, purchaser, or other interested person from obtaining that to which he is, or may become, entitled; or
- (2) defraud any creditor, purchaser, or other interested person of that to which he is, or may become, entitled.

(b) The title of a purchaser for value is not void under Subsection (a) of this section unless he purchased with notice of

- (1) the intent of his transferor to delay, hinder, or defraud; or
- (2) the fraud that voided the title of his transferor. (R.S. Art. 3996 (part), amd. by 40th Legis., Ch. 30, Sec. 1.)

§ 24.03. Debtor's Transfer Not for Value Is Void

(a) A transfer by a debtor is void with respect to an existing creditor of the debtor if the transfer is not made for fair consideration, unless, in addition to the property transferred, the debtor has at the time of transfer enough property in this state subject to execution to pay all of his existing debts.

(b) Subsection (a) of this section does not void a transfer with respect to a subsequent creditor of or purchaser from the debtor. (R.S. Art. 3997.)

§ 24.04. Fraudulent Gift of Tangible Personal Property Is Void

A gift of tangible personal property is void unless

- (1) the gift is evidenced by
 - (A) a deed that has been duly acknowledged or proved and recorded; or
 - (B) a will that has been duly probated; or
- (2) actual possession of the subject matter of the gift is in the donee or someone claiming under him. (R.S. Art. 3998.)

§ 24.05. Pretended Loan of Tangible Personal Property Is Ineffective

(a) With respect to a creditor of or purchaser from the possessor of tangible personal property, a pretended loan of tangible personal property is fraudulent, and the absolute title to the tangible personal property is in the possessor, if

- (1) the possessor, or someone claiming under him, has possessed the tangible personal property for two years; and
- (2) the lender of the tangible personal property has not, during those two years, made and pursued by law a demand for the tangible personal property.

(b) With respect to a creditor of or purchaser from the possessor of tangible personal property, a pretended reservation or limitation on the use of tangible personal property is fraudulent, and the absolute title to the tangible personal property is in the possessor, if the possessor, or someone claiming under him, has possessed the tangible personal property for two years.

(c) Neither Subsection (a) nor (b) of this section applies to a loan, or reservation or limitation on the use, of tangible personal property if the loan, reservation, or limitation is evidenced by a

- (1) duly probated will; or
- (2) duly acknowledged or proved and recorded deed or other writing. (R.S. Art. 3999.)

CHAPTER 25. PROPERTY UNDER LIEN

Section

- 25.01. Concealing Mortgaged Property Prohibited.
- 25.02. Fraudulently Disposing of Mortgaged Property Prohibited.
- 25.03. Criminal Penalties.

Section 25.01. Concealing Mortgaged Property Prohibited

A person who has given a security interest (see Section 1.201 (37) of this code) in writing to secure the purchase price of personal property, while the purchase price remains due in whole or part, may not

- (1) conceal the property;
- (2) wilfully refuse, after demand from the secured party (see Section 9.105(a) (9) of this code), to reveal the location of the property; or
- (3) absent himself from the county or otherwise conceal himself so that notice cannot be given him. (P.C. Art. 1557 (part), amd. by 41st Legis., Ch. 102, Sec. 1.)

§ 25.02. Fraudulently Disposing of Mortgaged Property Prohibited

(a) A person who has given a security interest in writing on personal property or a growing crop of farm produce may not, with intent to defraud the secured party,

- (1) remove the property or crop from the county in which the property or crop was located when the security interest attached;
- (2) sell the property or crop; or
- (3) otherwise dispose of the property or crop. (P.C. Art. 1558, sen. 1 (part), amd. by 41st Legis., 2nd C.S., Ch. 48, Sec. 1.)

(b) It is prima facie evidence of the intent to defraud specified in Subsection (a) of this section if the person giving the security interest on personal property or a growing crop of farm produce

- (1) removed, sold, or otherwise disposed of the property or crop; and
- (2) failed, when the debt secured by the security interest was due, to
 - (A) pay in whole or part the debt; or
 - (B) deliver possession of the property or crop when demanded by the secured party. (P.C. Art. 1558, sen. 2, amd. by 41st Legis., 2nd C.S., Ch. 48, Sec. 1.)

§ 25.03. Criminal Penalties

(a) A person who violates Section 25.01 of this code is guilty of a misdemeanor and upon conviction is punishable by imprisonment in the county jail for not more than 60 days or by a fine of not less than \$10 nor more than \$100 or by both. (P.C. Art. 1557 (part), amd. by 41st Legis., Ch. 102, Sec. 1.)

(b) A person who violates Section 25.02 of this code is guilty of a felony and upon conviction is punishable by imprisonment in the penitentiary for not less than two nor more than five years. (P.C. Art. 1558, sen. 1 (part), amd. by 41st Legis., 2nd C.S., Ch. 48, Sec. 1.)

CHAPTER 26. STATUTE OF FRAUDS

Section

26.01. Promise or Agreement Must be in Writing.

Section 26.01. Promise or Agreement Must be In Writing

(a) A promise or agreement described in Subsection (b) of this section is not enforceable unless the promise or agreement, or a memorandum of it, is

- (1) in writing; and
 - (2) signed by the person to be charged with the promise or agreement or by someone lawfully authorized to sign for him.
- (b) Subsection (a) of this section applies to
- (1) a promise by an executor or administrator to answer out of his own estate for any debt or damage due from his testator or intestate;
 - (2) a promise by one person to answer for the debt, default, or miscarriage of another person;
 - (3) an agreement made on consideration of marriage;
 - (4) a contract for the sale of real estate;
 - (5) a lease of real estate for a term longer than one year;
 - (6) an agreement which is not to be performed within one year from the date of making the agreement; and (R.S. Art. 3995.)
 - (7) a promise or agreement to pay a commission for the sale or purchase of
 - (A) an oil or gas mining lease;
 - (B) an oil or gas royalty;
 - (C) minerals; or
 - (D) a mineral interest. (46th Legis., p. 333, Ch. 1, Sec. 1.)

CHAPTER 27. FRAUD

Section

27.01. Fraud in Real Estate and Stock Transactions.

Section 27.01. Fraud In Real Estate and Stock Transactions

(a) Fraud in a transaction involving real estate or stock in a corporation or joint stock company consists of a

- (1) false representation of a past or existing material fact, when the false representation is
 - (A) made to a person for the purpose of inducing that person to enter into a contract; and
 - (B) relied on by that person in entering into that contract; or
- (2) false promise to do an act, when the false promise is
 - (A) material;
 - (B) made with the intention of not fulfilling it;
 - (C) made to a person for the purpose of inducing that person to enter into a contract; and
 - (D) relied on by that person in entering into that contract.

(b) A person who makes a false representation or false promise, and a person who benefits from that false representation or false promise, commit the fraud described in Subsection (a) of this section and are jointly and severally liable to the person defrauded for actual damages. The measure of actual damages is the difference between the value of the real estate or stock as represented or promised, and its actual value in the condition in which it is delivered at the time of the contract.

(c) A person who wilfully makes a false representation or false promise, and a person who knowingly benefits from a false representation or false promise, commit the fraud described in Subsection (a) of this section and are liable to the person defrauded for exemplary damages not to exceed twice the amount of the actual damages. (R.S. Art. 4004, sen. 1, 3, and 4.)

[Chapters 28–32 reserved for expansion]

TITLE 4. MISCELLANEOUS COMMERCIAL PROVISIONS

CHAPTER 33. FIDUCIARY SECURITY TRANSFERS

Section

- 33.01. Definitions.
- 33.02. Registration in the Name of a Fiduciary.
- 33.03. Assignment by a Fiduciary.
- 33.04. Requirement of Signature Guarantee.
- 33.05. Evidence of Appointment or Incumbency.
- 33.06. Adverse Claims.
- 33.07. Nonliability of Corporation and Transfer Agent.
- 33.08. Nonliability of Third Persons.
- 33.09. Territorial Application.
- 33.10. Tax Obligations.

Section 33.01. Definitions

In this chapter, unless the context requires a different definition,

- (1) "assignment" includes any written stock power, bond power, bill of sale, deed, declaration of trust, or other instrument of transfer;
- (2) "claim of beneficial interest" includes a claim of any interest by a decedent's legatee, distributee, heir or creditor, a beneficiary under a trust, a ward, a beneficial owner of a security registered in the name of a nominee, or a minor owner of a security registered in the name of a custodian, or a claim of any similar interest, whether the claim is asserted by the claimant, a fiduciary, or any other authorized person on his behalf, and includes a claim that the transfer would be in breach of fiduciary duties;
- (3) "corporation" means a private or public corporation, association, or trust issuing a security;
- (4) "fiduciary" means an executor, administrator, trustee, guardian, committee, conservator, curator, tutor, custodian, or nominee;
- (5) "person" includes an individual, a corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, two or more persons having a joint or common interest, or any other legal or commercial entity;
- (6) "security" includes any share of stock, bond, debenture, note, or other security issued by a corporation which is registered as to ownership on the books of the corporation;

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- (7) "transfer" means a change on the books of a corporation in the registered ownership of a security; and
- (8) "transfer agent" means a person employed or authorized by a corporation to transfer securities issued by the corporation. (56th Legis., Ch. 358, Sec. 1.)

§ 33.02. Registration In the Name of a Fiduciary

A corporation or transfer agent registering a security in the name of a person who is a fiduciary or who is described as a fiduciary is not bound to inquire into the existence, extent, or correct description of the fiduciary relationship; and thereafter the corporation and its transfer agent may assume without inquiry that the newly registered owner continues to be the fiduciary until the corporation or transfer agent receives written notice that the fiduciary is no longer acting as such with respect to the particular security. (56th Legis., Ch. 358, Sec. 2.)

§ 33.03. Assignment by a Fiduciary

Except as otherwise provided in this chapter, a corporation or transfer agent making a transfer of a security pursuant to an assignment by a fiduciary

- (1) may assume without inquiry that the assignment, even though to the fiduciary himself or to his nominee, is within his authority and capacity and is not in breach of his fiduciary duties;
- (2) may assume without inquiry that the fiduciary has complied with any controlling instrument and with the law of the jurisdiction governing the fiduciary relationship, including any law requiring the fiduciary to obtain court approval of the transfer; and
- (3) is not charged with notice of and is not bound to obtain or examine any court record or any recorded or unrecorded document relating to the fiduciary relationship or the assignment. (56th Legis., Ch. 358, Sec. 3.)

§ 33.04. Requirement of Signature Guarantee

For the transfer of a security to come within the terms of this chapter, the signature on the assignment of the security must be guaranteed by an officer of a bank which is a member of the Federal Reserve System or an officer of a state bank as defined in Texas Banking Code, Article 2, Chapter 1. (56th Legis., Ch. 358, Sec. 3a, amd. by 58th Legis., Ch. 37, Sec. 1.)

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§ 33.05. Evidence of Appointment or Incumbency

(a) A corporation or transfer agent making a transfer pursuant to an assignment by a fiduciary who is not the registered owner shall obtain the following evidence of appointment or incumbency:

- (1) in case of a fiduciary appointed or qualified by a court, a certificate issued by that court or an officer thereof and dated within 60 days before the transfer; or
- (2) in any other case, a copy of a document showing the appointment or a certificate issued by or on behalf of a person reasonably believed by the corporation or transfer agent to be responsible or, in the absence of such a document or certificate, other evidence reasonably deemed by the corporation or transfer agent to be appropriate.

(b) Corporations and transfer agents may adopt standards with respect to evidence of appointment or incumbency under Subsection (a) (2) of this section if the standards are not manifestly unreasonable.

(c) Neither the corporation nor transfer agent is charged with notice of the contents of any document obtained pursuant to Subsection (a) (2) of this section except to the extent that the contents relate directly to the appointment or incumbency. (56th Legis., Ch. 358, Sec. 4.)

§ 33.06. Adverse Claims

(a) A person asserting a claim of beneficial interest adverse to the transfer of a security pursuant to an assignment by a fiduciary may give the corporation or transfer agent written notice of the claim. The corporation or transfer agent is not put on notice unless the written notice identifies the claimant, the registered owner, and the issue of which the security is a part, provides an address for communications directed to the claimant, and is received before the transfer. Nothing in this chapter relieves the corporation or transfer agent of any liability for making or refusing to make the transfer after it is so put on notice, unless it proceeds in the manner authorized in Subsection (b) of this section.

(b) As soon as practicable after the presentation of a security for transfer pursuant to an assignment by a fiduciary, a corporation or transfer agent which has received notice of a claim of beneficial interest adverse to the transfer may send notice of the presentation by registered or certified mail to the claimant at the address given by him. If the corporation or transfer agent so mails this notice, it shall withhold the transfer for 30 days after the mailing and shall then make the transfer unless restrained by court order. (56th Legis., Ch. 358, Sec. 5.)

§ 33.07. **Nonliability of Corporation and Transfer Agent**

A corporation or transfer agent incurs no liability to any person by making a transfer or otherwise acting in a manner authorized by this chapter. (56th Legis., Ch. 358, Sec. 6.)

§ 33.08. **Nonliability of Third Persons**

(a) No person who participates in the acquisition, disposition, assignment, or transfer of a security by or to a fiduciary (including a person who guarantees the signature of the fiduciary) is liable for participation in a breach of fiduciary duty by reason of failure to inquire whether the transaction involves such a breach unless it is shown that

- (1) he acted with actual knowledge that the proceeds of the transaction were being or were to be used wrongfully for the individual benefit of the fiduciary; or
- (2) the transaction was otherwise in breach of duty.

(b) If a corporation or transfer agent makes a transfer pursuant to an assignment by a fiduciary, a person who guaranteed the signature of the fiduciary is not liable on the guarantee to any person to whom the corporation or transfer agent by reason of this chapter incurs no liability.

(c) This section does not impose any liability on the corporation or its transfer agent. (56th Legis., Ch. 358, Sec. 7.)

§ 33.09. **Territorial Application**

(a) The rights and duties of a corporation and its transfer agents in registering a security in the name of a fiduciary or in making a transfer of a security pursuant to an assignment by a fiduciary are governed by the law of the jurisdiction under whose laws the corporation is organized.

- (b) This chapter applies to the rights and duties of a person
- (1) other than the corporation and its transfer agents with regard to acts and omissions in this state in connection with the acquisition, disposition, assignment, or transfer of a security by or to a fiduciary; and
 - (2) who guarantees in this state the signature of a fiduciary in connection with such a transaction. (56th Legis., Ch. 358, Sec. 8.)

§ 33.10. **Tax Obligations**

This chapter does not affect any obligation of a corporation or transfer agent with respect to estate, inheritance, succession, or other taxes imposed by the laws of this state. (56th Legis., Ch. 358, Sec. 9.)

CHAPTER 34. PRINCIPAL AND SURETY

Section

- 34.01. Definition of Surety.
- 34.02. Surety May Require Suit on Accrued Right of Action.
- 34.03. Levy First on Principal's Property.
- 34.04. Subrogation Rights of Surety.
- 34.05. Officer Compelled to Pay on Judgment Treated as Surety.

Section 34.01. Definition of Surety

In this chapter, unless the context requires a different definition, "surety" includes endorser, guarantor, drawer of a draft which has been accepted, and every other form of suretyship, whether created by express contract or by operation of law. (R.S. Art. 6252.)

§ 34.02. Surety May Require Suit on Accrued Right of Action

(a) When a right of action has accrued on a contract for the payment of money or performance of an act, a surety on the contract may require by written notice that the obligee forthwith sue on the contract. (R.S. Art. 6244.)

(b) A surety who gives notice to an obligee under Subsection (a) of this section is discharged from all liability on the contract if the obligee

- (1) is not under legal disability; and either
- (2) fails to sue on the contract during the first term of court after receiving the notice, or during the second term showing good cause for the delay; or
- (3) fails to prosecute the suit to judgment and execution. (R.S. Art. 6245.)

§ 34.03. Levy First on Principal's Property

(a) If a judgment granted against two or more defendants finds a suretyship relation between or among them, the court shall order the sheriff to levy the execution

- (1) first, against the principal's property which is located in the county where the judgment was granted;
- (2) second, if the sheriff cannot find enough of the principal's property in the county to satisfy the execution, against so much of the principal's property as he finds; and
- (3) third, against so much of the surety's property as is necessary to make up the balance of the amount shown in the writ of execution.

(b) The clerk shall note the order to the sheriff on the writ of execution. (R.S. Art. 6247.)

§ 34.04. Subrogation Rights of Surety

(a) A judgment is not discharged by a surety's payment of it in whole or part if the payment is compelled or, if voluntarily made, is applied to the judgment because of the suretyship relation. (R.S. Art. 6248 (part).)

(b) A surety who pays on a judgment as described in Subsection (a) of this section is subrogated to all of the judgment creditor's rights under the judgment. A subrogated surety is entitled

- (1) to execution on the judgment against the principal's property for the amount of his payment, plus interest and costs; and (R.S. Art. 6248 (part).)
- (2) if there is more than one surety, to execution on the judgment against both the principal's property and the property of his cosurety or cosureties for the amount his payment exceeded his proportionate share of the judgment, plus interest and costs. (R.S. Art. 6249.)

(c) A subrogated surety seeking execution under Subsection (b) of this section shall apply for it to the clerk or court, and execution shall be levied, collected, and returned as in other cases. (R.S. Art. 6248 (part).)

§ 34.05. Officer Compelled to Pay on Judgment Treated As Surety

(a) An officer has the rights of a surety provided in Section 34.04 of this code if compelled to pay a judgment in whole or part because of his default.

(b) An officer who fails to pay over money collected, or who wastes property levied on by him or in his possession, does not have the rights of a surety provided in Section 34.04 of this code. (R.S. Art. 6250.)

CHAPTER 35. MISCELLANEOUS

SUBCHAPTER A. RECORDATION OF UTILITY SECURITY INSTRUMENTS

Section

- 35.01. Definitions.
- 35.02. Notice of Lien on Existing Property.
- 35.03. Notice of Lien on Property Acquired After Execution of Security Instrument.
- 35.04. Duration of Notice.
- 35.05. Renewal of Notice by Continuation Statement.
- 35.06. Notice of Name Change.
- 35.07. Separate Index of Security Instruments and Continuation Statements.
- 35.08. Prior Perfected Liens; Cumulative Effect of Subchapter.

[Sections 35.09–35.13 reserved for expansion]

SUBCHAPTER B. DUTIES OF RAILROAD COMMISSION AND CRIMINAL OFFENSES INVOLVING BILLS OF LADING

- 35.14. Definitions.
- 35.15. Duties of Railroad Commission.
- 35.16. Agent Wrongfully Failing to Issue Bill of Lading.
- 35.17. Agent Issuing Fraudulent Bill of Lading.
- 35.18. Agent Issuing Duplicate Order Bill of Lading.
- 35.19. Forging Name on Bill of Lading.
- 35.20. Inducing Issuance of Fraudulent Bill of Lading.
- 35.21. Negotiating Fraudulent Bill of Lading.

[Sections 35.22–35.26 reserved for expansion]

SUBCHAPTER C. CRIMINAL OFFENSES INVOLVING WAREHOUSE RECEIPTS

- 35.27. Definitions.
- 35.28. Warehouseman Issuing Fraudulent Warehouse Receipt.
- 35.29. Warehouseman Failing to State his Ownership of Goods on Receipt.
- 35.30. Warehouseman Issuing Warehouse Receipt Without Goods.
- 35.31. Warehouseman Issuing Duplicate Warehouse Receipt.
- 35.32. Warehouseman Wrongfully Delivering Goods.
- 35.33. Failing to Disclose Ownership of Goods.

[Sections 35.34–35.38 reserved for expansion]

SUBCHAPTER D. MISCELLANEOUS

- 35.39. Damages on Protested, Out-Of-State Draft.
- 35.40. Identification of Patent Right Note or Lien.

SUBCHAPTER A. RECORDATION OF UTILITY SECURITY INSTRUMENTS

Section 35.01. Definitions

(a) In Sections 35.02–35.08 of this code, unless the context requires a different definition,

- (1) “security instrument” means a mortgage, deed of trust, security agreement, or other instrument executed to secure the payment of a bond, note, or other obligation of a utility; and
- (2) “utility” means a person engaged in this state in the
 - (A) generation, transmission, or distribution and sale of electric power;
 - (B) transportation, distribution and sale through a local distribution system of natural or other gas for domestic, commercial, industrial, or other use;
 - (C) ownership or operation of a pipeline for the transportation or sale of natural gas, crude oil, or petroleum products to other pipeline companies, refineries, local distributing systems, municipalities, or industrial consumers;
 - (D) provision of telephone or telegraph service to others;
 - (E) production, transmission, or distribution and sale of steam or water; or
 - (F) operation of a railroad. (52nd Legis., Ch. 195, Sec. 1, amd. by 59th Legis., Ch. 721, Sec. 10—104(4).)

(b) The definitions in Section 1.201 of this code also apply to Sections 35.01–35.08 of this code. (No source citation.)

§ 35.02. Notice of Lien on Existing Property

Payment of the statutory recording fees and deposit for record in the office of the county clerk of a security instrument executed by a utility constitutes notice to third parties of the lien granted by the security instrument on property

- (1) owned by the utility when the security instrument was executed;
- (2) located in the county; and
- (3) described in the security instrument. (52nd Legis., Ch. 195, Sec. 2, sen. 1, amd. by 59th Legis., Ch. 721, Sec. 10—104(4).)

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§ 35.03. Notice of Lien on Property Acquired After Execution of Security Instrument

Deposit for record in the office of the county clerk of a security instrument executed by a utility which grants a lien on property to be acquired by the utility after execution of the security instrument constitutes notice of the lien granted by the security instrument on property located in the county and acquired by the utility after execution of the security instrument if it

- (1) states conspicuously on its title page: "This Instrument Contains After-acquired Property Provisions"; and
- (2) contains an affidavit of the president, vice president, treasurer, or secretary of the utility that executed it that it was executed by a utility. (52nd Legis., Ch. 195, Sec. 3, amd. by 59th Legis., Ch. 721, Sec. 10—104(4).)

§ 35.04. Duration of Notice

A security instrument deposited for record under Section 35.02 or 35.03 of this code is effective as notice of the lien it grants for 10 years from the date of deposit for record if the security instrument grants a lien on

- (1) goods which are fixtures or are to become fixtures; or
- (2) personal property (see Section 9.102(a) of this code). (52nd Legis., Ch. 195, Sec. 5, sen. 1, amd. by 59th Legis., Ch. 721, Sec. 10—104(4).)

§ 35.05. Renewal of Notice by Continuation Statement

(a) Within six months prior to the date of expiration of effective notice, a utility or holder of a security instrument granted by a utility may continue the notice by depositing for record in the office of the county clerk a continuation statement

- (1) signed by the utility or holder of the security instrument granted by the utility;
- (2) identifying by file number or recording data the security instrument and any supplement to it; and
- (3) stating that the security instrument, as supplemented, is still effective.

(b) Deposit for record of a continuation statement with the county clerk in accordance with Subsection (a) of this section continues the effectiveness of the security instrument as notice of the lien on property located in the county for an additional 10 years after the date on which the initial recordation or last continuation expired.

BUSINESS AND COMMERCE CODE

§ 35.08

For Annotations and Historical Notes, see V.A.T.S.

(52nd Legis., Ch. 195, Sec. 5, sen. 2, 3, 4, amd. by 59th Legis., Ch. 721, Sec. 10—104(4).)

(c) The effectiveness of a security instrument as notice of a lien may be continued for additional 10-year periods by complying with Subsection (a) of this section. (No source citation.)

§ 35.06. Notice of Name Change

(a) A utility which changes its name or merges or consolidates with another person after the deposit for record of a security instrument executed by it shall promptly deposit for record in the office of the county clerk in each county where it owns property evidence of the name change, merger, or consolidation. The utility shall include in the evidence the name of the utility after the name change, merger, or consolidation.

(b) Until the evidence is prepared and deposited as required by Subsection (a) of this section, a security instrument deposited for record before the name change, merger, or consolidation does not constitute notice as to property acquired by the successor to the utility which executed the security instrument. (52nd Legis., Ch. 195, Sec. 4, amd. by 59th Legis., Ch. 721, Sec. 10—104(4).)

§ 35.07. Separate Index of Security Instruments and Continuation Statements

The county clerk shall maintain a separate index of security instruments and continuation statements recorded under Sections 35.02, 35.03, and 35.05 of this code. (52nd Legis., Ch. 195, Sec. 2, sen. 2, amd. by 59th Legis., Ch. 721, Sec. 10—104(4).)

§ 35.08. Prior Perfected Liens; Cumulative Effect of Subchapter

(a) A lien perfected prior to July 1, 1967, by complying with Chapter 195, Acts of the 52nd Legislature, 1951, remains perfected until July 1, 1977, without depositing for record the continuation statement described in Section 35.05 of this code if the lien is on

- (1) goods which are fixtures or are to become fixtures; or
- (2) personal property.

(b) Sections 35.01—35.08 of this code are cumulative of other laws concerning executing, filing, and recording security instruments. (52nd Legis., Ch. 195, Sec. 5, sen. 5, 6, and Sec. 6, amd. by 59th Legis., Ch. 721, Sec. 10—104(4).)

[Sections 35.09—35.13 reserved for expansion]

§ 35.14 BUSINESS AND COMMERCE CODE

**SUBCHAPTER B. DUTIES OF RAILROAD COMMISSION AND
CRIMINAL OFFENSES INVOLVING BILLS OF LADING**

§ 35.14. Definitions

In Sections 35.15–35.21 of this code, unless the context requires a different definition,

- (1) “agent” includes officer, employee, and receiver;
- (2) “airbill” means a document serving for air transportation as a bill of lading does for marine or rail transportation, and includes an air consignment note or air waybill;
- (3) “bill of lading” means a document evidencing the receipt of goods for shipment issued by a person engaged in the business of transporting or forwarding goods, and includes an airbill;
- (4) “common carrier” in Sections 35.15–35.17 of this code does not include a pipeline company or express company; and
- (5) “goods” means all things which are treated as movable for the purposes of a contract of storage or transportation. (No source citation.)

§ 35.15. Duties of Railroad Commission

(a) The railroad commission shall

- (1) prescribe forms, terms, and conditions for authenticating, certifying, or validating bills of lading issued by a common carrier;
- (2) regulate the manner of issuing bills of lading by a common carrier; and
- (3) take other action necessary to carry out the purposes of Chapter 7 of this code.

(b) After giving reasonable notice to interested common carriers and to the public, the railroad commission may amend a rule promulgated under Subsection (a) of this section. (R.S. Art. 899.)

§ 35.16. Agent Wrongfully Failing to Issue Bill of Lading

(a) An agent of a common carrier may not after lawful demand fail or refuse to issue a bill of lading in accordance with Chapter 7 of this code or a rule of the railroad commission.

(b) An agent who violates a provision of Subsection (a) of this section is guilty of a misdemeanor and upon conviction is punishable by imprisonment in the county jail for not more than six months or by a fine of not more than \$200 or by both. (P.C. Art. 1678.)

§ 35.17. **Agent Issuing Fraudulent Bill of Lading**

(a) An agent of a common carrier may not with intent to defraud a person

- (1) issue a bill of lading;
- (2) misdescribe in a bill of lading goods or their quantity described in the bill of lading; or
- (3) issue a bill of lading without authority.

(b) An agent who violates a provision of Subsection (a) of this section is guilty of a felony and upon conviction is punishable by imprisonment in the penitentiary for not less than 2 nor more than 10 years. (P.C. Art. 1679.)

§ 35.18. **Agent Issuing Duplicate Order Bill of Lading**

(a) Except where customary in overseas transportation, an agent of a common carrier may not knowingly issue or aid in issuing an order bill of lading in duplicate or in a set of parts.

(b) An agent who violates a provision of Subsection (a) of this section is guilty of a felony and upon conviction is punishable by imprisonment in the penitentiary for not more than five years and by a fine of not more than \$5,000. (P.C. Art. 1681.)

§ 35.19. **Forging Name on Bill of Lading**

(a) A person may not with intent to defraud

- (1) forge the name of a common carrier's agent on a bill of lading;
- (2) forge the name of a person to a certificate attached to a bill of lading issued by a common carrier; or
- (3) utter or attempt to utter a forged bill or certificate.

(b) A person who violates a provision of Subsection (a) of this section is guilty of a felony and upon conviction is punishable by imprisonment in the penitentiary for not less than 5 nor more than 15 years. (P.C. Art. 1680.)

§ 35.20. **Inducing Issuance of Fraudulent Bill of Lading**

(a) A person may not with intent to defraud induce an agent of a common carrier to

- (1) issue to him a bill of lading; or
- (2) materially misrepresent in a bill of lading issued on behalf of the common carrier the quantity of goods described in the bill of lading.

(b) A person who violates a provision of Subsection (a) of this section is guilty of a felony and upon conviction is punishable by im-

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prisonment in the penitentiary for not less than two nor more than five years. (P.C. Art. 1683.)

§ 35.21. Negotiating Fraudulent Bill of Lading

(a) A person may not with intent to defraud negotiate or transfer a bill of lading

- (1) issued in violation of Chapter 7 of this code; or
- (2) containing a false, material statement of fact.

(b) A person who violates a provision of Subsection (a) of this section is guilty of a felony and upon conviction is punishable by imprisonment in the penitentiary for not more than 10 years. (P.C. Art. 1682.)

[Sections 35.22–35.26 reserved for expansion]

**SUBCHAPTER C. CRIMINAL OFFENSES INVOLVING
WAREHOUSE RECEIPTS**

§ 35.27. Definitions

In Sections 35.28–35.33 of this code, unless the context requires a different definition,

- (1) “goods” means all things which are treated as movable for the purposes of a contract of storage or transportation;
- (2) “issue” includes aiding in the issue of;
- (3) “warehouseman” means a person engaged in the business of storing goods for hire; and
- (4) “warehouse receipt” means a receipt issued by a person engaged in the business of storing goods for hire. (No source citation.)

§ 35.28. Warehouseman Issuing Fraudulent Warehouse Receipt

(a) A warehouseman, his officer, agent, or employee, may not with intent to defraud issue a warehouse receipt which contains a false statement of fact.

(b) A warehouseman, his officer, agent, or employee, who violates Subsection (a) of this section is guilty of a misdemeanor and upon conviction is punishable by imprisonment in the county jail for not more than one year or by a fine of not more than \$1,000 or by both. (P.C. Art. 1019.)

§ 35.29. Warehouseman Failing to State His Ownership of Goods on Receipt

(a) A warehouseman, his officer, agent, or employee, may not knowingly issue a negotiable warehouse receipt describing goods the warehouseman owns and is storing (whether the warehouseman owns them solely, jointly, or in common) unless he states the warehouseman's ownership on the receipt.

(b) A warehouseman, his officer, agent, or employee, who violates Subsection (a) of this section is guilty of a misdemeanor and upon conviction is punishable by imprisonment in the county jail for not more than one year or by a fine of not more than \$1,000. (P.C. Art. 1022.)

§ 35.30. Warehouseman Issuing Warehouse Receipt Without Goods

(a) A warehouseman, his officer, agent, or employee, may not issue a warehouse receipt if he knows at the time of issuance that the goods described in the warehouse receipt are not under his actual control.

(b) A warehouseman, his officer, agent, or employee, who violates Subsection (a) of this section is guilty of a felony and upon conviction is punishable by imprisonment in the penitentiary for not more than five years or by a fine of not more than \$5,000 or by both. (P.C. Art. 1018.)

§ 35.31. Warehouseman Issuing Duplicate Warehouse Receipt

(a) A warehouseman, his officer, agent, or employee, may not issue a duplicate or additional negotiable warehouse receipt for goods if he knows at the time of issuance that a previously issued negotiable warehouse receipt describing those goods is outstanding and uncanceled.

(b) Subsection (a) of this section does not apply if

(1) the word "Duplicate" is plainly placed on the duplicate or additional negotiable warehouse receipt; or (P.C. Art. 1020 (part).)

(2) goods described in the outstanding and uncanceled negotiable warehouse receipt were delivered pursuant to court order on proof that the receipt was lost or destroyed. (P.C. Art. 1021.)

(c) A warehouseman, his officer, agent, or employee, who violates Subsection (a) of this section is guilty of a felony and upon conviction is punishable by imprisonment in the penitentiary for not more

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than five years or by a fine of not more than \$5,000 or by both. (P.C. Art. 1020 (part).)

§ 35.32. Warehouseman Wrongfully Delivering Goods

(a) A warehouseman, his officer, agent, or employee, may not knowingly deliver goods described in a negotiable warehouse receipt and stored with him unless the receipt is surrendered to him at or before the time he delivers the goods. (P.C. Art. 1023 (part).)

(b) Subsection (a) of this section does not apply if the goods are

- (1) delivered pursuant to court order on proof that the negotiable warehouse receipt describing them was lost or destroyed;
- (2) lawfully sold to satisfy a warehouseman's lien; or
- (3) disposed of because of their perishable or hazardous nature. (P.C. Art. 1024.)

(c) A warehouseman, his officer, agent, or employee, who violates Subsection (a) of this section is guilty of a misdemeanor and upon conviction is punishable by imprisonment in the county jail for not more than one year or by a fine of not more than \$1,000 or by both. (P.C. Art. 1023 (part).)

§ 35.33. Failing to Disclose Ownership of Goods

(a) A person who obtains a negotiable warehouse receipt describing goods he does not own, or goods subject to a lien, may not with intent to defraud negotiate the receipt for value without disclosing his lack of ownership or the lien's existence.

(b) A person who violates a provision of Subsection (a) of this section is guilty of a misdemeanor and upon conviction is punishable by imprisonment in the county jail for not more than one year or by a fine of not more than \$1,000 or by both. (P.C. Art. 1025.)

[Sections 35.34–35.38 reserved for expansion]

SUBCHAPTER D. MISCELLANEOUS

§ 35.39. Damages on Protested, Out-of-State Draft

The holder of a protested draft is entitled to damages equalling 10 percent of the amount of the draft, plus interest and costs of suit, if the

- (1) draft was drawn by a merchant in this state on his agent or factor outside this state; and
- (2) drawer's or indorser's liability on the draft has been fixed. (R.S. Art. 577.)

BUSINESS AND COMMERCE CODE **§ 35.40**
For Annotations and Historical Notes, see V.A.T.S.

§ 35.40. Identification of Patent Right Note or Lien

(a) A note or lien evidencing or securing the purchase price for a patent right or patent right territory must contain on its face a statement that it was given for a patent right or patent right territory.

(b) The statement required by Subsection (a) of this section

(1) is notice to a subsequent purchaser of the note or lien of all equities between the original parties to the note or lien; and

(2) subjects a subsequent holder of the note or lien to all defenses available against the original parties to the note or lien. (R. S. Art. 578.)

(c) A person selling a patent right or patent right territory may not take a note or lien evidencing or securing the purchase price for it without placing on the face of the note or lien the statement required by Subsection (a) of this section.

(d) A person who violates Subsection (c) of this section is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$25 nor more than \$200. (P.C. Art. 1130.)

Sec. 2. PURPOSE OF CODE. (a) The Business & Commerce Code is a formal, as distinguished from substantive, revision and codification of the statutes of a commercial nature which the code disposes of. The code reorganizes these statutes into a more logical arrangement with a uniform format designed to make the statutes more accessible and to facilitate simple citation and future expansion. Repealed, duplicative, unconstitutional, expired, and other ineffective provisions are eliminated and the statutes are restated in modern American English to the greatest extent possible.

(b) The code is not intended to change the legislative purpose expressed by any statute it disposes of and carefully preserves in each restatement of a statute the statute's meaning.

Sec. 3. EFFECTIVE DATE. This Act takes effect on September 1, 1967.

Sec. 4. REPEALER. (a) The following articles of the Revised Civil Statutes of Texas, 1925, are repealed: 261 through 274; 577 and 578; 843, as amended by Section 18, Chapter 24, Acts of the 57th Legislature, 3rd Called Session, 1962; 899; 3995; 3996, as amended by Section 1, Chapter 30, Acts of the 40th Legislature, Regular Session, 1927; 3997 through 3999; 4004; 6244 and 6245; 6247 through 6250; 6252; 7426 and 7427; 7428, as amended by Section 1, Chapter 310, Acts of the 50th Legislature, 1947; 7428-1 through 7436; and 7436a through 7447.

(b) The following articles of the Penal Code of Texas, 1925, are repealed: 150 and 151; 1018 through 1025; 1058, as amended by Sec-

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tion 17, Chapter 24, Acts of the 57th Legislature, 3rd Called Session, 1962; 1059 and 1060; 1063, 1064, and 1065, as amended by Sections 1, 2, and 3, respectively, Chapter 218, Acts of the 45th Legislature, Regular Session, 1937; 1113 through 1115; 1130; 1554; 1557, as amended by Section 1, Chapter 102, Acts of the 41st Legislature, Regular Session, 1929; 1558, as amended by Section 1, Chapter 48, Acts of the 41st Legislature, 2nd Called Session, 1929; 1632 and 1633; 1634, as amended by Section 1, Chapter 309, Acts of the 50th Legislature, 1947; 1635 through 1643; 1644, as amended by Section 2, Chapter 309, Acts of the 50th Legislature, 1947; and 1674 through 1683.

(c) The following Acts are repealed: Chapter 44, Acts of the 42nd Legislature, 1st Called Session, 1931 (Article 7439a, Vernon's Texas Civil Statutes); Chapter 226, General Laws, Acts of the 43rd Legislature, Regular Session, 1933 (Article 1066a, Vernon's Texas Penal Code); Chapter 53, General Laws, Acts of the 43rd Legislature, 1st Called Session, 1933 (Article 7438a, Vernon's Texas Civil Statutes); Chapter 44, General Laws, Acts of the 44th Legislature, Regular Session, 1935 (Article 7428a, Vernon's Texas Civil Statutes); Chapter 1, page 333, General Laws, Acts of the 46th Legislature, Regular Session, 1939 (Article 3995a, Vernon's Texas Civil Statutes); Chapter 314, Acts of the 47th Legislature, Regular Session, 1941 (Articles 1137L through 1137L-7, Vernon's Texas Penal Code); Chapter 195, Acts of the 52nd Legislature, 1951, as amended by Section 10-104(4), Chapter 721, Acts of the 59th Legislature, Regular Session, 1965 (Article 1438a, Vernon's Texas Civil Statutes); Chapter 494, Acts of the 52nd Legislature, 1951 (Article 7428-2, Vernon's Texas Civil Statutes); Chapter 350, Acts of the 54th Legislature, 1955 (Article 157a, Vernon's Texas Penal Code); Section 2, Chapter 107, Acts of the 54th Legislature, 1955, as amended by Chapter 453, Acts of the 54th Legislature, 1955 (Article 527a, Vernon's Texas Penal Code); Chapter 479, Acts of the 55th Legislature, Regular Session, 1957 (Article 7436a, Vernon's Texas Civil Statutes); Chapter 234, Acts of the 56th Legislature, Regular Session, 1959 (Article 1554a, Vernon's Texas Penal Code); Chapter 358, Acts of the 56th Legislature, Regular Session, 1959, as amended by Section 1, Chapter 37, Acts of the 58th Legislature, 1963 (Article 582-1 Vernon's Texas Civil Statutes); Chapter 24, Acts of the 57th Legislature, 3rd Called Session, 1962 (Article 851-C, Vernon's Texas Civil Statutes); and Chapter 721, Acts of the 59th Legislature, Regular Session, 1965 (Uniform Commercial Code).

Sec. 5. SAVING PROVISIONS. (a) The repeal of a statute by this Act does not affect

- (1) the prior operation of the statute or any prior action taken under it;
- (2) any validation, cure, right, privilege, obligation, or liability previously acquired, accrued, accorded, or incurred under it;

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For Annotations and Historical Notes, see V.A.T.S.

- (3) any violation of the statute, or any penalty, forfeiture, or punishment incurred in respect to it, prior to the amendment or repeal; or
- (4) any investigation, proceeding, or remedy in respect to any privilege, obligation, liability, penalty, forfeiture, or punishment; and the investigation, proceeding, or remedy may be instituted, continued, or enforced, and the penalty, forfeiture, or punishment imposed, as if the statute had not been repealed or amended.

(b) The repeal of a statute by this Act does not affect an amendment, revision, or reenactment of the statute by the 60th Legislature. The amendment, revision, or reenactment is preserved and given effect as part of the code provision which revised the statute so amended, revised, or reenacted.

(c) If any provision of the Business & Commerce Code conflicts with an Act enacted by the 60th Legislature, the Act controls.

Sec. 6. **EMERGENCY.** The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each house be suspended, and this Rule is hereby suspended.

Passed by the House on May 1, 1967, by a non-record vote; and the House concurred in Senate amendments on May 25, 1967, by a non-record vote; passed by the Senate, as amended, on May 24, 1967, by a viva-voce vote.

Approved June 14, 1967.

Effective September 1, 1967.

*

DISPOSITION TABLE 1

Former Texas Statutes and Uniform Laws to Business and Commerce Code (Title 1)

Where there are no relevant sections in the Texas Business and Commerce Code, that fact is noted by the use of the abbreviation "N" for "None"
The letter "S" before a section of the Business and Commerce Code means "Sec.". The abbreviation "Cf." before a section means "Compare."

ACCOUNTS RECEIVABLE

Vernon's Civ.Stats. Article	Prior Uniform Act Sec.	Texas Bus. & C. Sec.	Vernon's Civ.Stats. Article	Prior Uniform Act Sec.	Texas Bus. & C. Sec.
260-1, § 1	N.	1.201(11) 0.105(1) (d) 0.106 0.806(5)	260-1, § 5	N.	0.408 0.404 0.201 0.302 0.306 0.318 0.306 0.318 0.205 0.306
§ 2	N.	0.204 0.302 S. 0.405	§ 6	N.	
§ 3	N.	0.203 0.302 0.402	§ 7	N.	
§ 4	N.	0.303 0.401 0.403 0.407	§ 8	N.	

COLLECTIONS

Vernon's Civ.Stats. Article	Prior Uniform Act Sec.	Texas Bus. & C. Sec.	Vernon's Civ.Stats. Article	Prior Uniform Act Sec.	Texas Bus. & C. Sec.
342-701	N.	1.201(4) 4.104 4.105 4.201 4.103 4.201 4.202	342-704	N.	4.801
342-702	N.		342-705	N.	4.218
342-703	N.		342-706	N.	4.214
			342-711	N.	4.406
			342-712	N.	4.803 4.403

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BILLS AND NOTES

Vernon's Civ.Stats. Article	Prior Uniform Act Sec.	Texas Bus. & C. Sec.	Vernon's Civ.Stats. Article	Prior Uniform Act Sec.	Texas Bus. & C. Sec.
567	N.	3.413	571	N.	S. 3.122
568	N.	3.122			S. 3.202
		3.201			S. 3.308
		3.802	575	N.	3.501
		3.305			3.502
		3.409			3.509
569	N.	1.103	576	N.	3.509
		3.409			3.510
570	N.	3.122			
		3.304			
		3.409			

BILLS OF LADING

Vernon's Civ.Stats. Article	Prior Uniform Act Sec.	Texas Bus. & C. Sec.	Vernon's Civ.Stats. Article	Prior Uniform Act Sec.	Texas Bus. & C. Sec.
800	N.	S. 7.102	803	N.	S. 7.104
		S. 7.301	804	N.	N.
801	N.	7.104	805	N.	7.304
		7.309			7.403
802	N.	1.201(6)	806	N.	7.403
		7.104	807	N.	7.601
		7.304	808	N.	7.308
		7.402			7.403

STOCK TRANSFERS

Vernon's Civ.Stats. Article	U.S.T.A.1 Sec.	Texas Bus. & C. Sec.	Vernon's Civ.Stats. Article	U.S.T.A.1 Sec.	Texas Bus. & C. Sec.
1302-6.02	1	8.309	1302-6.17	16	8.206
1302-6.03	2	N.	1302-6.18	17	8.405
1302-6.04	3	8.207	1302-6.19	18	1.103
1302-6.05	4	N.	1302-6.20	19	1.102(1)
1302-6.06	5	N.	1302-6.21	20	8.308
1302-6.07	6	N.	1302-6.22	21	N.
1302-6.08	7	8.301	1302-6.23	N.	N.
		8.315	1302-6.24	22	1.201(19)
1302-6.09	8	S. 8.308(5)			1.201(28)
1302-6.10	9	8.307			1.201(30)
1302-6.11	10	8.309			1.201(32)
1302-6.12	11	8.306			1.201(33)
1302-6.13	12	8.306			1.201(44)
1302-6.14	13	8.317			8.313
1302-6.15	14	8.317	1802-6.01	26	S. 8.101
1302-6.16	15	8.108			
		8.204			

1. Uniform Stock Transfer Act.

DISPOSITION TABLE 1

FRAUDULENT CONVEYANCES

Vernon's Civ.Stats. Article	Prior Uniform Act Sec.	Texas Bus. & C. Sec.	Vernon's Civ.Stats. Article	Prior Uniform Act Sec.	Texas Bus. & C. Sec.
4000	N.	0.201	4001	N.	0.105
		0.202			0.100
4001	N.	0.102	4002	N.	0.104
		0.103			0.100
		0.104	4003	N.	0.103

CHATTEL MORTGAGES

Vernon's Civ.Stats. Article	Prior Uniform Act Sec.	Texas Bus. & C. Sec.	Vernon's Civ.Stats. Article	Prior Uniform Act Sec.	Texas Bus. & C. Sec.
5480	N.	0.204	5495	N.	0.404
5490	N.	0.201	5496	N.	N.
		0.301	5497	N.	0.401
		0.302	5497a	N.	S. 0.301
		0.401			S. 0.312
		0.403	5498	N.	S. 0.401
5492	N.	0.403(4)			S. 0.403
5493	N.	N.	5499	N.	N.
5494	N.	0.403(4)	5499a	N.	N.

TRUST RECEIPTS

Vernon's Civ.Stats. Article	U.T.R.A.1 Sec.	Texas Bus. & C. Sec.	Vernon's Civ.Stats. Article	U.T.R.A.1 Sec.	Texas Bus. & C. Sec.
5499a-51, § 1	1	1.201(0)	5499a-51, § 8	8	0.301(1)
		1.201(15)			0.302
		1.201(28)			0.311
		1.201(30)	§ 8(1)	8(1)	0.304
		1.201(32)	§ 8(2)	8(2)	0.301
		1.201(33)	§ 9	9	2.403
		1.201(37)	§ 9(1)		
		1.201(44)	(a)	9(1) (a)	0.308
		S. 2.403			0.309
		0.105	§ 9(2)	9(2)	2.403
		0.301(8)			0.307
§ 2	2	0.110	§ 9(2)		
		0.203	(b)	9(2) (b)	0.301
§ 3	3	0.201	§ 9(3)	9(3)	0.318
		0.304	§ 10	10	0.306
§ 4	4	0.401			0.308
§ 5	5	0.201	§ 11	11	0.310
§ 6	6	0.207(2) (a)	§ 12	12	0.317
		0.501	§ 13	13	0.401
		0.503			0.402
		0.504	§ 13(8)	13(8)	0.402
		0.505			0.403
§ 7	7	0.302(1)	§ 13(4)	13(4)	0.402
		0.304			0.403
		0.501	§§ 14 to		
			22		
			(incl.)	14 to 22 (incl.)	N.

1. Uniform Trust Receipts Act.

BUSINESS AND COMMERCE CODE

LIENS

Vernon's Civ.Stats. Article	Prior Uniform Act Sec.	Texas Bus. & C. Sec.	Vernon's Civ.Stats. Article	Prior Uniform Act Sec.	Texas Bus. & C. Sec.
5506c, § 1	N.	0.100	5506c, § 4	N.	0.310
§ 2	N.	0.110			0.317
		0.201	§ 5	N.	0.403
		0.203			0.404
		0.207(2) (a)	§ 6	N.	0.205
		0.301			0.306
		0.302	§ 7	N.	0.302
		0.303	§ 8	N.	S. 0.302
		0.401			0.401
§ 3	N.	0.401	§ 9	N.	N.
		0.403	§ 10	N.	0.307
§ 4	N.	0.303			0.310
		0.307(1)			

WAREHOUSE RECEIPTS

Vernon's Civ.Stats. Article	U.W.R.A.1 Sec.	Texas Bus. & C. Sec.	Vernon's Civ.Stats. Article	U.W.R.A.1 Sec.	Texas Bus. & C. Sec.
5575	N.	S. 7.202	5626	15	N.
		S. 7.204	5627	16	7.403
5576	N.	7.104			7.003
		S. 7.205	5628	17	7.003
		7.501	5629	18	7.003
		7.502	5630	19	7.403
5604	N.	7.200	5631	20	7.203
5605	N.	7.210			7.401
5606	N.	S. 7.200	5632	21	7.204
5607	N.	7.206	5633	22	7.207
		7.403	5634	23	7.207
5609	N.	7.104	5635	24	7.207(2)
		7.501	5636	25	7.002
		7.502	5637	26	N.
5612	1	1.201(45)	5638	27	7.200
		7.201			7.307
		7.401	5639	28	7.200
5613	2	7.104			7.307
		7.202	5640	29	7.200
		7.200(2)			7.307
5614	3	7.104	5641	30	7.200
		7.204			7.307
5615	4	7.104	5642	31	7.200
5616	5	7.104			7.307
5617	6	7.402	5643	32	7.200
5618	7	7.104			7.210(7)
5619	8	7.403			7.307
5620	9	S. 2.705	5644	33	7.206
		7.403			7.210
5621	10	7.403			7.308
		7.404	5645	34	7.206
5622	11	2.705	5646	35	7.210(7)
		7.403	5647	36	7.403(1) (c)
5623	12	7.403	5648	37	7.501
5624	13	7.208	5649	38	7.501
5625	14	7.601	5650	39	7.501

1. Uniform Warehouse Receipts Act.—

DISPOSITION TABLE 1

Vernon's Civ.Stats. Article	U.W.R.A. ¹ Sec.	Texas Bus. & C. Sec.	Vernon's Civ.Stats. Article	U.W.R.A. ¹ Sec.	Texas Bus. & C. Sec.
5051	40	7.501	5002	N.	N.
5052	41	7.502	5003	50	1.103
		7.503		57	1.102(1)
		7.504	5004	58	S. 1.201(1)
5053	42	7.504			1.201(14)
5054	43	7.506			S. 1.201(17)
5055	44	7.507			S. 1.201(19)
5056	45	7.505			S. 1.201(20)
5057	46	2.500(2)			1.201(28)
		7.508			1.201(30)
5058	47	7.501			1.201(32)
		7.502			1.201(33)
5059	48	7.502			1.201(44)
5060	49	S. 2.705			7.102
		7.502	5005	62	S. 7.101
5001	N.	N.			

1. Uniform Warehouse Receipts Act.

NEGOTIABLE INSTRUMENTS

Vernon's Civ.Stats. Article	U.N.I.L. ¹ Sec.	Texas Bus. & C. Sec.	Vernon's Civ.Stats. Article	U.N.I.L. ¹ Sec.	Texas Bus. & C. Sec.
5032, § 1	1	3.104	5032, § 17	17	3.118
	1(5)	3.102		17(3)	3.109
5032, § 2	2	3.106			3.114
5032, § 3	3	3.105		17(6)	3.402
5032, § 4	4	3.109	5032, § 18	18	3.401
5032, § 5	5	3.104	5032, § 19	19	3.403
		3.112	5032, § 20	20	3.403
5032, § 6	6	3.112	5032, § 21	21	3.403
	6(1)	3.114	5032, § 22	22	3.207
	6(4)	3.113	5032, § 23	23	3.404
	6(5)	1.201(24)			8.202
		3.106			8.205
		3.107			8.311
5032, § 7	7	3.108	5033, § 24	24	3.408
		3.502	5033, § 25	25	1.201(44)
5032, § 8	8	3.110			3.303
5032, § 9	9	3.111			3.408
	9(3)	3.405	5033, § 26	26	1.201(44)
	9(5)	3.204			3.303
5032, § 10	10	3.104	5033, § 27	27	1.201(44)
5032, § 11	11	3.114			3.201
5032, § 12	12	3.114			3.303
5032, § 13	13	3.115			4.209
5032, § 14	14	3.115	5033, § 28	28	3.306
		3.407			3.408
		8.206			3.415
5032, § 15	15	3.115			8.202
		3.305	5033, § 29	29	3.415
		3.407			3.201
		8.206	5034, § 30	30	3.102
5032, § 16	16	3.305			8.202
		3.306			8.309
		8.202			

1. Uniform Negotiable Instruments Law.

BUSINESS AND COMMERCE CODE

Vernon's Civ.Stats. Article	U.N.I.L. ¹ Sec.	Texas Bus. & C. Sec.	Vernon's Civ.Stats. Article	U.N.I.L. ¹ Sec.	Texas Bus. & C. Sec.
5034, § 31	31	3.202 8.308	5035, § 58	58	3.201 3.207 3.306 8.301
5034, § 32	32	3.202 8.308	5035, § 50	50	3.207 3.306 3.307 8.105 8.301
5034, § 33	33	3.204 8.308	5030, § 00	00	3.413 8.201 8.202 3.413 8.201 8.202
5034, § 34	34	3.204 8.308	5030, § 01	01	3.413 8.201 8.202
5034, § 35	35	3.204 8.308	5030, § 02	02	3.413 3.418 8.201 8.202
5034, § 36	36	3.204 3.205 3.206 8.308	5030, § 03	03	3.402
5034, § 37	37	3.205 3.206 8.304 8.308	5030, § 04	04	3.415 8.308
5034, § 38	38	3.414	5030, § 05	05	3.417 4.207(2) 8.306 8.308
5034, § 39	39	3.205 3.206	5030, § 06	06	3.414 4.207(2) 8.306 8.308
5034, § 40	40	3.204 8.310	5030, § 07	07	3.414 8.306 8.308 3.118 3.414 8.308
5034, § 41	41	3.116	5030, § 08	08	3.118 3.414 8.308
5034, § 42	42	3.117	5030, § 09	09	3.417 8.306 8.308
5034, § 43	43	3.203	5037, § 70	70	3.501 3.502 3.004
5034, § 44	44	3.414	5037, § 71	71	3.503
5034, § 45	45	3.304	5037, § 72	72	3.503 3.504
5034, § 46	46	N.	5037, § 73	73	3.504
5034, § 47	47	3.206	5037, § 74	74	3.505
5034, § 48	48	3.208 3.005 3.201 8.307	5037, § 75	75	3.503
5034, § 49	49	3.201	5037, § 76	76	S. 3.504
5034, § 50	50	3.208	5037, § 77	77	3.504
5035, § 51	51	3.301	5037, § 78	78	3.504
5035, § 52	52	3.303 3.302 3.304 8.301 8.302	5037, § 79	79	3.511
5035, § 52(2)	52(2)	3.302(1) (c) 8.203 8.305	5037, § 80	80	3.511
5035, § 53	53	3.304 8.203 8.305	5037, § 81	81	3.511
5035, § 54	54	3.303	5037, § 82	82	3.511
5035, § 55	55	3.304	5037, § 83	83	3.507
5035, § 56	56	1.201(25) 3.304 8.202 8.304	5037, § 84	84	3.507(2)
5035, § 57	57	3.305 8.202 8.301			

1. Uniform Negotiable Instruments Law.

DISPOSITION TABLE 1

Vernon's Civ.Stats. Article	U.N.I.L.1 Sec.	Texas Bus. & C. Sec.	Vernon's Civ.Stats. Article	U.N.I.L.1 Sec.	Texas Bus. & C. Sec.
5037, § 85	85	3.503	5040, § 120	120	3.501
5037, § 86	86	3.503	5040, § 130	130	3.118
5037, § 87	87	3.121			3.511
5037, § 88	88	3.603	5040, § 131	131	4.503
5038, § 80	80	3.501	5041, § 132	132	3.410
		3.502	5041, § 133	133	3.410
5038, § 90	90	3.508	5041, § 134	134	3.410
5038, § 91	91	3.508	5041, § 135	135	3.410
5038, § 92	92	3.508	5041, § 136	136	3.410
5038, § 93	93	3.508			3.506
5038, § 94	94	3.508			5.112
5038, § 95	95	3.508	5041, § 137	137	3.410
5038, § 96	96	3.508			3.419
5038, § 97	97	3.508	5041, § 138	138	3.410
5038, § 98	98	3.508	5041, § 130	130	3.412
5038, § 99	99	3.508	5041, § 140	140	3.412
5038, § 100	100	3.508	5041, § 141	141	3.412
5038, § 101	101	3.508	5041, § 142	142	3.412
5038, § 102	102	3.508	5042, § 143	143	3.501
5038, § 103	103	3.508	5042, § 144	144	3.501
5038, § 104	104	3.508			3.502
5038, § 105	105	3.508			3.503
5038, § 106	106	3.508	5042, § 145	145	3.503
5038, § 107	107	3.508			3.504
5038, § 108	108	3.508	5042, § 140	140	3.503
5038, § 109	109	3.511	5042, § 147	147	3.511
5038, § 110	110	3.511(6)	5042, § 148	148	3.511
5038, § 111	111	3.511	5042, § 149	149	3.507
5038, § 112	112	3.511	5042, § 150	150	3.501
5038, § 113	113	3.511			3.502
5038, § 114	114	3.511			3.511
5038, § 115	115	3.511	5042, § 151	151	3.501
5038, § 116	116	3.511			3.507(2)
5038, § 117	117	N.			3.511
5038, § 118	118	3.501	5043, § 152	152	3.501
5030, § 119	119	3.601			3.502
		3.603	5043, § 153	153	3.509
5030, § 119(3)	119(3)	Cf. 1.107	5043, § 154	154	3.509
		3.605	5043, § 155	155	3.509
5030, § 120	120	3.208	5043, § 156	156	3.509
		3.601	5043, § 157	157	3.501
		3.604	5043, § 158	158	3.501
		3.606			3.509
5030, § 120(2)	120(2)	Cf. 1.107	5043, § 150	150	3.511
		3.605	5043, § 100	100	3.509
5030, § 121	121	3.208	5044, § 161	161	3.410
		3.601	5044, § 162	162	3.410
		3.603	5044, § 163	163	3.410
5030, § 122	122	Cf. 1.107	5044, § 164	164	3.410
		3.605	5044, § 165	165	3.410
5030, § 123	123	3.605	5044, § 166	166	3.410
5030, § 124	124	3.407	5044, § 167	167	3.410
		8.206	5044, § 168	168	3.410
5030, § 125	125	3.407	5044, § 169	169	3.410
5040, § 126	126	3.104	5044, § 170	170	3.410
5040, § 127	127	3.409	5045, § 171	171	3.603
5040, § 128	128	3.102	5045, § 172	172	3.603

1. Uniform Negotiable Instruments Law.

BUSINESS AND COMMERCE CODE

Vernon's Civ.Stats.	U.N.I.L. ¹ Sec.	Texas Bus. & C. Sec.	Vernon's Civ.Stats.	U.N.I.L. ¹ Sec.	Texas Bus. & C. Sec.
5045, § 173	173	3.003	5048, § 100	100	N.
5045, § 174	174	3.003	5048, § 101	101	S. 1.201(1)
5045, § 175	175	3.003			S. 1.201(4)
5045, § 176	176	3.003			S. 1.201(5)
5045, § 177	177	3.003			1.201(14)
5046, § 178	178	3.801			S. 1.201(20)
5046, § 179	179	3.801			1.201(28)
5046, § 180	180	3.801			1.201(30)
5046, § 181	181	3.801			1.201(44)
5046, § 182	182	3.801			1.201(40)
5046, § 183	183	3.801			3.102
5047, § 184	184	3.104			3.410
5047, § 185	185	3.104			8.313
5047, § 186	186	3.501	5048, § 102	102	N.
		3.502	5048, § 103	103	3.503
		3.503	5048, § 104	104	N.
5047, § 187	187	3.411	5048, § 105	105	N.
5047, § 188	188	3.411	5048, § 106	106	1.103
5047, § 189	189	3.400		* * * *	

1. Uniform Negotiable Instruments Law.

DISPOSITION TABLE 2

Former Articles to Business and Commerce Code (Title 2 et seq.)

Disposition Table No. 1 shows where the subject matter of articles and sections repealed by the Uniform Commercial Code in 1965 is covered in Title 1, Uniform Commercial Code, of the Business and Commerce Code. Table No. 2 shows where the subject matter of other repealed articles and sections is covered in the remaining Titles of the Business and Commerce Code.

CIVIL STATUTES

Vernon's Civil Statutes Article	Business and Commerce Code Section
261 -----	23.02(b) (c)
262 -----	23.08
263 -----	23.10
264 -----	23.17
265 sent. 1 -----	23.30 subsec. (a)
sent. 2 -----	23.30 subsec. (d)
sent. 3, 4 -----	23.30 subsec. (b), (c)
266 sent. 1, 2, 3 -----	23.16
sent. 4, 5 -----	23.18
267 -----	23.00 subsec. (a)
268 -----	23.00 subsec. (b) (c)
269 sent. 1, 2 -----	23.31
sent. 3 -----	23.32 subsec. (b)
sent. 4 -----	23.32 subsec. (a)
270 -----	23.10
	23.21
271 -----	23.33
272 -----	23.22
273 -----	23.20
274 sent. 1, 2 -----	23.23
sent. 3 -----	23.23
	23.24
577 -----	35.30
578 -----	35.40 subsec. (a), (b)
582—1 § 1 -----	33.01
§ 2 -----	33.02
§ 3 -----	33.03
§ 3a -----	33.04
§ 4 -----	33.05
§ 5 -----	33.06

BUSINESS AND COMMERCE CODE

Vernon's Civil Statutes Article	Business and Commerce Code Section
582-1 § 6	33.07
§ 7	33.08
§ 8	33.09
§ 9	33.10
843 sent. 1	17.29 subsec. (d)
sent. 2	17.29 subsec. (b)
851-C § 1 (part)	16.01 subsec. (a) (part)
§ 1(a)	16.01 subsec. (a) (2) (4) (5)
§ 1(b)	16.01 subsec. (a) (1)
§ 1(c)	16.01 subsec. (a) (3)
§ 1(d)	16.02
§ 1(e)	16.01 subsec. (a) (6)
§ 1(f)	16.08 subsec. (a) (1)-(5)
851-C § 2(a)-(d), (e) sent. 1 (part)	16.08 subsec. (b)
§ 2(c) sent. 1 (part), 2	16.08 subsec. (a) (6)
§ 2(f)	16.10 subsec. (a), (b)
§ 3 sent. 1	16.10 subsec. (d)
§ 3 sent. 2	16.10 subsec. (c) (2)
§ 3 sent. 3, 4	16.10 subsec. (c) (1)
§ 4 sent. 1	16.11
§ 4	16.15 subsec. (c)
§ 5	16.15 subsec. (b)
§ 6	16.24
§ 7 sent. 1 (part)	16.12 subsec. (a)
§ 7 sent. 1 (part), 2, 3, 4	16.14 subsec. (a), (b)
§ 7 sent. 5	16.12 subsec. (b)
	16.14 subsec. (c)
§ 7 sent. 6, 7	16.13
§ 8 sent. 1, 2 (part)	16.17
§ 8 sent. 2 (part), 4, 5	16.18 subsec. (a), (b)
§ 8 sent. 3	16.18 subsec. (c)
§ 9	16.15 subsec. (a)
§ 10	16.16 subsec. (a)
§ 11 sent. 1, 2 (part)	16.25 subsec. (a)
§ 11 sent. 2 (part)	16.25 subsec. (c)
§ 11 sent. 3	16.25 subsec. (b)
§ 11 sent. 4	16.25 subsec. (d)
§ 11 sent. 5	16.16 subsec. (b)
§ 12 (part)	16.09 subsec. (b), (c)
§ 12 sent. 1	16.09 subsec. (d)
§ 12 sent. 2, 3	16.09 subsec. (a)
§ 12 sent. 4	16.09 subsec. (d)
§ 13	16.28
§ 14 sent. 1, 2 (part)	16.27 subsec. (a)
§ 14 sent. 2 (part)	16.01 subsec. (b)
§ 15 sent. 1	16.26 subsec. (a)
§ 15 sent. 2	16.27 subsec. (b)
§ 16	16.26 subsec. (b), (c), (d)
890	35.15
1438a § 1	35.01 subsec. (a)
§ 2 sent. 1	35.02
§ 2 sent. 2	35.07
§ 3	35.03
§ 4	35.06
§ 5 sent. 1	35.04
§ 5 sent. 2, 3, 4	35.05 subsec. (a), (b)
§ 5 sent. 5, 6	35.08
§ 6	35.08

DISPOSITION TABLE 2

Vernon's Civil Statutes Article	Business and Commerce Code Section
3095 -----	26.01 subsec. (a), (b) (1)-(6)
3095a -----	26.01 subsec. (b) (7)
3096 (part) -----	24.01
3096 (part) -----	24.02
3097 -----	24.03
3098 -----	24.04
3099 -----	24.05
4004 sent. 1, 3, 4 -----	27.01
6244 -----	34.02 subsec. (a)
6245 -----	34.02 subsec. (b)
6247 -----	34.03
6248 -----	34.04 subsec. (a)
	34.04 subsec. (b) (1)
	34.04 subsec. (c)
6249 -----	34.04 subsec. (b) (2)
6250 -----	34.05
6252 -----	34.01
7426 -----	15.02
7427 -----	15.01
7428 subd. 1, 2 -----	15.03 subsec. (a) (1), (2)
subd. 3 (part) -----	15.03 subsec. (b) (1)
subd. 3 (part) -----	15.03 subsec. (a) (3)
7428a -----	15.05
7428-1 -----	15.03 subsec. (a) (4)
7428-2 -----	15.03 subsec. (b) (2)
7429 -----	15.04 subsec. (a)
7430 -----	15.29 subsec. (c)
7431 -----	15.29 subsec. (a)
7432 -----	15.29 subsec. (d)
7433 -----	15.30 subsec. (a), (b)
7434 -----	15.29 subsec. (b)
7435 sent. 1 -----	15.31 subsec. (a)
	15.31 subsec. (c) (1)
sent. 2 -----	15.31 subsec. (c) (2), (3)
sent. 3 -----	15.31 subsec. (a)
sent. 4 -----	15.31 subsec. (g)
sent. 5 -----	15.31 subsec. (b)
	15.31 subsec. (c) (1)
	15.31 subsec. (e)
sent. 6 -----	15.31 subsec. (b)
sent. 7 -----	15.31 subsec. (a)
sent. 8 -----	15.31 subsec. (b)
sent. 9 -----	15.31 subsec. (f)
sent. 10, 11 -----	15.31 subsec. (d)
7436 sent. 1 -----	15.32 subsec. (a)
sent. 2 -----	15.32 subsec. (b)
sent. 3 -----	15.32 subsec. (a)
sent. 4 -----	15.32 subsec. (c)
	15.32 subsec. (d)
sent. 6, 7 -----	15.32 subsec. (e)
sent. 8 -----	15.32 subsec. (c)
7436a -----	15.12
7437 -----	15.04 subsec. (b)
7438 -----	15.21 subsec. (a)
7439 -----	15.14
7439a sent. 1, 2 -----	15.15 subsec. (a)
sent. 3 -----	15.15 subsec. (b)
	15.22 subsec. (a)
sent. 4 -----	15.22 subsec. (a)

BUSINESS AND COMMERCE CODE

Vernon's Civil Statutes Article	Business and Commerce Code Section
7440 -----	15.16 subsec. (b)
7441 sent. 1 -----	15.16 subsec. (c)
sent. 2 -----	15.16 subsec. (d)
sent. 3 -----	15.16 subsec. (f)
7442 -----	15.16 subsec. (e) (2)
7443 sent. 1 -----	15.16 subsec. (e) (1)
sent. 2 -----	15.17 subsec. (a)
sent. 3 -----	15.17 subsec. (a), (b), (c)
sent. 4 -----	15.19 subsec. (e)
sent. 5, 6 -----	15.22 subsec. (b)
7444 sent. 1 -----	15.19 subsec. (a)
sent. 2 -----	15.19 subsec. (b)
sent. 3 -----	15.19 subsec. (a) (c)
sent. 4, 5 -----	15.19 subsec. (c)
sent. 6 -----	15.19 subsec. (d)
sent. 7 -----	15.19 subsec. (f)
7445 sent. 1 -----	15.18 subsec. (a)
sent. 2 -----	15.16 subsec. (f)
sent. 3-5 -----	15.18 subsec. (b)
7446 -----	15.20
7447 -----	15.21 subsec. (b)

PENAL CODE

Vernon's Penal Code Article	Business and Commerce Code Section
150 sent. 1 -----	17.07 subsec. (a)
sent. 2 -----	17.07 subsec. (d)
sent. 3 -----	17.07 subsec. (c)
151 sent. 1 -----	17.07 subsec. (b)
sent. 2 -----	17.07 subsec. (e)
sent. 3 -----	17.07 subsec. (f)
157a sent. 1 -----	17.08 subsec. (a)
sent. 2 -----	17.08 subsec. (c) (d)
sent. 3 -----	17.08 subsec. (b)
527a -----	15.06
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